

Troutman Pepper Hamilton Sanders LLP
875 Third Avenue
New York, NY 10022



troutman.com

Bennet J. Moskowitz
bennet.moskowitz@troutman.com

April 28, 2025

VIA EMAIL

Hon. Maria S. Vazquez-Doles
New York Supreme Court, Orange County
285 Main Street
Goshen, New York 10924

Re: *Oral Clarke, et al. v. Town of Newburgh, et al.* (Index No. EF002460-2024; Orange Cnty.)

Dear Justice Vazquez-Doles,

We represent Defendants the Town of Newburgh and the Town Board of the Town of Newburgh in the above-referenced matter. We write in response to Plaintiffs' letter submitted to the Court earlier today.

As Plaintiffs are well-aware, Mr. Manley's second deposition in this matter has been scheduled in this case for May 7, 2025. That date was selected over ten days ago in order to accommodate Mr. Manley's previously scheduled travel commitments while still allowing this trial to move forward at the overly expeditious pace *Plaintiffs* have repeatedly demanded.

At no point until today did Plaintiffs raise the need for the Court to be available to rule contemporaneously on objections. While Defendants do not necessarily object to that request – though, and as we advised Plaintiffs' counsel, the request strikes us as presumptuous with regard to the burden it places on Your Honor – Defendants do object to rescheduling Mr. Manley's deposition for any date other than May 7. The deposition may proceed on May 7 regardless; the parties can simply designate Mr. Manley's deposition testimony as they are required to do with respect to every other deposition taken in this matter.

With regard to Dr. Lockerbie's supplemental report, we can commit to submit that to Plaintiffs by the end of the day Wednesday, April 30, which should allow everyone to submit papers to the Court by May 1. Defendants note their position that any delay in this report resulted from Plaintiffs' expert not timely providing Dr. Lockerbie with underlying data for his addendum.

Defendants continue to preserve their jurisdictional objection, given that the Appellate Division has not issued remittitur. Defendants further note that once remittitur issues, the portions of their summary judgment motion that the Court has not yet ruled upon – that is, Plaintiffs have not submitted sufficient evidence from which a fact finder could find that the Town has violated the

April 28, 2025
Page 2



NYVRA – would be before this Court. A ruling in Defendants' favor on those issues would obviate the need for a trial.

Respectfully submitted,

/s/ Bennet J. Moskowitz

Bennet J. Moskowitz

cc: All Counsel of Record via Email