

NYSCEF DOC. NO. 183

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BY HAND and VIA NYSCEF

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May 13, 2025

Hon. Anne E. Minihan
District Administrative Judge
Ninth Judicial District
Richard J. Daronco Westchester County Courthouse
111 Dr. Martin Luther King, Jr. Blvd.
White Plains, NY 10601

Re: *Oral Clarke et al. v. Town of Newburgh et al.*, Index No. EF002460-2024

Dear Justice Minihan:

We represent plaintiffs Oral Clarke, Romance Reed, Grace Perez, Peter Ramon, Ernest Tirado, and Dorothy Flournoy (collectively, the "Plaintiffs") in this matter. We write to request that Your Honor assign this case forthwith to a Westchester County judge because Election Law § 16-101¹ requires this as a result of the Defendants filing a notice of a constitutional question.² Additionally, Election Law § 17-216³ requires that this case be given an automatic calendar preference.

We are writing to Your Honor directly because the trial in this case commenced yesterday and, after Plaintiffs' opening statement, Justice Maria Vazquez-Doles recused herself. Then today, after the case was reassigned to Justice Sherri Eisenpress, she also recused herself, but first stated that the law required the case to be sent to a Westchester County judge.

Two Orange County judges have now recused themselves from this case. Further recusals will only delay the adjudication of plaintiffs' claims, and the statute plainly calls for an expedited

¹ Election Law § 16-101 states that: "Notwithstanding any other law to the contrary, in any action or proceeding in which any party challenges the constitutionality of a provision of this chapter, and any related statutory claims, venue shall be proper only in one of the following designated courts in a judicial department within which at least one plaintiff is located . . . (b) second judicial department: Westchester county."

² The Court also has the option of assigning a Westchester Judge to adjudicate plaintiffs' claims. NYSCEF Doc. No. 23, *New York Communities for Change, et al. v. County of Nassau, et al.* (No. 602316/2024) and *Coads et al. v. Nassau County et al.* (No. 611872/2023).

³ New York State Voting Rights Act explicitly requires that a matter such as this be tried expeditiously and receive an "automatic calendar preference." Election Law § 17-216 provides as follows:

Expedited judicial proceedings and preliminary relief. Because of the frequency of elections, the severe consequences and irreparable harm of holding elections under unlawful conditions, and the expenditure to defend potentially unlawful conditions that benefit incumbent officials, actions brought pursuant to this title shall be subject to expedited pretrial and trial proceedings and receive an automatic calendar preference. In any action alleging a violation of this title in which a plaintiff party seeks preliminary relief with respect to an upcoming election, the court shall grant relief if it determines that: (a) plaintiffs are more likely than not to succeed on the merits; and (b) it is possible to implement an appropriate remedy that would resolve the alleged violation in the upcoming election.

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hearing by a Westchester County Supreme Court justice.

Respectfully yours,



Robert A. Spolzino

NYSCEF DOC. NO. 184

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VIA NYSCEF

Hon. Anne E. Minihan
District Administrative Judge
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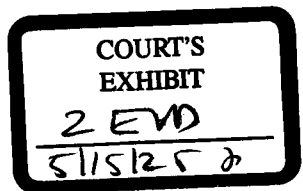
Re: *Oral Clarke, et al. v. Town of Newburgh, et al.* (Index No. EF002460-2024; Orange Cnty.)

Dear Justice Minihan,

We represent Defendants Town of Newburgh and Town Board of the Town of Newburgh (collectively, “Defendants” or “Town”) in the above-referenced action. We write in opposition to Plaintiffs’ remarkable May 13, 2025 letter (NYSCEF Doc. No. 183) requesting—after they already proceeded to trial in Orange County, and then caused trial to be called off after their own opening statements—that this case be transferred to a judge in Westchester County and set for an immediate trial. Plaintiffs’ latest, cynical attempt to have this trial held before a judge whom they perceive is more favorable to them (Plaintiffs previously requested that this case be reassigned from Justice Vazquez-Doles, who ruled against Plaintiffs on summary judgment, to a different justice *but, notably, without requesting a transfer to a different court*) should be denied.

As a threshold matter, there is absolutely no basis for transferring this case from Orange County to Westchester County at this late hour. Venue has been established since Plaintiffs chose to file their lawsuit in Orange County back in March of 2024. At no point in over a year since Plaintiffs themselves determined venue was appropriate in Orange County have Plaintiffs raised an intention to transfer these proceedings to Westchester County—that is, until yesterday, *after trial commenced*.^{*} Plaintiffs have thus obviously “waive[d]” any objections to this case going forward in Orange County by not “timely demand[ing] or mov[ing] for a change of venue.” *Balbuenas v. New York City Health & Hosps. Corp.*, 177 N.Y.S.3d 52, 57 (2d Dep’t 2022).

^{*} Plaintiffs’ only apparent explanation for raising this venue issue now is that the Hon. Sherri Eisenpress, to whom the case was reassigned yesterday, “stated that the law required the case to be sent to a Westchester County judge.” (NYSCEF Doc. No. 183, at 1.) This claim is extremely misleading, given that Justice Eisenpress granted briefing on the issue before recusing herself from this case and, specifically, from ruling on the transfer issue itself.



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Nor is there any reason to honor Plaintiffs' desire that this Court take administrative action to secure them a quicker trial. *The only reason that trial is not currently ongoing (and set to complete this week) in Orange County is that Plaintiffs did not disclose their relationship with Justice Vazquez-Doles until after Her Honor made the disclosure following Plaintiffs' opening statement; and it was Plaintiffs who then refused to allow the case to move forward based on the disclosure.* In particular, after trial began yesterday, Justice Vazquez-Doles raised a long-ago connection that she had to one of the named Plaintiffs. At that point, Plaintiffs' counsel revealed additional contacts other Plaintiffs have had with Justice Vazquez-Doles and her late husband over the years. Notwithstanding these belated disclosures—which were presumably known to the Plaintiffs and their counsel for the entirety of these proceedings, and yet were sprung on Defendants after the start of trial—*Defendants explained that they were in favor of moving forward with trial*, given the substantial burdens they had undertaken to make themselves and their experts available this week. Notwithstanding Defendants' willingness to hold trial this week even after these belated disclosures, it was *Plaintiffs* who objected to Justice Vazquez-Doles continuing with the case, causing trial to be called off.[†]

Defendants respectfully request that Plaintiffs' gamesmanship and attempted judge-shopping not be rewarded. The only reason trial is not occurring right now is due to Plaintiffs' own conduct in failing to disclose their multiple connections to Justice Vazquez-Doles, and then, when one of those connections was disclosed by Her Honor, refusing to proceed even though the perceived conflicts were within Plaintiffs' knowledge. Moreover, it is worth noting that Plaintiffs allege in their Complaint that "the nomination process for candidates for Town office in November 2025 will begin in or around February 2025," and thus, in order for "any court-ordered remedies" issued in this lawsuit to be effective, such remedies would need "to be implemented before February 2025." See NYSCEF No. 1 ¶¶ 140, 143. Plaintiffs repeated this position, including on November 1, 2024, when they represented that "it is critical that this matter be decided in time for the 2025 election cycle, which will begin in February. **If the trial is delayed until January**, it will be extraordinarily difficult to achieve that. In those circumstances, **even if the Court decides that the plaintiffs are entitled to relief, they will not see it until 2027.**" NYSCEF No. 144 (emphasis added). Therefore, Plaintiffs' assertion that this case must proceed immediately contradicts their long-standing position in this matter. Because any relief, if granted by any court, will not affect the 2025 election, there is no need to facilitate immediate trial, which, it bears repeating, would already be underway but for Plaintiffs' own conduct before Justice Vazquez-Doles.

For these reasons, Defendants respectfully request that this case be assigned to a different Justice in Orange County and set for trial as that Justice deems appropriate, consistent with all legal requirements.

[†] Defendants maintain that the disclosed connections between Justice Vazquez-Doles and Plaintiffs did not create a reason for Justice Vazquez-Doles to recuse and that trial could have occurred this week, as scheduled. In any event, in regard to Plaintiffs' request to transfer this case to avoid potential recusal issues, it simply makes no sense to transfer this case to Westchester County, where Plaintiffs' counsel's offices are located.



Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bennet J. Moskowitz". The signature is written in a cursive style and is positioned above a solid horizontal line.

Bennet J. Moskowitz

cc: All counsel of record via NYSCEF

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VIA NYSCEF

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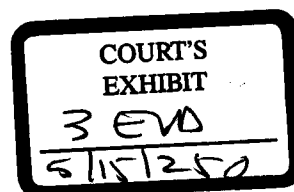
Re: *Oral Clarke et al. v. Town of Newburgh et al.*, Index No. EF002460-2024

Hon. Minihan:

Plaintiffs write to briefly address defendants’ false accusations of forum shopping assailed at plaintiffs in the defendants’ correspondence sent to the Court earlier today and to reiterate the need for an expeditious trial and the assignment of a Westchester County judge.

Succinctly put, plaintiffs were willing to proceed with Judge Vazquez-Doles presiding over the trial in this action as long as defendants agreed not to raise an issue on appeal regarding Judge Vazquez-Doles presiding over the trial. Defendants refused. Furthermore, Defendants misapprehend the issues regarding recusal. The decision to recuse rests solely with the court and is based upon the recollection and information possessed by the judge with regard to a potential conflict or matter which may lead to the appearance of impropriety. Such decision is not based upon a party’s knowledge nor a party’s recollection and thus there is no obligation for a party to draw a court’s attention to such matters. Indeed, as defendants acknowledge, “Judge Vazquez-Doles raised a *long-ago* connection that she had to one of the named Plaintiffs.” NYSCEF Doc. No. 184 (emphasis added).

Regardless of defendants’ false charges, plaintiffs are entitled to an expeditious hearing of their claims and, as the docket report from today’s filings indicate, before a Westchester County judge, as four (4) judges in Orange County have now declined to preside over this case to avoid the appearance of impropriety. NYSCEF Doc. Nos. 181, 182, 185, and 186.



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As stated earlier today, Election Law § 16-1011 requires a transfer as a result of defendants filing a notice of a constitutional question. Additionally, CPLR § 510 also requires such transfer because there is reason to believe that an impartial trial cannot be had in Orange County.

Respectfully,



Amy Marion