

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH HERNANDEZ,

Plaintiff,

COMPLAINT

-against-

THE CITY OF NEW YORK, BOARD OF ELECTIONS IN
THE CITY OF NEW YORK, FREDERICK UMANE,
MARC LANDIS, JOSE MIGUEL ARAUJO, KEITH
SULLIVAN, MICHELE SILEO, MICHAEL
COPPOTELLI, JODI MORALES, GINO MARMORATO,
SIMON SHAMOUN, FRANK SEDDIO, MICHAEL
RYAN, VINCENT IGNIZIO, GEORGEA
KONTZAMANIS, MICHAEL CORBETT, JOHN & JANE
DOES 1-10 (unidentified officials who are necessary parties
to the declaratory and injunctive relief sought),

Jury Trial Demanded

Defendants.

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PRELIMINARY STATEMENT

1. This is a civil rights action seeking declaratory and injunctive relief brought by Plaintiff Joseph Hernandez, an independent candidate for Mayor of New York City, challenging the exclusion by the City and the Board of Elections in the City of New York (“BOE”) of ranked-choice voting (“RCV”) in the 2025 general election for Mayor. While RCV is used in primaries and special elections for certain City offices, its exclusion from the general election for Mayor results in disparate treatment of voters and candidates, arbitrary election procedures, and unconstitutional burdens on independent candidates, like Plaintiff, as well as the voters. The City’s bifurcated electoral system violates the Equal Protection Clause, the First and Fourteenth Amendments to the United States Constitution, New York State constitutional provisions, and the Voting Rights Act, 52 U.S.C. § 10301. Plaintiff seeks declaratory and injunctive relief to require the use of RCV in the upcoming general election for Mayor.

JURISDICTION AND VENUE

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 for claims arising under the U.S. Constitution, the federal civil rights laws, including 42 U.S.C. § 1983, and the Voting Rights Act. Plaintiff also invokes this Court's supplemental jurisdiction under 28 U.S.C. § 1367 for his claims arising under State law.

3. Venue is proper under 28 U.S.C. § 1391(b)(1)-(2) because defendants reside and are located in this District and a substantial portion of the events giving rise to the claims occurred in this District.

4. Service of a notice of claim under General Municipal Law § 50-e is not required in connection with Plaintiff's State law claims pursuant to the "public interest" exception to the notice of claim requirement.

PARTIES

5. Plaintiff Joseph Hernandez is a registered New York City voter and a declared independent candidate for Mayor of New York City in the 2025 general election. He is not affiliated with any major political party.

6. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. The City and the BOE are responsible for conducting local elections, including the general election for Mayor, and are charged with implementing the City Charter and State election law.

7. According to its website, the "Board of Elections in the City of New York is an administrative body of ten Commissioners" and the Commissioners appoint a purportedly "bipartisan staff to oversee the daily activities of its main and five borough offices." The BOE, as provided by N.Y. Election Law § 3-200, is responsible for conducting elections, including primary,

special and general elections. The individual defendants are the Commissioners and the staff members of the BOE who are responsible for carrying out the BOE's mandate, and who are necessary parties to this case and the relief sought. The individual defendants are named in their individual and official capacities.

JURY TRIAL

8. Pursuant to Fed. R. Civ. P. 38, Plaintiff demands a jury trial for any claims in which trial by jury is available.

STATEMENT OF FACTS

Introduction

9. In November 2019, New York City voters approved a Ballot Proposal, amending the New York City Charter to implement RCV for local elections. RCV allows voters to rank candidates in order of preference, ensuring that winning candidates command majority support.

10. Despite this democratic reform, defendants have restricted the use of RCV to party primary and special elections for offices, including Mayor, Comptroller, Public Advocate, Borough President, and City Council. The defendants have not extended RCV to general elections, including the 2025 general election for Mayor.

11. The general election will include multiple candidates, including major party nominees, independent candidates, and third-party candidates. Under a plurality system, a candidate can win the election without majority support, merely by securing the largest share of votes among a divided field. This disadvantages independent candidates like Plaintiff and deprives voters of meaningful electoral choice and consensus.

12. Other jurisdictions have adopted RCV for both primaries and general elections to prevent such vote splitting and promote majority-supported outcomes. There is no legitimate

government interest justifying the arbitrary distinction between primary and general elections in this regard.

RCV As Explained By Defendants

13. Defendants' website, www.nycvotes.org/how-to-vote/ranked-choice-voting (last visited July 18, 2025), explains in relevant part:

There's a new way for New Yorkers to have their say in city elections. A way that gives voters more choices and can lead to more diverse winners. It's called Ranked Choice Voting. 74% of New York voters chose to use it in primary and special elections for city offices like Mayor and City Council. You won't see Ranked Choice Voting in general elections or elections for state or national offices. But in Ranked Choice Voting elections, you can now rank up to 5 of your favorite candidates for each office.

Here's how Ranked Choice Voting works:

On your ballot, you'll see candidates listed in rows and numbered rankings in columns.

Pick your 1st choice and completely fill in the oval next to their name under the first column.

Like always, you can just vote for your one favorite candidate and submit your ballot.

But, you might like several people.

If you have a 2nd choice, fill in the oval next to their name under the second column.

Do the same thing for your third, fourth, and fifth choices if you have them.

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So how do ballots get counted with Ranked Choice Voting?

If one candidate gets more than 50% of everyone's first-choice votes, they win the election right away. That's it! If no candidate gets more than 50%, ballots will be counted in rounds. Round by round, the candidate with the fewest votes is eliminated. So, if your top-rated candidate is eliminated,

your vote goes to your next highest choice. This keeps going until only two candidates remain. The person with the most votes wins!

...

Ranked Choice Voting is already popular in many cities around the country because voters find that it helps more voices be heard. Now it's our turn. Get answers to your questions and learn more at nyccfb.info/rcv.

Why do we use ranked choice voting?

New Yorkers elected to use ranked choice voting in a 2019 ballot measure. It passed with 73.6% support.

What are the benefits of ranked choice voting?

There are several ways that ranked choice voting could benefit New York City voters:

It gives you more say in who gets elected. Even if your top choice candidate does not win, you can still help choose who does.

It gives you more choices. You can rank up to five candidates, allowing you to support your favorite candidate without worrying about whether they're likely to win.

More diverse candidates win elections. Cities that have implemented ranked choice voting have elected more women and more women of color, making their elected officials more representative of their communities.

Candidate Joseph Hernandez

14. Joseph Hernandez is a resident of New York City, a registered voter, and an independent candidate for Mayor in the 2025 general election. Hernandez is not affiliated with any political party. As such, he is barred from participating in party primaries and his only path to the ballot is through the general election.

15. Plaintiff's website, www.hernandezfornyc.com/about, provides information on his background, qualifications and experience.

16. Born in Camagüey, Cuba, Joseph Hernandez is an American entrepreneur, philanthropist, and visionary leader in healthcare and biotechnology. A Cuban refugee and the son of a political prisoner, he fled the grip of communist rule at the age of seven, arriving in the United States with nothing but hope — and a determination to build a better life.

17. Over the course of his career, Joseph has founded and led more than a dozen healthcare and pharmaceutical companies. He currently serves as the Founder and Senior Managing Partner of Blue Water Venture Partners LLC, where he continues to invest in technologies that improve public health and address critical human diseases.

18. Joseph's professional journey began at Merck & Co. and continued at Affymetrix in Silicon Valley, where he oversaw the launch of a dozen groundbreaking diagnostic products. At Digene Corp, Joseph helped pioneer the first FDA-approved test for human papillomavirus (HPV), a major milestone in cancer prevention and early detection, which led to the company's acquisition by Qiagen.

19. A proud product of Florida public schools, Joseph earned a Bachelor of Science in Neuroscience, a Master of Science in Molecular Genetics and Microbiology, and an MBA in Finance and Entrepreneurship from the University of Florida. He later completed a Master of Science in Chronic Disease Epidemiology and Biostatistics at Yale University and is currently pursuing a Master's in Global Healthcare Leadership at the University of Oxford.

20. Joseph is the proud father of three children — Alexander, 18; Sebastian, 14; and Estella, 11 — whose futures continue to inspire and motivate his work every day.

Violations of Law

21. By not allowing RCV in the general election, the rights of Joseph Hernandez and voters will be violated and they will suffer irreparable. Again. While the 2019 ballot initiative

approved by New York City voters implemented RCV only for party primaries and special elections, there was no legal or constitutional barrier to also including general elections.

A. Charter Revision Commission's Narrow Framing

22. The 2019 RCV initiative came from a Charter Revision Commission, not from a broad grassroots campaign. The Commission, appointed largely by elected officials, chose to limit the scope of the reform. The Commission appears to have viewed general elections—especially for high-profile offices like mayor—as too politically sensitive or disruptive to alter in a single ballot measure.

B. Incumbent and Party Interests

23. Major political parties, especially Democrats, dominate elections, including the general elections, in the City of New York. Introducing RCV into general elections would: (a) undermine the power of party-backed candidates; (b) allow independent or third-party challengers to consolidate support through second-choice rankings; and (c) introduce uncertainty into a system that heavily favors incumbents and party loyalists.

24. RCV in general elections threatens the control major parties have over the final outcome—so there was and is quiet resistance to broadening its scope.

C. “Step-by-Step” Justification

25. Supporters of RCV believed it was more politically palatable to start with primaries and special elections—where voter confusion would be lower due to smaller fields—and expand later once the public was comfortable with the system.

D. Perceived Legal Simplicity

26. Limiting RCV to primaries and special elections was seen as easier to administer under State election law. General elections involve more stakeholders (*e.g.*, state-

certified parties), and applying RCV would have required deeper coordination with the State Board of Elections—which some local officials and political parties wanted to avoid.

E. Declaratory and Injunctive Relief is Appropriate and Necessary

27. The exclusion of general elections in the City from a RCV system was not due to legal or voter opposition, but rather political caution, institutional self-interest, and a desire for limited experimentation. That very exclusion creates a disparate and unconstitutional two-tier election system

28. Given the expected large number of candidates in the November 2025 general mayoral election—including major party nominees, independents, and third-party contenders—the absence of ranked-choice voting significantly reduces Plaintiff’s competitiveness.

29. Under a plurality system, voters concerned about “wasting” their vote, or inadvertently helping a less-preferred candidate, are likely to avoid supporting independent candidates like Plaintiff, even if they align with his platform. If RCV were in place, voters could rank Plaintiff first without fear, knowing their vote would transfer if Plaintiff was eliminated in early rounds. This would empower reform-minded and nonpartisan voters to express their true preferences and would enable Plaintiff to consolidate broad second- and third-choice support among voters dissatisfied with polarized party nominees. In such a system, Plaintiff would have a realistic and statistically viable path to majority support—one that is structurally denied under the current plurality regime.

30. Plaintiff, by not being not affiliated with a political party, was barred from participating in party primaries and his only path to the ballot is in, and through, the general election.

31. Because New York City currently employs RCV in party primaries and special elections, but not in general elections, this selective application places Plaintiff and other independent or third-party candidates at a distinct disadvantage.

32. In a general election governed by plurality voting, a candidate may win by securing only a small share of the vote—even if most voters would have preferred someone else. This benefits candidates from the two major parties, who enter the general election with built-in institutional advantages and voter bases consolidated through their primary processes.

33. Because Plaintiff was not in a primary, he cannot benefit from RCV’s ability to consolidate like-minded voter support. In contrast, candidates in Democratic or Republican primaries can benefit from RCV by avoiding vote splitting and emerging with broad-based support among aligned constituencies.

34. In the general election, independent and third-party candidates often appeal to similar reform-minded or nonpartisan voters. Without RCV, those voters are forced to “choose one” even when multiple candidates might reflect their values. The result is vote splitting, where support is divided among similar candidates, allowing a major-party candidate to win with a small plurality.

35. This dynamic discourages voters from supporting Plaintiff, out of fear that doing so will “spoil” the election or “help the other candidate.” Voters frequently tell Plaintiff they agree with his platform but worry their vote will be “wasted” under the current system. That fear does not apply to major-party candidates who emerge from primaries with guaranteed one-on-one positioning in the general election.

36. If RCV were implemented in the general election, voters could rank candidates—including Plaintiff—without fear of wasting their vote. Their second or third choices

would count if their first-choice candidate is eliminated, encouraging more honest voting and broader engagement with independent candidates like Plaintiff.

37. The City's bifurcated use of RCV creates a two-class system of candidates: those who benefit from majority-favoring voting rules in primaries (major-party candidates) and those who are denied that benefit in the general election (independents). It also creates two classes of voters: those whose votes count through multiple rounds in primaries, and those who get only one choice in the general election.

38. This unequal treatment violates basic principles of fairness, equal protection, and electoral integrity. It burdens Plaintiff's rights as a candidate and the rights of the voters who support him. It undermines public trust in the democratic process and disadvantages candidates who are not part of the political establishment. RCV must be used in the 2025 general mayoral election, so that all candidates and voters are treated equally under the law.

39. Further, because plurality general elections compel singular votes in crowded fields, they weaken the electoral influence of politically unified minority communities—raising a plausible vote-dilution claim under § 2 of the Voting Rights Act. RCV would significantly mitigate that risk by allowing minority voters to vote sincerely and combine preferences, ensuring their voices count not just once, but through multiple elimination rounds. By excluding RCV from the general election, the City not only diminishes individual voter influence, but sets up a system that violates federal protections against vote dilution.

40. Many experts and political commentators agree with Plaintiff's assertions. As one expert wrote in 2021:

(a) "New York City has been suffering, like the rest of the country, from low turnout at elections, negative campaigning, and candidates winning by pluralities that represent small

percentages of the electorate. Ranked-choice voting was implemented to improve the representativeness of the voting system. New York City has been considering ranked-choice voting for decades. A ballot measure was finally proposed by the 2019 Charter Revision Commission and approved by 73 percent of voters.”

(b) “Ranked-choice voting addresses the problems presented by both the plurality system, which has been used to nominate and elect city council members, and the hybrid plurality/runoff system, which has been used in election of mayor, comptroller, and public advocate, especially in races where there are three or more candidates. In a city with an already low turnout rate, forcing voters to come to the polls a second time for a primary runoff, and then, a third time for the general election has hurt our precarious system of representative government. With ranked-choice voting, there is no runoff, so we do not risk a decline in turnout. And, by not having a primary election runoff, the city also avoids the expense of a runoff.”

(c) “Most important for democracy, ranked-choice voting gives voters more say in who gets elected by giving them the opportunity to express more preferences on their ballot. Voters can cast a vote for another candidate that would best represent them if their first-choice candidate turns out to have little support among other voters. Even if a voter’s first-choice candidate does not win, their vote remains important in choosing the winner by ranking other candidates.”

(d) “Ranked-choice voting has also led to more diverse and representative candidates running in and winning elections. In studies of four California cities—San Francisco, Berkeley, Oakland, and San Leandro—ranked-choice voting did not have a negative impact on the candidacy rates for women and people of color and it increased the probability that candidates in these groups would win elections, compared to plurality elections. In another study, researchers from several universities analyzed voting behavior in four jurisdictions—Terrebonne Parish,

Louisiana; Cincinnati, Ohio; Pasadena, Texas; and Jones County, North Carolina—and found that ranked-choice voting ‘consistently’ provides ‘slightly better’ representation for minority groups.”

(e) “This system of voting can also change the dynamic of a campaign and lead to more civility and less negative campaigning. Candidates are encouraged to build broader coalitions of voters during the campaign because candidates who are not your top choice may still need your support to win. In city-wide elections with multiple candidates, it will be difficult for a candidate to hit the 50 percent threshold in the first round of voting. A winning campaign will recognize the perils of negative campaigning in an election where the margin of victory could very well depend on a voter’s second or third choice.”

(f) “The legitimacy of democratic systems of governance depend on the consent of the governed through voting. When large numbers of people do not vote, as has been the case in New York for decades, we are putting our democracy at risk. Ranked-choice voting simply gives us a greater voice in our democracy.”

news.columbia.edu/news/ranked-choice-voting-nyc#:~:text=Ranked%20Choice%20NY.-,Ester%20R.,Politics (last visited July 18, 2025)

CLAIMS FOR RELIEF

CLAIM I

EQUAL PROTECTION CLAUSE (U.S. CONST. AMEND. XIV)

41. Plaintiff repeats and realleges the foregoing allegations as if fully set forth here.

42. Plaintiff and similarly situated voters and candidates are unequally treated by the exclusion of RCV from the general election, which lacks a rational or compelling justification.

43. Accordingly, in order to avoid irreparable harm to Plaintiff and similarly situated voters and candidates, a judgment declaring the law unconstitutional and appropriate injunctive relief requiring RCV in the 2025 general election is necessary.

CLAIM II

FIRST AMENDMENT (U.S. CONST. AMEND. I)

44. Plaintiff repeats and realleges the foregoing allegations as if fully set forth here.

45. The plurality voting system imposes unjustifiable burdens on political expression and voter association, particularly for independent candidates and non-major party voters.

46. Accordingly, in order to avoid irreparable harm to Plaintiff and similarly situated voters and candidates, a judgment declaring the law unconstitutional and appropriate injunctive relief requiring RCV in the 2025 general election is necessary.

CLAIM III

**ARBITRARY AND CAPRICIOUS GOVERNMENT ACTION IN VIOLATION OF THE
DUE PROCESS CLAUSE (U.S. CONST. AMEND. XIV)**

47. Plaintiff repeats and realleges the foregoing allegations as if fully set forth here.

48. By selectively implementing RCV only in primaries, defendants have engaged in arbitrary policy-making that undermines public trust and violates due process.

49. Accordingly, in order to avoid irreparable harm to Plaintiff and similarly situated voters and candidates, a judgment declaring the law unconstitutional and appropriate injunctive relief requiring RCV in the 2025 general election is necessary.

CLAIM IV

VIOLATION OF THE VOTING RIGHTS ACT (52 U.S.C. § 10301)

50. Plaintiff repeats and realleges the foregoing allegations as if fully set forth here.

51. To the extent that the exclusion of RCV disproportionately impacts racial and ethnic minority voters, whose votes may be split among multiple candidates, it constitutes vote dilution in violation of § 2 of the Voting Rights Act.

52. Accordingly, in order to avoid irreparable harm to Plaintiff and similarly situated voters and candidates, a judgment declaring the law illegal under the Voting Rights Act and appropriate injunctive relief requiring RCV in the 2025 general election is necessary.

CLAIM V

VIOLATIONS OF ARTICLE I, § 1 OF THE NEW YORK STATE CONSTITUTION

53. Plaintiff repeats and realleges the foregoing allegations as if fully set forth here.

54. The exclusion of RCV violates the equal protection and electoral fairness guarantees under the New York State Constitution.

55. Accordingly, in order to avoid irreparable harm to Plaintiff and similarly situated voters and candidates, a judgment declaring the law unconstitutional under State law, and appropriate injunctive relief requiring RCV in the 2025 general election is necessary.

RELIEF SOUGHT

WHEREFORE, Plaintiff requests the following relief against the defendants:

1. A declaratory judgment that the exclusion of RCV from New York City's general mayoral election violates the U.S. Constitution, the Voting Rights Act, and the State Constitution;

2. A preliminary and permanent injunction requiring defendants to implement RCV in the 2025 general mayoral election;

3. Any further relief that the Court deems just and proper.

DATED: July 18, 2025

/s/ Richard Cardinale

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