

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA
and CESAR RUIZ,

Plaintiffs,

1:06-CV-15173

v.

VILLAGE OF PORT CHESTER,

Defendant.

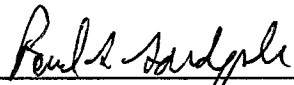
**MODIFIED ORDER GRANTING THE VILLAGE OF PORT CHESTER'S MOTION
FOR RELIEF PURSUANT TO RULE 60(b)**

Pursuant to Federal Rule of Civil Procedure 60(b)(5) and (6), the Village of Port Chester ("Village") moved this Court for an order granting relief from the June 22, 2016 end date set forth in the Consent Decree adopted by this Court's April 1, 2010 Opinion and Order, *United States v. Vill. of Port Chester*, 704 F. Supp. 2d 411 (S.D.N.Y. 2010) thereby permitting and authorizing the Village to utilize new voting machines in its March 2019 village elections for Board of Trustees and Mayor. Because these new voting machines are now the only feasible way the Village may conduct cumulative voting, the constitutionally sound method sanctioned by this Court in its April 2010 Opinion and Order, the Village's inability to utilize them represents an extraordinary circumstance that not only works an extreme and undue hardship upon the Village but is detrimental to the public interest. *See Horne v. Flores*, 557 U.S. 433, 447 (2009) (citing *Rufo v. Inmates of Suffolk Cty Jail*, 502 U.S. 367, 382 (1992)); *Matarese v. LeFevre*, 801 F.2d 98, 107 (2d Cir. 1986), cert. denied, 480 U.S. 908 (1987).

Accordingly,

IT IS HEREBY ORDERED that the Village of Port Chester's Motion for Relief from Judgment Pursuant to Fed. R. Civ. P. 60(b) is hereby **GRANTED**.

IT IS FURTHER ORDERED that the Village may utilize the Election Systems and Software ("ES&S") Voting System 6.0.1.1 ("EVS6011") in its upcoming March 2019 village elections for Board of Trustees and Mayor.



Hon. Paul G. Gardephe
United States District Judge

Dated this 24th day of January, 2019.