SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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Senator Elizabeth O'C. Little, Senator Patrick Gallivan, Senator Patricia Ritchie, Senator James Seward, Senator George Maziarz, Senator Catharine Young, Senator Joseph Griffo, Senator Stephen M. Saland, Senator Thomas O'Mara, James Patterson, John Mills, William Nelson, Robert Ferris, Wayne Speenburgh, David Callard, Wayne McMaster, Brian Scala, Peter Tortorici,

Plaintiffs,

-against-

New York State Task Force on Demographic Research and Reapportionment, New York State Department of Correctional Services,

Defendants,

and

NAACP New York State Conference, Voices of Community Activists and Leaders- New York, Common Cause of New York, Michael Bailey, Robert Ballan, Judith Brink, Tedra Cobb, Frederick A. Edmond III, Melvin Faulkner, Daniel Jenkins, Robert Kessler, Steven Mangual, Edward Mulraine, Christine Parker, Pamela Payne, Divine Pryor, Tabitha Sieloff, and Gretchen Stevens,

Proposed Intervenor-Defendants.

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Index No. 2310-2011

NOTICE OF MOTION TO INTERVENE

Oral Argument Requested

PLEASE TAKE NOTICE that upon the Affirmation of Peter Surdel in Support of Proposed Intervenor-Defendants Motion to Intervene, and the affidavits appended to that affirmation, the accompanying Memorandum of Law in Support of the Motion to Intervene, and the Proposed Verified Answer, the undersigned counsel will move that this Court, pursuant to Rule 1012(a)(2) of the New York Civil Practice Laws and Rules, on Tuesday, June 7, 2011, or as soon thereafter as counsel may be heard, issue an order permitting the proposed intervenors to intervene as of right or, in the alternative, to be granted permissive intervention, and direct that the following Proposed Intervenors: NAACP New York State Conference ("NAACP"), Voices of Community Activists and Leaders- New York ("VOCAL-NY"), Common Cause of New York ("Common Cause"), Michael Bailey, Robert Ballan, Judith Brink, Tedra Cobb, Frederick A. Edmond III, Melvin Faulkner, Daniel Jenkins, Robert Kessler, Steven Mangual, Edward Mulraine, Christine Parker, Pamela Payne, Divine Pryor, Tabitha Sieloff, and Gretchen Stevens, be added as intervenor-defendants in the matter *Little v. New York State Task Force on Demographic Research and Reapportionment, et.al.*, Index No. 2310-2011.

Because this Notice of Motion was served at least sixteen days before the return date, answering papers and any notice of cross-motion, with supporting papers, if any, shall be served at least seven days before the return date, in accordance with New York CPLR § 2214(b). Any reply or responding affidavits shall be served at least one day before the return date.

Dated: May 17, 2011

Respectfully submitted,

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SUPREME COURT OF THE STATE OF NEW YORK
County of Albany

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MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

Oral Argument Requested

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MEMORANDUM OF LAW IN SUPPORT OF PROPOSED INTERVENOR DEFENDANTS' MOTION TO INTERVENE

Pursuant to rule 1012 (a) (2) of the Civil Practice Laws and Rules, NAACP New York State Conference ("NAACP"), Voices of Community Activists and Leaders ("VOCAL"), Common Cause of New York, ("Common Cause") ("organizational intervenors"), and Michael Bailey, Robert Ballan, Judith Brink, Tedra Cobb, Frederick A. Edmond III, Melvin Faulkner, Daniel Jenkins, Robert Kessler, Steven Mangual, Edward Mulraine, Christine Parker, Pamela Payne, Divine Pryor, Tabitha Sieloff, and Gretchen Stevens ("individual intervenors") (collectively, "proposed intervenors"), move to intervene as of right in this action and, in the alternative, permissively intervene pursuant to rule 1013 of the Civil Practice Laws and Rules. As set forth below, proposed intervenors satisfy the requirements both for intervention as of right and for permissive intervention and respectfully request that they be permitted to intervene as defendants in the matter *Little v New York State Task Force on Demographic Research and Reapportionment, et.al.*, index No. 2310-2011.

Preliminary Statement

Proposed intervenors seek to defend the constitutionality of part XX of chapter 57 of the Laws of 2010 ("part XX"), a recently-enacted New York law requiring that incarcerated persons be allocated for state legislative redistricting purposes to their last address preceding their incarceration, and for localities to exclude the prison population when conducting local redistricting. Part XX amends New York's previous method, which allocated incarcerated persons to the districts where they were incarcerated during redistricting, and thus Part XX makes the state's redistricting practice consistent with the

state constitutional definition of residence for incarcerated people: "no person shall be deemed to have gained or lost a residence, by reason of his or her presence or absence ... while confined in any public prison." N.Y. Const. Art II, § 4.

Part XX was specifically designed to remedy the injustice of the prior method of apportionment, which arbitrarily and artificially enhanced the voting power of both state and county legislative districts in which the prisons were located and which lacked any interest in common with the persons incarcerated. At the same time, the prior method unfairly diluted the voting power of individuals in all other districts. This dilution particularly affected voters living in the largely African-American and Latino state legislative districts from which most members of the incarcerated population come and to which they are likely to return, and voters living in a county that contains a prison, but who live outside of the local election district containing the prison. If plaintiffs prevail on their claims, these counties would be forced to treat incarcerated persons as ordinary constituents, thus skewing the balance of their local legislative districts.[1]

The proposed intervenors are voters and organizations that represent voters whose voting rights would be diluted if the challenged statute were invalidated. They include individual voters residing in urban downstate communities as well as upstate communities who would be harmed by assigning the incarcerated population to prison districts for purposes of redistricting, together with several membership organizations that have an interest in promoting fair representation and that have members whose rights are directly at stake in this litigation. Each of the proposed intervenors seeks to intervene because the relief sought by plaintiffs — an injunction restraining enforcement

[1] Prior to the passage of Part XX, counties were free to choose whether or not to count prisoners as residents of prisons for purposes of local redistricting. As noted below, 13 counties voluntarily chose to remove the prison population before redistricting.

of the statute and a declaration that the statute is unconstitutional — would deprive them of the very voting protections part XX was enacted to provide them.

Named defendants — the Department of Correctional Services ("DOCS"), which is required under part XX to supply data on prisoners, and the New York Legislative Task Force on Demographic Research and Reapportionment ("LATFOR"), which uses the data for developing statewide redistricting plans — have no personal stake in the voting rights protected by the statute and therefore no institutional incentive or interest in protecting those rights. Defendants are state agencies with ministerial duties pursuant to part XX, and therefore, will not — indeed cannot be expected to — adequately represent the voting rights and interests of proposed intervenors which this lawsuit seeks to nullify.

Proposed intervenors' position is distinct. As individuals and membership organizations representing individuals whose votes were diluted under the previous method of counting incarcerated individuals, proposed intervenors intend to argue not only that the State Constitution affords discretion to allocate incarcerated individuals to their home addresses for redistricting purposes, but also that such an allocation is required by state and federal equal protection requirements, and necessary to protect minority voting rights.

Proposed intervenors' concern that their voting rights will be inadequately represented by the present defendants is well-founded. At this time, defendant LATFOR has represented to the court that it does not intend to make any formal submission. Instead, LATFOR has emphasized only their need for a prompt resolution of the case to supply the certainty needed as to how to allocate incarcerated persons before they

complete their task, rather than the need to defend the voting rights protected by Part XX. Defendant DOCS, for its part, has asserted an affirmative defense that, if successful, would result in its dismissal from the case.

Moreover, a final judgment invalidating part XX would dispose of proposed intervenors' voting rights that are now protected by the statute. Accordingly, in every meaningful sense, proposed intervenors would be bound by that judgment. Under these circumstances and because this motion, made two business days after defendants' answer, is plainly timely, intervention should be granted either as of right or permissively.

Statement of Facts

I. Nature of the Case

On August 3, 2010, the New York Legislature duly passed part XX of chapter 57 of the Laws of 2010, legislation that required the state to allocate people incarcerated in New York State prison facilities to their home communities for redistricting purposes. The Governor signed the legislation into law on August 12, 2010. The law was submitted to the United States Department of Justice for preclearance under section 5 of the Voting Rights Act on March 8, 2011, and preclearance was granted on May 9, 2011.[2]

Prior to the enactment of part XX, New York allocated people incarcerated in state prisons to the legislative districts where they were incarcerated, rather than to the home communities where they are legally domiciled, despite the fact that most people in prison return to their home communities after release, and the median time that an

[2] If plaintiffs prevail in this action and New York reverts to the method of prisoner allocation in existence prior to the passage of part XX, many voters living in predominantly minority districts from which a disproportionate number of state prisoners hail will once again suffer the vote dilution remedied by part XX.

incarcerated person has been at his or her current facility is just over 7 months. (New York State Department of Correctional Services, HUB SYSTEM: Profile of Inmate Population Under Custody on January 1, 2008, at ii, available at http://www.docs.state.ny.us/Research/Reports/2008/Hub_Report_2008.pdf [accessed May 12, 2011].)

Under New York law, persons convicted of felony offenses and held in state prisons are not eligible to vote. Treating them as "residents" of the prison artificially inflates the voting strength of those who live in districts where prisons are located, and dilutes the voting strength of every New Yorker who lives in a district that does not house a state prison.

For example, following the 2001 redistricting cycle, a state senator from senate district 45, which includes 11 state prisons and a federal prison, represented 286,614 non-incarcerated constituents, while a state senator from neighboring senate district 43, where no prison is located, represented 302,261 non-incarcerated constituents. (*See* Prison Policy Initiative, New Senate Districts, April 22, 2002, at figure 10, http://www.prisonpolicy.org/importing/fig10.html [accessed May 12, 2011].) District 45 would not have met the minimum requirements for population size for representation but for the incarcerated population in the district. The voting strength of district 45's constituents is inflated by the prison population while the voting strength of district 43's constituents is diluted in comparison.

Notwithstanding the former policy, 13 New York counties voluntarily removed the prison population before redistricting to avoid unfairly inflating the voting power in their districts.[3]

Part XX requires, *inter alia*, defendant DOCS to provide to defendant LATFOR the address prior to incarceration for each person incarcerated in a state prison on Census Day. Part XX requires that LATFOR use the data provided by DOCS to develop a dataset allocating incarcerated individuals to the geographic units where they resided prior to incarceration and to include this reallocation in the state district plans that it presents to the legislature.

On April 4, 2011, plaintiffs, nine state senators representing districts with prisons, and nine private citizens, filed this action against defendants challenging the constitutionality of part XX and seeking injunctive relief.

II. Proposed Intervenors

Proposed intervenors are voters and organizations that represent voters whose voting rights would be diluted if part XX were invalidated. Proposed intervenors fall into four basic categories: (1) individual voters living in the largely African-American and Latino state legislative districts from which most members of the incarcerated population come, and who, if plaintiffs prevail, will experience vote dilution because incarcerated individuals from their district will be credited to prison districts; (2) individual voters living in any other state legislative district, whether upstate or downstate, that does not contain the largest concentration of prisons; (3) individual voters residing in New York counties that contain prisons, but who, if plaintiffs prevail, will experience vote dilution

[3] In fact, it is proposed intervenors' belief that at least 3 of the individual plaintiffs are from counties that removed the prison population when redistricting and that the Senators together represent 10 of the 13 New York counties that exclude the prison population when redistricting.

because their local county legislative district contains no prisons; and (4) New York non-profit membership organizations that have members residing in affected state legislative, county and municipal districts.

III. Interests of Proposed Intervenors in this Lawsuit

Proposed intervenors have a substantial interest in this case. First, if part XX is invalidated, individual intervenors will suffer a loss of voting strength, and a loss of equitable representation in the state and/or county legislature. (Bailey affidavit ¶¶ 14-15; Brink affidavit ¶¶ 14-15; Edmond affidavit ¶¶ 14-15; Faulkner affidavit ¶¶ 13-14; Mangual affidavit ¶¶ 11, 14; Mulraine affidavit ¶¶ 12-14; Parker affidavit ¶¶ 11-12; Payne affidavit ¶¶ 12-13; Pryor affidavit ¶¶ 16-17; and Ballan affidavit ¶¶ 10-11; Cobb affidavit ¶ 14; Kessler affidavit ¶ 10; Stevens affidavit ¶ 9.) The votes of individual intervenors who do not reside in state or county districts that include prison populations will be worth less than those of individuals who live in prison districts. (Bailey affidavit ¶ 15; Brink affidavit ¶ 13; Edmond affidavit ¶ 14; Faulkner affidavit ¶ 13; Mangual affidavit ¶ 13; Mulraine affidavit ¶¶ 12-14; Parker affidavit ¶ 11; Payne affidavit ¶ 12; Pryor affidavit ¶ 16; and Ballan affidavit ¶ 10; Cobb affidavit ¶ 14; Kessler affidavit ¶ 10; Stevens affidavit ¶ 9.) Some proposed intervenors live in communities disproportionately disadvantaged by incarceration of persons legally domiciled in their communities and whose proper voting strength was restored under part XX's policy of allocating incarcerated populations to their home communities. (Bailey affidavit ¶¶ 13-14; Edmund affidavit ¶¶ 13-14; Faulkner affidavit ¶¶ 12-13; Mangual affidavit ¶ 12; Parker affidavit ¶¶ 9-10; Payne affidavit ¶¶ 11-12; Pryor affidavit ¶ 16.)

Second, organizational intervenors will suffer a loss of political power both because the collective voting strength of their members will be diluted and because the organizations conduct their operations in districts that are impacted by the new policy. (Dukes affidavit ¶¶ 3, 8, 15, 19; Barry affidavit ¶¶ 3, 12-13, 29; Lerner affidavit ¶¶ 4, 7, 19-20.) Further, equal representation and building political power are central to each organization's mission, and each supported changing the policy to count people in prison at their home addresses as a way of furthering its institutional goals. (Dukes affidavit ¶ 10; Barry affidavit ¶ 28; Lerner affidavit ¶¶ 8, 8-11.) These organizations invested significant resources to bring about the policy change. (Dukes affidavit ¶ 24; Barry affidavit ¶¶ 20-24, 27, 31; Lerner affidavit ¶¶ 15-18.) A finding that part XX is invalid will both divert resources and frustrate the mission of each organizational intervenor. (Dukes affidavit ¶¶ 23-25; Barry affidavit ¶¶ 27-31; Lerner affidavit ¶¶ 19-21.)

Third, if plaintiffs' lawsuit is successful, some individual intervenors will suffer dilution of their voting strength in county elections. Indeed, separate and apart from the implications of this case for statewide redistricting plans, a ruling that part XX is invalid and requiring that incarcerated persons be counted where they are confined during redistricting would have a dramatic impact on redistricting at the county or local level, where total population numbers are smaller and where the presence of a large prison can dramatically skew the population balance between districts. Thus, even prior to the enactment of part XX, many counties with large prison populations did not count people in prisons as local residents when drawing countywide districts because of the severe distortions in voting strength that would result at the local level. (Jenkins affidavit ¶ 8; Sieloff affidavit ¶ 13.) Some individual intervenors are residents of these counties and do

not live in local districts with prisons. (Jenkins affidavit ¶ 7; Sieloff affidavit ¶ 13.) If plaintiffs prevail on their claims, individual intervenors who are residents of such counties will be subject to redistricting policies that artificially inflate the voting strength of residents in local districts that contain prisons, at the expense of neighboring residents whose districts do not contain prisons. (Jenkins affidavit ¶ 10; Sieloff affidavit ¶ 13.)

In sum, if plaintiffs' lawsuit is successful, the proposed individual and organizational intervenors will have diminished voting strength and diminished ability to influence the state and various county legislatures. They will have less ability to draw attention to the issues and problems that affect their daily lives and their communities, and they will have less ability to propose solutions to these problems and to ensure that these issues have fair hearing before the various legislatures. Those individual intervenors who are residents of counties that voluntarily removed incarcerated individuals from their population base for redistricting purposes prior to part XX will lose the equal representation that their elected representatives established when their county had the ability and independence to remove those in the local state prison from their population for redistricting purposes.

Argument

I. This Court Should Grant Intervention as of Right

New York courts have recognized that intervention should be liberally allowed under Civil Practice Laws and Rules. (*See Teleprompter Manhattan CATV Corp. v State Board of Equalization & Assessment*, 34 AD2d 1033 [3d Dept 1970]; *see also*, 3-1012 Weinstein, Korn and Miller, CPLR Manual § 1012.05.) Here, proposed intervenors are entitled to intervention as of right if they demonstrate: (1) the motion is timely, (2) the

representation of the applicants' interest by the parties is or may be inadequate, and (3) the applicant is or may be bound by the judgment. (CPLR 1012 (a) (2).) Proposed intervenors meet all of these requirements.

A. Proposed Intervenors Acted in a Timely Manner.

First, New York courts have stressed the importance of timely motions to intervene and have reinforced the wide discretion of trial courts to make that determination. (*See Matter of Romeo v New York State Dept. of Educ.*, 39 AD3d 916, 917 [3d Dept 2007] ("Intervention can occur at any time, even after judgment for the purpose of taking and perfecting an appeal.").) In evaluating the timeliness of a motion to intervene, courts consider "whether the delay in seeking intervention would cause a delay in resolution of the action or otherwise prejudice a party." (*Yuppie Puppy Pet Prods. v Street Smart Realty, LLC,* 77 AD3d 197, 201 [1st Dept 2010].)

Here, proposed intervenors' are filing their motion to intervene a mere two business days after the defendant DOCS's answer was filed. Proposed intervenors are not requesting any changes to the filing deadlines or other litigation deadlines at this time. Accordingly, this motion will cause neither prejudice to the existing parties nor any delay in these proceedings. As there is no question that this motion is timely (*see e.g. Jeffer v Jeffer*, 28 Misc 3d 1238A [Sup Ct, Kings County 2010] (intervention allowed when motion to intervene filed over a year after Amended Complaint was filed)), proposed intervenors satisfy this minimal requirement for intervention as of right.

B. Defendants Will Not Adequately Represent the Interests of Proposed Intervenors.

Second, proposed intervenors' interests are distinct from and entirely unrelated to those of the named defendants. Proposed intervenors' interest is to defend their voting

rights protected by part XX. Defendants, however, have no such interest. They are more akin to stakeholders in an interpleader action whose interests are satisfied whichever way the case is decided. Regardless of how vigorous defendants' defense may be of their own interests, proposed intervenors' interests will not be adequately represented in that defense. Proposed intervenors thus satisfy the second requirement for intervention as of right.

Rule 1012 (a) (2) imposes no limits on the kinds of interests that a proposed intervenor may assert in support of a motion to intervene. Appropriately, New York courts interpret rule 1012 (a) to liberally allow intervention to protect an interest that is "bona fide" and related to an issue in the case. (*Yuppie Puppy*, 77 AD3d at 201 ("Intervention is liberally allowed by courts, permitting persons to intervene in actions where they have a bona fide interest in an issue involved in that action.").)

Interests related to an ability to participate effectively in the political process, like those of proposed intervenors, are the kinds of interests New York courts have consistently allowed intervenors to protect. (*See e.g. Lenihan v Blackwell*, 209 AD2d 1048, 1049 [4th Dept 1994] (reversing denial of legislators' motion to intervene to challenge wording of ballot proposition and abstract); *McCall v Hynes*, 196 AD2d 618, 618-619 [2d Dept 1993] (reversing denial of motion to intervene in a matter involving the petition designating a candidate for public office); *Oleska v D'Apice,* 123 AD2d 302 [2d Dept 1986] (granting intervention of a party in an action allowing write-in votes for the Liberal Party); *Ramos v Alpert*, 41 AD2d 1012 [3d Dept 1973] (allowing county Republican Party chairman to intervene on behalf of party candidates in an action seeking to compel county election board to accept petitions for candidates); *Orans v Rockefeller*,

47 Misc 2d 493, 497 [Sup Ct, New York County 1965] (granting intervention by State Senate President Pro Tempore in a redistricting matter).)

To demonstrate inadequate representation under CPLR 1012, intervenors need only show that the representation "may" be inadequate. "Inadequacy of representation is generally assumed when the intervenor's interest is divergent from that of the parties to the suit." (*State ex rel. Field v. Cronshaw*, 139 Misc 2d 470, 472 [Sup Ct, Nassau County 1988]; *see also* Weinstein, Korn and Miller, New York Civil Practice § 1012.03.)

New York courts have not demanded a high degree of interest divergence in allowing intervention. Indeed, New York courts have found inadequate representation of interests where the divergence between the interests of an existing party and a would-be intervenor would appear to be minimal. For example, courts have granted intervention on the basis of the divergence of interests between an exclusive collective bargaining representative and persons who were formerly members of that bargaining unit and represented by that representative (*see Civil Service Bar Assoc., etc. v New York*, 64 AD2d 594, 595 [1st Dept 1978]); between a defendant town and the town's zoning board of appeals (*see Subdivisions, Inc. v Town of Sullivan*, 75 AD3d 978, 979-80 [3d Dept 2010]; and between a court-substituted counsel in a conservatorship proceeding and the proposed conservatee's former counsel in that proceedings who remained the trustee of the trust executed by proposed conservatee (*see In re Waxman*, 96 AD2d 908, 908 [2d Dept 1983]).[4] But here, the differences are stark.

[4] Under the federal rules governing intervention, on which the New York standards are "patterned" (*see Vantage Petroleum v Board of Assessment Review*, 91 AD2d 1037, 1040 [2d Dept 1983]), a private party's burden in demonstrating that the government may not adequately represent its interests is "treated as minimal" (*Trbovich v United Mine Workers of America*, 404 U.S. 528, 538 note 10 [1972]). Federal courts routinely find that, in litigation challenging a law, a private party that benefits from the challenged law should be permitted to intervene because that party's interests may not be adequately represented by the

In this case, proposed intervenors' interests are not minimally divergent from defendants' interests, but instead are widely divergent. Part XX is not central to defendants' institutional function or purpose, and its invalidation will not affect their role, mission or standing within the government. DOCS' interest in this case is implementing the technical requirements of the law by providing the requisite data to LATFOR. Similarly, LATFOR's interest is following the statutory mandate to use that data to reallocate people in prison to their home communities when drafting new districts in the state. LATFOR's and DOCS's only interest in this matter is administrative — the technical implementation of their statutorily imposed duties under part XX.

In contrast, proposed intervenors all have a personal stake in defending the constitutionality of part XX. The invalidation of Part XX would vitally affect the representational weight of the votes of intervenors in the affected districts and the allocation of political power geographically within the state, as well as the continued ability of localities to make the determination that representational interests of local residents, including intervenors, are best served by removing the prison population when redistricting. (Bailey affidavit ¶¶ 17-19; Brink affidavit ¶ 16; Edmond affidavit ¶ 16; Faulkner affidavit ¶ 15; Mangual affidavit ¶ 16; Mulraine affidavit ¶ 14; Parker affidavit ¶ 13; Payne affidavit ¶ 14; Pryor affidavit ¶¶ 18-22; and Ballan affidavit ¶ 12; Cobb

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State, which is tasked with representing the public generally. (*See e.g. N.Y. Pub. Interest Research Group, Inc. v Regents of the Univ. of the State of N.Y.*, 516 F2d 350, 352 [2d Cir 1975] (holding that pharmacists who benefitted from a statewide regulation were allowed to intervene in challenge by a consumer group to enjoin the regulation, because "there is a likelihood that" intervenors would "make a more vigorous presentation" of certain arguments than would the State); *Herdman v Town of Angelica*, 163 FRD 180, 189-91 [WD NY 1995] (environmental group permitted to intervene to defend town's ordinance where intervenors would raise arguments not presented by town); Wright, Miller and Kane, Federal Practice and Procedure: Civil § 1908.1 (3d ed rev 2010) ("[I]n cases challenging various statutory schemes as unconstitutional or as improperly interpreted and applied, the courts have recognized that the interests of those who are governed by those schemes are sufficient to support intervention.").)

affidavit ¶ 15; Kessler affidavit ¶¶ 11-12; Stevens affidavit ¶ 10; Jenkins affidavit ¶ 11; Sieloff affidavit ¶¶ 14-15; Dukes affidavit ¶¶ 26-28; Barry affidavit ¶¶ 32-33; Lerner affidavit ¶¶ 13-14.) The intervenors' voting rights are thus directly at stake in this lawsuit. By contrast, the named defendants have no such interest in protecting proposed intervenors' voting rights established by part XX. They have no institutional, political, personal, financial or other interest in whether part XX remains the law of the state. Their role is merely to share and apply prison data in whatever way state law requires.

Indeed, defendant LATFOR has affirmatively represented that it does not intend to file a responsive pleading or otherwise responded to the complaint, conclusively demonstrating that its representation of proposed intervenors' interests has been inadequate to date. (LATFOR May 11 ltr.) Far from asserting an interest in defending the voting rights protected by Part XX, LATFOR has indicated to this court that its primary interest is in the prompt resolution of the case. (*Id.*) Concern over LATFOR's adequacy of representation is heightened given that one of the Co-Chairman of LATFOR, a signer of the letter to the court, has publicly stated that he was exploring ways to prevent the implementation of Part XX: "I raised doubts then, as I do now, that [Part XX] is unconstitutional....We're reviewing a number of options, and we're analyzing what would be the most appropriate course to block this provision." (Vielkind, *Line Drawn on Prison Head Count Debate*, Albany Times Union, Jan. 31, 2011, section A, at 1.) Meanwhile, defendant DOCS has asserted that it cannot grant the relief plaintiffs seek because it has already fulfilled its data sharing responsibilities under Part XX (Def's Answer ¶ 23), which if successful, would result in its dismissal from the case. Moreover,

DOCS has not argued that the prior method of allocating prisoners to the prison district when redistricting violates principles of equal protection. (*Id.*)

Proposed intervenors, however, intend to defend vigorously Part XX and their voting rights protected under it. Proposed intervenors specifically intend to argue that the method of allocating incarcerated individuals mandated by part XX is in fact more consistent with, and indeed required by, both federal and state constitutional requirements. (*See e.g.* Dukes affidavit ¶ 29; Int.'s Answer Aff. Def. 3.) In other words, proposed intervenors intend to argue that a decision declaring part XX invalid under the State Constitution — and a requirement that the State allocate incarcerated individuals at their places of confinement for redistricting purposes — would dilute minority voting rights and abridge all intervenors' rights under the federal and state constitutions.

Proposed intervenors also intend to argue that voters residing in New York counties that voluntarily removed the prison population for purposes of local redistricting prior to part XX would have their votes diluted for the purposes of county elections if these counties are forced to include the prison population in redistricting. (*See e.g.* Sieloff affidavit ¶ 13; Jenkins affidavit ¶ 9.)

Given the differences between the respective views of defendants and proposed intervenors, and between the arguments that they intend to raise, defendants' representation of the interests of the proposed intervenors will clearly be inadequate.

In any event, proposed intervenors must only show that their interests *may* be inadequately represented. As proposed intervenors have amply demonstrated that their interests are substantially different from those of named defendants, this motion should be granted to allow proposed intervenors to protect their interests.

C. Proposed Intervenors Will Be Bound by the Judgment.

Finally, the judgment sought in this action — an injunction restraining enforcement of the statute and a declaration that the statute is unconstitutional — would determine proposed intervenors' voting rights. It would, in every meaningful and practical sense, bind proposed intervenors. Thus, intervention is the sole practical means by which they can defend their voting rights as established by part XX. Accordingly, proposed intervenors satisfy the third requirement for intervention as of right.

The requirement that an intervenor be "bound by the judgment," as set forth in the text of rule 1012 (a) , has been interpreted by many courts to require only that a proposed intervenor establish that it has a "real and substantial interest in the outcome of the proceedings." (*See e.g. Yuppie Puppy*, 77 AD3d at 201 (permitting intervention because proposed intervenors had a "real, substantial interest" in the outcome of the litigation)); *Berkoski v Board of Trustees of Inc. Vil. of Southampton*, 67 AD3d 840, 843 [2d Dept 2009]; *Dalton v Pataki*, 5 NY3d 243, 277-78 [Ct App 2005] (agreeing that proposed intervenor had a substantial interest in the matter); *Sieger v Sieger*, 297 AD2d 33, 36 [2d Dept 2002] (affirming a denial of intervention because the proposed intervenor did not establish a "real and substantial interest"); *County of Westchester v Department of Health*, 229 AD2d 460, 461 [2d Dept 1996] (finding that intervenors had a "real and substantial interest in the outcome of the proceedings"); *Perl v Aspromonte Realty Corp.*, 143 AD2d 824, 825 [2d Dept 1988] (concluding that proposed intervenors did not submit evidence of a "real and substantial interest").)

As discussed above, proposed intervenors have plainly established their "real and substantial interest" in this case. Indeed, their interests are directly at stake and are the very interests the statute is designed to protect.

Some courts have interpreted "bound by the judgment" to require a showing that the judgment would be *res judicata* as to intervenors (*see e.g. Vantage Petroleum v Board of Assessment Review*, 61 NY2d 695, 698 [Ct App 1984]), even going so far as to consider the doctrine of privity (*see e.g. Kaczmarek v Shoffstall*, 119 AD2d 1001, 1002 [4th Dept 1986]).[5] That standard is inappropriate to a case of this kind involving the constitutionality of a statute, where a judgment would determine the validity of the legislative protections afforded the beneficiaries of the statute, like the proposed intervenors here.

Final resolution of the constitutional issue here, will as a matter of *stare decisis*, be as binding on proposed intervenors as a practical matter as if the judgment were *res judicata* and depending on the grounds for the relief, may well preclude a legislative resolution to the policy problem created when prison populations are used to artificially inflate the power of certain voters or prohibit localities from removing prison populations when redistricting even if they believe it is in their best interest to do so.

The "real and substantial interest" interpretation is more appropriate in cases such as this one, where the judgment would effectively nullify proposed intervenors' rights. Proposed intervenors have demonstrated that part XX protects important representational interests of proposed intervenors, and its invalidation would injure proposed intervenors

[5] This premise appeared in *Yuppie Puppy* (77 AD3d at 197). However, while the First Department in that case relied on *Vantage Petroleum* for the premise that the potentially binding nature of the judgment is "the most heavily weighted factor" in determining whether to permit intervention (*id.* at 202), ultimately the court allowed intervention because it concluded that the proposed intervenor had a "substantial interest in the outcome of this litigation" (*id.* at 201).

in a myriad of ways. Accordingly, proposed intervenors prove that they are or "may be bound by the judgment" for the purposes of rule 1012 (a) (2).

Because proposed intervenors have established all of the requirements for intervention by right pursuant to CPLR 1012 (a) (2), this Court should grant their motion to intervene.

II. The Court Should Also Grant Permissive Intervention

In the alternative to granting intervention of right, this Court should exercise its discretion to grant permissive intervention under CPLR 1013 because the proposed intervenors' representational interests are directly at stake and the named defendants not only do not have the same kinds of interests at issue, but have affirmatively indicated that they cannot be relied upon to protect those interests. The rule for permissive intervention provides:

> "Upon timely motion, any person may be permitted to intervene in any action when . . . the person's claim or defense and the main action have a common question of law or fact. In exercising its discretion, the court shall consider whether the intervention will unduly delay the determination of the action or prejudice the substantial rights of any party."

(CPLR 1013.)

As with rule 1012, courts should liberally construe CPLR 1013 to grant intervention. (*Bay State Heating & Air Conditioning Co. v American Ins. Co.*, 78 AD2d 147, 149 [4th Dept 1980].)

Courts have granted permissive intervention when the proposed intervenor can show that it would experience adverse effects as a result of the case, even where the injury is not pecuniary or financial in nature. (*See Town of Southold v Cross Sound Ferry Servs.*, 256 AD2d 403, 404 [2d Dept 1998] (granting an organization's motion to

intervene because an increase in noise, traffic, and air emissions experienced by its members established a real and substantial interest in the outcome of the action).) In fact, organizations with a mission closely linked to the policy objectives of a particular law, like organizational intervenors here, have been found to have a sufficient interest in the outcome of an action, justifying permissive intervention. (*See Prometheus Realty v City of New York*, 2009 NY Slip Op 30273[U], *4-5 [Sup Ct, New York County 2009] (granting permission to intervene in a challenge to an anti-harassment law to both a tenant council whose members were harassed by landlords and a neighborhood association with an interest in defending tenants against landlord harassment).)

Patterson Materials Corp. v Town of Pawling (221 AD2d 609, 610 [2d Dept 1995]) is also illustrative. In that case, two homeowner associations and an individual resident moved to intervene as defendants in an action challenging the validity of local laws that plaintiff alleged restricted its mining operations. The proposed intervenors never claimed to represent or be homeowners on the land where plaintiff was conducting its activities, but instead claimed to be adjacent to or in close proximity to where the plaintiff's operations might occur. The noise, dust, and traffic that would result if mining were permitted in the land close to proposed intervenors conferred a "real and substantial interest" in the outcome of the action justifying permissive intervention. (*Id.*)[6]

Similar to the proposed intervenors in all of these cases, the proposed intervenors in this case have a legally cognizable interest in preventing the representational distortion that would occur if the weight of each eligible voter in nearby legislative districts was

[6] *Patterson* also demonstrates that rule 1013 is not limited to intervenors that already have related lawsuits. (*See* 221 AD2d at 609; *see also McDermott v McDermott*, 119 AD2d 370, 374 [2d Dept 1986] [husband's pension fund granted permissive intervention in divorce proceeding between wife and husband].)

improperly inflated by including ineligible people in prison with few ties to that district, as is sought by plaintiffs' action.

Furthermore, it is indisputable that those proposed intervenors who reside in the home communities of large numbers of incarcerated persons, or who represent members who reside in the home communities, have a substantial interest in the elimination of the practice of allocating incarcerated populations to the prison district instead of to the home communities to which incarcerated persons almost invariably return upon release. (*Cf. Plantech Housing, Inc. v Conlan*, 74 AD2d 920, 921 [2d Dept 1980] (holding that movant is affected by the judgments in a tax certiorari proceedings in a real and substantial way because demands have been made upon it for a refund of taxes).)

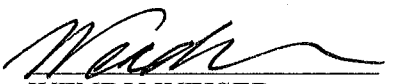
Moreover, intervention by proposed intervenors will not cause delay in the proceedings nor prejudice to any party, as demonstrated above.

Conclusion

As all the affidavits attached to this memorandum of law demonstrate, proposed intervenors have important interests in the outcome of this lawsuit that will not be adequately represented by the existing parties, but will nonetheless be intimately affected by any decision this Court issues. Their unique and varied perspectives will be valuable to the Court in assessing the important and weighty democratic issues raised by this case, and intervention should be granted. Accordingly, proposed intervenors respectfully request that this Court permit their intervention pursuant to rule 1012 (a) (2), or in the alternative, rule 1013.

Dated: May 17, 2011

Respectfully submitted,



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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

.....

Senator Elizabeth O'C. Little, Senator Patrick Gallivan, Senator Patricia Ritchie, Senator James Seward, Senator George Maziarz, Senator Catharine Young, Senator Joseph Griffo, Senator Stephen M. Saland, Senator Thomas O'Mara, James Patterson, John Mills, William Nelson, Robert Ferris, Wayne Speenburgh, David Callard, Wayne McMaster, Brian Scala, Peter Tortorici,

Plaintiffs,

-against-

New York State Task Force on Demographic Research and Reapportionment, New York State Department of Correctional Services,

Defendants,

and

NAACP New York State Conference, Voices of Community Activists and Leaders-New York, Common Cause of New York, Michael Bailey, Robert Ballan, Judith Brink, Tedra Cobb, Frederick A. Edmond III, Melvin Faulkner, Daniel Jenkins, Robert Kessler, Steven Mangual, Edward Mulraine, Christine Parker, Pamela Payne, Divine Pryor, Tabitha Sieloff, and Gretchen Stevens,

Proposed Intervenor-Defendants.

Index No. 2310-2011

AFFIRMATION OF PETER SURDEL IN SUPPORT OF PROPOSED INTERVENOR-DEFENDANTS MOTION TO INTERVENE

.....

PETER SURDEL, a member of the New York bar, affirms as follows:

1. I am Pro Bono Counsel in the Democracy Program at the Brennan Center for Justice at New York University School of Law and I represent proposed intervenor-defendants in this action, along with several colleagues from other organizations.

2. This Court should grant proposed intervenor-defendants motion to intervene in the above-captioned matter because: (1) the motion is timely, (2) the representation of the applicants' interest by the parties is or may be inadequate, and (3) the applicant is or may be bound by the judgment pursuant to § 1012 (a) (2) of the New York Civil Practice Laws and Rules.

3. Affidavits from Hazel Dukes, President of the NAACP New York State Conference; Sean Barry, Executive Director of Voices Of Community Advocates and Leaders-New York (VOCAL-NY), and Susan Lerner, Executive Director of Common Cause of New York, are attached as **Exhibits 1-3**, respectively.

4. The affidavits of individual proposed intervenor-defendants Michael Bailey, Robert Ballan, Judith Brink, Tedra Cobb, Frederick A. Edmond III, Melvin Faulkner, Daniel Jenkins, Robert Kessler, Steven Mangual, Edward Mulraine, Christine Parker, Pamela Payne, Divine Pryor, Tabitha Sieloff, and Gretchen Stevens are attached as **Exhibits 4-18**, respectively.

5. This motion is unopposed by the New York State Attorney General, counsel for the Department of Correctional Services. LATFOR has represented to the Court that it does not intend to answer the complaint; this representation was made in a letter, a copy of which is attached as **Exhibit 19**. Plaintiffs' counsel does not consent to intervention and informed counsel for proposed intervenor-defendants that a Motion to Intervene would be necessary.

6. I am an attorney authorized to practice law in the State of New York and I have reviewed the attached exhibits.

PETER SURDEL
NY Registration No. 4875191

Dated: May 16, 2011
New York, New York

Sworn to me this 16th
day of May, 2011

Erika L. Wood
Notary Public, State of New York
No. 02WO6052308
Qualified in Kings County
Commission Expires 12/11/2014

NOTARY PUBLIC

EXHIBITS 1 – 19
IN SUPPORT OF PROPOSED INTERVENOR DEFENDANTS' MOTION TO INTERVENE

1	Affidavit of Hazel Dukes
2	Affidavit of Sean Barry
3	Affidavit of Susan Lerner
4	Affidavit of Michael Bailey
5	Affidavit of Robert Ballan
6	Affidavit of Judith Brink
7	Affidavit of Tedra Cobb
8	Affidavit of Frederick A. Edmond, III
9	Affidavit of Melvin Faulkner
10	Affidavit of Daniel Jenkins
11	Affidavit of Robert Kessler
12	Affidavit of Steven Mangual
13	Affidavit of Edward Mulraine
14	Affidavit of Christine Parker
15	Affidavit of Pamela Payne
16	Affidavit of Divine Pryor
17	Affidavit of Tabitha Sieloff
18	Affidavit of Gretchen Stevens
19	LATFOR Letter

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AFFIDAVIT OF HAZEL DUKES

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

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SENATOR ELIZABETH O'C. LITTLE, ET AL.

Index No.:2310/2011

Plaintiffs,

-against-

DECLARATION OF HAZEL DUKES

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,
NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendants.

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STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

Hazel Dukes, being duly sworn, declares and states:

1. I am over the age of eighteen.

2. I submit this Affidavit in support of our motion to intervene in the above-captioned case.

3. I am the President of the NAACP New York State Conference, a not-for-profit organization incorporated in New York in 1911.

4. Our office is located at 1065 Avenue of the Americas, Suite 300, New York, New York.

5. My responsibilities as President of the NAACP New York State Conference are to aggressively promote our mission and goals, to encourage all NAACP units in the State

of New York to engage in independent action to advance our mission, and to build relationships with other advocacy organizations that share our policies and objectives.

6. I became President of the NAACP New York State Conference in 1989, and have served continuously in that position to the present.

7. The NAACP is a non-partisan, interracial membership organization founded in 1909. The NAACP's mission is to ensure the political, educational, social, and economic equality of all persons, and to eliminate racial hatred and racial discrimination. The NAACP's mission is guided by the following principal objectives:

   a. To ensure the political, educational, social, and economic equality of all citizens;

   b. To achieve equality of rights and eliminate race prejudice among the citizens of the United States;

   c. To remove all barriers of racial discrimination through democratic processes;

   d. To seek enactment and enforcement of federal, state, and local laws securing civil rights;

   e. To inform the public of the adverse effects of racial discrimination and to seek its elimination; and

   f. To educate persons as to their constitutional rights and to take all lawful action to secure the exercise thereof, and to take any other lawful action in furtherance of these objectives, consistent with the NAACP's Articles of Incorporation.

8. The NAACP New York State Conference has approximately 90,000 members, representing every county in New York State.

9. The NAACP New York State Conference has 56 local branch units, as well as Youth and College Chapters throughout the State, in areas from Brooklyn to Buffalo, Syracuse to Suffolk County, Albany to Amityville, and all points in between.

10. The primary focus of the NAACP New York State Conference is to protect and enhance the civil rights of African Americans and other people of color. The NAACP New York State Conference has been the premiere civil rights advocacy entity in New York State for decades. At the federal level, the NAACP was a leading force behind the enactment many important civil rights and voting rights statutes, including the 1964 Civil Rights Act, the 1965 Voting Rights Act, the 1968 Fair Housing Act, the 1991 Civil Rights Restoration Act, the 2002 Help America Vote Act, and the most current reauthorization of the Voting Rights Act in 2006.

11. The issues presented in this case lie at the intersection of two issues that the NAACP New York State Conference has been engaged with throughout its existence: (1) the protection of the voting rights of minority communities; and (2) reform of the criminal justice system.

12. The NAACP has long been focused on ensuring full and equal voting rights for African Americans and other communities of color. As early as 1915, in the case of *Guinn v. United States*, 238 U.S. 347 (1915), the NAACP has been involved in legal challenges to discriminatory voting laws. Throughout the 1950's and 1960's, the NAACP was active throughout the South, challenging laws that denied African Americans the opportunity to register and vote. More recently, the NAACP New York State Conference has sought to protect minority voting rights through litigation under the federal Voting Rights Act of 1965, including, for instance, in Suffolk County.

13. The NAACP New York State Conference has also engaged in numerous voter registration and voter education efforts, such as the Over-Ground Railroad Project, a national effort to register African Americans to vote, stamp out voter apathy, and

promote voter participation. The Project resulted in the registration of over 1 million new voters nationwide.

14. The NAACP New York State Conference also works to reform the criminal justice system. Through its National Prison Project, the NAACP seeks to promote partnerships, legislation, and initiatives that positively impact inmate recidivism, ex-felon re-enfranchisement and racial disparities within the criminal justice system; as well provide the incarcerated with a vehicle of empowerment through the formation of Prison Branches. The first Prison Branch of NAACP was chartered in New York. The National Prison Project also performs substantial work around issues such as the use of excessive force in correctional facilities, and the voting rights of persons convicted of criminal offenses. The NAACP New York State Conference has also been actively engaged in numerous other reform efforts, including demonstrations and activism related to police brutality and racial discrimination in the criminal justice system.

15. Some of our members are or were previously incarcerated or have family members who are or were incarcerated. Many of our members live in communities that are heavily impacted by the criminal justice system and have a disproportionate number of residents sent to state prison.

16. Prison-based gerrymandering, or the allocating of incarcerated individuals to the places where they are confined instead of to their home communities, dilutes the voting strength of African-American communities in New York.

17. Persons incarcerated in state and federal correctional institutions live in a separate environment and do not, on any level, participate in the life of the town or county in which they are incarcerated. They do not affect the social and economic character of the

town or county. Instead, they belong to the communities from which they've come (and to which they eventually will return), not to places where they can neither vote, nor check out a library book or attend a local school.

18. The prison population in New York State is disproportionately comprised of African Americans, who are only 17.2% of the State's population, but 51% of the prison population. Most of these individuals come from communities of color. For example, 66% of incarcerated individuals in the state of New York come from New York City (a majority-minority city that is more than 25% African-American).

19. Upstate communities are also harmed by prison-based gerrymandering. African-American communities in places like Buffalo are the home of residence for a disproportionate number of incarcerated individuals, and thus suffer a dilution of voting power as a result of prison-based gerrymandering. Other upstate communities suffer in different ways. For instance, in the city of Elmira, where the NAACP New York State Conference has an active branch, there is a large prison facility that skews legislative districts: the average district size in Elmira is approximately 5,100 residents, but the district where the prison is located only has about one-half that number of true residents.

20. Although most incarcerated individuals in New York State are African Americans who come from communities of color, most of them are held in areas far removed from their homes. According to one study, over 90% of prison cells in New York are located in disproportionately white State Senate districts.

21. Given these facts, allocating individuals in the places where they are incarcerated artificially inflates population numbers—and political influence—in those districts, largely at the expense of New York's African-American communities. While prison-

based gerrymandering harms democracy for everyone, its effects are, in many ways, most keenly felt by communities of color.

22. The practice of prison-based gerrymandering, at its core, is designed to manipulate elections, as it provides the ability to directly determine the outcome of elections by drawing lines to favor certain candidates, and to limit the political influence of minority communities.

23. The NAACP New York State Conference directs its attention and resources to a host of social challenges that impact our members, their families, and our communities. Finding solutions to these very real challenges is made even more difficult to achieve when, as here, our communities' voting strength has been diluted by prison-based gerrymandering.

24. The NAACP New York State Conference engaged in public education about prison-based gerrymandering, and advocated in favor of Section XX, the law ending prison-based gerrymandering in New York. When the New York State legislature passed Section XX last year, the NAACP New York State Conference issued a press release congratulating the legislature and urging then-Governor Patterson to sign it into law. In that release, I stated, "The New York State legislature has taken an important step on behalf of fairness and representation and incarcerated persons will finally be counted in the right place." Benjamin Todd Jealous, President of the NAACP, stated, "We urge Governor Paterson to sign this important piece of legislation into law and bring New York State in line with a handful of states that have chosen to do the right thing...."

25. The remedy urged by the Plaintiffs in this action—the return of prison-based gerrymandering—would reverse one of the most important civil rights advances in this State from the previous decade. The inclusion of incarcerated individuals in the

population base where they are confined would unfairly dilute the voting rights of members of the NAACP New York State Conference, and damage our members' ability to advocate for their concerns in the state legislature. This would, in turn, harm the viability of our members' communities, the integrity of our democracy, and basic principles of equality.

26. Neither the Department of Correctional Services (DOCS) nor the Legislative Task Force on Demographic Research and Reapportionment (LATFOR) can adequately represent our interests in this case. As administrative agencies tasked with implementing the law, they do not represent our organization's interest in assuring that our members and the communities in which they live are represented fairly in the democratic process. Neither agency represents the African-American community or other communities of color in the same way that the NAACP New York State Conference does.

27. LATFOR aids the legislature by providing technical plans for redistricting. It does not represent the interests of African Americans in New York. In addition, because of LATFOR's composition, it is partially allied with the Senate plaintiffs who have filed this lawsuit. The participation of the NAACP New York State Conference is therefore necessary to protect the interests of its members.

28. DOCS is responsible for the confinement and habilitation of approximately 57,000 offenders held at 67 state facilities; its mission is not to ensure the protection of minority voting or to help create a more equitable districting system. It is in an entirely different business altogether. As such, it simply does not have the same interest in this case as the NAACP New York State Conference and its members, whose interests are sometimes adverse to state agencies tasked with enforcing the criminal justice system.

29. The NAACP New York State Conference believes that prison-based gerrymandering in New York is unconstitutional and otherwise violates federal civil rights laws. We believe that the enactment of Section XX is not only within the constitutional authority of the State legislature, but in fact is consistent with the requirements of federal law, and intend to set forth that affirmative argument if we are permitted to intervene in this litigation.

WHEREFORE, I respectfully request that the Court grant our motion to intervene in the above-captioned case.

Hazel Dukes

Sworn to before me this 9th
day of May 2011

Notary Public

NEVILLE W WARREN
Notary Public - State of New York
NO. 01WA6133981
Qualified in Queens County
My Commission Expires 9-19-13

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AFFIDAVIT OF SEAN BARRY

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'C. LITTLE, ET AL.

Index No.:2310/2011

Plaintiffs,

-against-

AFFIDAVIT OF SEAN BARRY

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendants.

----------X

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

Sean Barry, being duly sworn, declares and states:

1. I am over the age of eighteen.

2. I submit this Affidavit in support of my motion to intervene in the above-captioned case.

3. I am the executive director of the New York City AIDS Housing Network, doing business as VOCAL New York (Voices of Community Activists and Leaders) ("VOCAL-NY"), a not-for-profit organization incorporated in New York in 2002.

4. Our office is located at 80A Fourth Avenue, Brooklyn, New York.

5. As Executive Director, I am responsible for the overall work and direction of the organization. I have been working in this capacity since 2007. Before assuming this

role, I was the director of prevention policy at the Community HIV/AIDS Mobilization Project (CHAMP).

6. VOCAL-NY is a statewide grassroots membership organization building power among low-income people who are living with and affected by HIV/AIDS, drug use and incarceration to create healthy and just communities. We accomplish this through community organizing, leadership development, participatory research, public education and direct action.

7. VOCAL-NY believes in a democratic and inclusive movement for social justice that gives everyone an equal voice. VOCAL-NY is part of successive waves of organizing movements that have enlarged the circle of those who are active in the movement for social justice and win change that transforms our lives and the broader communities we live in.

8. In addition to organizing in low-income communities, we also provide direct services to people in need, including homeless outreach, health counseling, drug treatment and public benefits counseling.

9. Decisions about whether and how VOCAL-NY should engage in a particular issue are first considered by a leadership team of members. This team considers whether the issue is deeply and widely felt among the membership and their families and communities and whether it has a concrete impact on the everyday life of our members, their families and communities.

10. If the leadership team decides that the issue has a real impact on its members, it will make a recommendation to the general membership that VOCAL-NY take on the issue as

one of its organizing priorities. The membership will then vote whether to organize around the issue.

11. Currently we have 1,206 members who live in various parts of the state, including all five counties of New York City as well as Westchester and Albany Counties.

12. Our members are residents of the following Senate Districts: 4, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 43, 46, 50, and 62.

13. Many of our members are previously incarcerated or have family members who are previously incarcerated. Many of our members live in communities that are heavily impacted by the criminal justice system and have a disproportionate number of residents sent to state prison.

14. In 2009, VOCAL-NY joined a city-wide coalition working to assure a fair and accurate Census count in our communities. Through this work, we learned that people in state prison are counted by the Census as residents of the districts where they are incarcerated, rather than the home communities where our members and their families live, even though people in prison cannot vote in New York. This policy is sometimes called "prison-based gerrymandering."

15. Prison-based gerrymandering artificially inflates the voting strength of constituents of those legislative districts where prisons are located, while at the same time diluting the voting strength of constituents in those districts that do not have prisons.

16. While this policy impacts all districts in the state that do not house a state prison, the impact is especially severe on communities from which a disproportionate number of residents are sent to prison. These communities actually lose individuals when they are sent to prison. Even though these individuals almost always return to the home

communities, and usually within just a few years, they are never allocated to those districts during redistricting. The result is that these districts have severely diminished voting strength and weakened political power.

17. We learned that in the 2000 round of redistricting, prison-based gerrymandering created several districts where our members live that do not adequately reflect the true number of people who live in those districts.

18. The result is that our members who lived in those districts created in 2000 had diminished voting power, and therefore less influence over decisions that affect their daily lives for the entire decade. As a consequence, some of the issues that they care about receive less attention in the legislature.

19. Pressing problems and potential solutions that impact our members, their families and communities are easily ignored by the state legislature because our members who live in the districts drawn in 2000 have diluted voting strength as a result of prison-based gerrymandering.

20. Through the decision-making process described in Paragraphs 9 and 10, our members decided that prison-based gerrymandering was an issue that deeply impacted our members, their families and their communities, and voted to make the issue one of our core organizing priorities in 2010.

21. We began educating members of our communities about prison-based gerrymandering, and we spearheaded, helped build and coordinated a large statewide coalition of nonprofit and community groups supporting Part XX of Chapter 57 of the Laws of 2010 (Part XX), legislation that would correct this injustice by reallocating people in prison to their home communities during the 2010 redistricting process.

22. VOCAL-NY members played a central role in the effort to pass the legislation. We created a training curriculum and held multiple trainings for our members both on the substantive issue and to prepare them to speak on the issue to their own legislators and neighbors. We created and printed additional materials including talking points, briefing sheets and flyers. We organized a lobby day where our members travelled to Albany to meet with dozens of legislators to ask them to support the bill. We trained our members as spokespeople and reached out to the media to increase press coverage for the issue. We organized and hosted regular conference calls and meetings to coordinate the coalition and campaign strategy.

23. Once the legislation became law, we worked to educate our members and the community about the change, and began to organize to assure proper implementation and compliance.

24. Overall we estimate we invested about $25,000 in the effort, which amounts to about 5% of our annual budget.

25. Allocating people in prison to the districts where our members live will increase the political power of our members' communities, thereby allowing them to build support in the legislature for additional issues they care about, such as voting rights, jobs and affordable housing. In this way, passage of the legislation provided new opportunities for our members to organize around these additional issues that impact their lives and their communities.

26. Through our work on this legislation, VOCAL-NY members developed new advocacy, communication and organizing skills and developed greater knowledge of our government, how it works and its impact on individuals and communities.

27. VOCAL-NY and its members invested significant resources in passing this legislation. If Part XX is invalidated, we will lose that investment.

28. Central to VOCAL-NY's mission is building power among low-income people and working helping to create healthy and just communities. We believe in a democratic and inclusive movement for social justice that gives everyone an equal voice. Invalidation of Part XX will frustrate our mission.

29. If Part XX is invalidated and people in prison continue to be allocated to the districts where they are incarcerated rather than their home communities, the voting strength of our members will continue to be diluted, and the political power of our members and their communities will continue to be severely diminished. As a result, they will continue to struggle to get the legislature to address the issues that impact their daily lives.

30. If Part XX is invalidated, we will have to redirect our attention and resources back to trying to correct the problem of prison-based gerrymandering. This will hinder our ability to organize around new issues and find new solutions for the problems our communities continue to face.

31. Invalidation of Part XX will also be a severe blow to the morale of our members, who invested many hours of labor in the campaign to pass this new law. Our members will see it as a decision to maintain unequal voting power, and to silence their newly found voice in our government.

32. We do not believe that the Department of Correctional Services (DOCS) or the Legislative Task Force on Demographic Research and Reapportionment (LATFOR) will adequately represent our interests in this case. They are administrative agencies tasked

with implementing the law; they do not represent our members' interests in assuring that the issues that impact our daily lives get a fair hearing in the legislature.

33. This is particularly true for the DOCS. Many of our members have served time in state prisons in DOCS custody. Now that they have been rehabilitated and released back to their community, many of our members do not believe that DOCS represents their interests.

WHEREFORE, I respectfully request that the Court grant our motion to intervene in the above-captioned case.

Sean Barry

Sworn to before me this 9th
day of May 2011.

Notary Public

TAMIKA A ALLEN
NOTARY PUBLIC STATE OF NEW YORK
RICHMOND COUNTY
LIC. #01AL6201112
COMMISSION EXPIRES FEBRUARY 17, 2013

3

AFFIDAVIT OF SUSAN LERNER

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'C. LITTLE, ET AL.

Index No.:2310/2011

Plaintiffs,

-against-

AFFIDAVIT OF SUSAN LERNER

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,
NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendants.

----------X

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

Susan Lerner, being duly sworn, declares and states:

1. My name is Susan Lerner, and I am over the age of eighteen.

2. I submit this Affidavit in support of my motion to intervene in the above-captioned case.

3. I am the executive director of the New York chapter of Common Cause. In that capacity, I am responsible for the overall work and direction of the New York office. I have been working in this capacity for over three years. Before assuming this role, I was the executive director of the California Clean Money Campaign. I am a graduate of the University of Chicago and NYU School of Law, and am admitted to practice law in California (inactive status) and New York.

4. Common Cause is a nonpartisan, nonprofit advocacy organization founded in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest. Now with nearly 400,000 members and supporters and 36 state organizations, Common Cause remains committed to honest, open and accountable government, as well as encouraging citizen participation in democracy. It is incorporated in Washington, D.C.

5. Common Cause/New York was founded in New York in 1971 and is one of the leading chapters of the organization. It is the citizen's lobbyist; we speak up for clean elections and ethical standards for our elected officials. We stand up for honest, accountable and responsive government. In the past three decades, we have helped enact real reforms and will continue to do so in New York and nationally.

6. The New York office is located at 74 Trinity Place, Suite 901, New York, NY 10006.

7. The New York office has nearly 20,000 members statewide. Our members are New Yorkers who care about civic engagement and the proper functioning of democracy. We have members and/or activity in every single legislative district throughout the state. Our membership also includes a very high percentage of registered voters. A review of our records last year shows a registration rate of approximately 80%. And our members are frequent voters, too.

8. Common Cause has been and remains a good-government advocate. We work on issues that relate to the responsiveness and effectiveness of our government and the factors that help foster a vibrant democracy. A classic good-government issue in which we are deeply invested is redistricting. The way legislative district lines are drawn impacts the ability of an engaged citizenry to participate effectively in our democracy. Because we

try to empower ordinary citizens to have an influential voice in the political realm, it is especially important to us that the way districts are drawn – and the way populations are apportioned – is fair and equitable.

9. From its founding, Common Cause has identified itself as "The Citizens' Lobby." In New York, we also have identified ourselves as "Your Voice in Albany." We represent ordinary New Yorkers downstate and upstate when issues affecting the openness of our elections, and the effectiveness and transparency of our government, come into play. We consult with members of the New York State legislative and executive branches on bills that deal with ethics oversight; we issue reports about campaign contributions and lobbying expenditures of different industries and their potential impact on public policy; we work with elected officials to identify areas of ethics, campaign finance, disclosure and Freedom of Information laws that need strengthening; and we occasionally propose model legislation.

10. Redistricting is a major issue for Common Cause in all of our states. In New York, we have been heavily invested in the issue of redistricting and particularly in prison-based gerrymandering. Prison-based gerrymandering is the practice of counting incarcerated persons as "residents" of the legislative districts in which the prisons are housed, rather than in these persons' home communities, to which they often return following release. Such practice unfairly inflates the population count of the apportionment bases in the prison communities, while at the same time depriving prisoners' home communities of their inclusion in those bases. As a result, the communities in which the prisons are housed benefit from greater representation; the incarcerated persons' home communities, on the other hand, lose representation. This is a fundamentally unfair practice. It is

difficult to argue for a fair system of redistricting when a substantial number of districts are composed in a way that dilutes the votes of everyone else. If we are loyal to the idea of "one person, one vote" – and we at Common Cause very much are – then we need to accurately create districts and apportion populations. We are as concerned with the resident of Erie County who does not live in District 13 – the county legislative district where six percent of the population is imprisoned – as we are with the resident in central Brooklyn whose voting strength is diluted because incarcerated residents are housed upstate.

11. We have many members – both upstate and downstate – who have identified prison-based gerrymandering as a matter of particular concern to them. Accordingly, the legal challenge to Part XX, the subject of the instant litigation, is of concern as well. Many members who live upstate would be negatively affected if the law were struck down because they do not live in legislative districts that contain large prison populations. If New York resumes including the prison populations in the apportionment bases of the districts and counties in which the prisons are located (rather than in their home communities of residence), members who live in neighboring areas without prisons will be severely affected and have their votes diluted. Our downstate members would also be harmed by a repeal of the law: the inclusion of incarcerated persons to artificially inflate some districts upstate has the effect of depriving our downstate members' districts of large populations of individuals who typically return home after completing their sentences. Indeed, the majority of those imprisoned upstate complete their sentences within a few years and then return to their home districts. It is fundamentally unfair to

deprive their communities of representation based on the mistaken idea that incarcerated persons have their domicile in a prison.

12. The current lawsuit threatens to harm numerous Common Cause members not only with respect to their representation in the state legislature, but also with respect to their representation in local government at the county and municipal level. Numerous Common Cause members reside in New York counties where the long-standing practice has been to exclude incarcerated populations when drawing districts for local county government. In total, 13 counties in the State of New York remove the prison population before redistricting. The current lawsuit, if successful, would force all of these counties to include incarcerated populations for purposes of local redistricting, leading to huge distortions. For example, in Erie County, up to six percent of one county district would be composed of incarcerated people who cannot vote, giving the small number of actual voters in that district hugely disproportionate representation compared to voters in districts that do not contain a prison.

13. Given that Common Cause/ New York and its members have interests in this litigation that differ from those of the two named defendants, it is important that we be permitted to enter the case as an intervenor. The New York Legislative Task Force on Demographic Research and Reapportionment (LATFOR) does not represent the interests of ordinary voters in the way that Common Cause does. Rather, it aids the legislature by providing technical plans for meeting the requirements of legislative timetables for the reapportionment of Senate, Assembly, and Congressional districts. Because four of its six members are legislators, it is not an independent body. In addition, because of LATFOR's composition, it is partially allied with the Republican Senate plaintiffs who

have filed this lawsuit. Common Cause's participation is therefore necessary to protect the interests of its members.

14. Common Cause/New York and its membership also have an interest in the outcome of this litigation that differs from that of the Department of Correctional Services (DOCS). DOCS is responsible for the confinement and habilitation of approximately 57,000 offenders held at 67 state facilities; its mission is not to help create a more equitable districting system. It does not represent voters' interests; it is in an entirely different business altogether. It is only named in this lawsuit because it is the entity responsible for providing data on the inmates' residences to LATFOR. Consequently, it has no vested interest in the outcome of this matter. As such, it simply does not have the same interest in this case as a member and voter does.

15. Common Cause/ New York has invested significant staff time and money in educational and lobbying efforts on the inequality of prison gerrymandering matters. Before Part XX was enacted, we devoted substantial resources to bringing attention to the matter of how prisoners are counted for apportionment purposes. On May 13, 2010, we co-hosted a public forum in Brooklyn, at which New York State Assemblymember Hakeem Jeffries spoke, on the importance of having prisoners counted in their home communities; many of our members attended. We have also educated members of the press about the inequalities of prison-based gerrymandering in order to have them educate the public on the issue.

16. Additionally, we were very active in a statewide coalition consisting of several organizations that were all dedicated to getting the instant legislation passed. As a part of this coalition, we were instrumental in developing an action plan on how to educate

constituents in the matter. Also as part of the coalition, we helped develop a strategy toward successful enactment of Part XX. Work in the coalition entailed participation in many conference calls, attendance at several meetings, and numerous lobbying efforts. It also required us to write articles informing constituents on how they could contact their legislators to show support for the legislation. Common Cause/ New York has written letters to the editor at local newspapers about this issue, and has also used social media such as Facebook and Twitter to comment on the issue and educate the public. Further, we participated in the initial press conference when the legislation was first introduced. All in all, the effort to ensure that Part XX got enacted was among Common Cause/ New York's top three legislative priorities in the past fiscal year.

17. Common Cause/ New York had one staff person who devoted 20 to 25% of his time just on the issue of how prisoners are counted for apportionment purposes in New York State. As executive director, I also spent time in coalition meetings and in strategy sessions. I have spent between five to 10% of my time on this issue. As for the amount of money we have spent on this matter, it has not been insignificant. We received a $10,000 grant specifically for education on prison-based gerrymandering; we have used up the entirety of that grant. In total, we have spent around $20,000 to $25,000 – including the $10,000 grant – on this issue. Since Part XX was enacted, Common Cause/ New York has continued to spend time and resources on the issue of how prisoners are counted for apportionment purposes. After the law changed, we took measures to keep members informed of the law change. We also issued press releases on the matter, and have defended the law most recently in a letter I wrote to the Times Union. Additionally, we remain in contact with our coalition partners, and I have closely monitored the process of

implementing the law. Common Cause/ New York has remained very engaged because no bill is self-executing.

18. Although we no longer have an organizer on staff for this issue, I still spend quite a bit of time on the issue, and on the compilation and use of data required for proper implementation of the law. I've been in touch with activists in several counties to inform them of how Part XX will affect them.

19. If Part XX of Chapter 57 of the Laws of New York is repealed, both Common Cause/ New York and its members will be significantly harmed. As shown above, our organization has spent substantial time, money, and effort into getting the legislation passed and to ensuring it is properly effectuated. Naturally, we do not want our hard work undone, especially since this kind of legislation is representative of the kinds of good-government and democracy issues that are so important to Common Cause/ New York.

20. As for members who are directly affected by high incarceration rates, a judgment striking down the law would mean that their communities – to which they usually return within a few years after the start of their sentences – would be deprived of voting strength. Naturally, this would result in less representation for those downstate communities, an obvious detriment.

21. As for members who live upstate in districts that do not contain a state prison, their votes will be diluted if nearby districts start including the prison population when drawing their districts, again, an obvious detriment.

22. Common Cause/ New York would also be hurt from a strategic standpoint if the law is overturned. Every day we confront the challenge of trying to convince members that

working on government reform is not only an important task but a practical and results-oriented one. If this important reform were to be eliminated through a suit, where our interests are not fully represented, it would make our job of organizing and empowering citizens to work on government reform that much more difficult.

WHEREFORE, I respectfully request that the Court grant my motion to intervene in the above-captioned case.

Susan Lerner

Sworn to before me this 12
day of May 2011

Notary Public

EVELYN HENNIGAR
Notary Public, State of New York
No. 01HE6146760
Qualified in Richmond County
Commission Expires May 22, 2014

4

AFFIDAVIT OF MICHAEL BAILEY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'CONNOR LITTLE, SENATOR PATRICK GALLIVAN, SENATOR PATRICIA RITCHIE, SENATOR JAMES SEWARD, SENATOR GEORGE MAZIARZ, SENATOR CATHERINE YOUNG, SENATOR JOSEPH GRIFFO, SENATOR STEPHEN M. SALAND, SENATOR THOMAS O'MARA, JAMES PATTERSON, JOHN MILLS, WILLIAM NELSON, ROBERT FERRIS, WAYNE McMASTER, BRIAN SCALA , PETER TORTORICI,

Plaintiffs,

Index No. 2310-2011

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEWYORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

AFFIIDAVIT OF MICHAEL BAILEY

Defendants.

STATE OF NEW YORK)

) ss:

COUNTY OF KINGS)

Michael Bailey, being duly sworn, deposes and says:

1. My name is Michael Bailey and I am over the age of eighteen.

2. I submit this affidavit in support of my motion to intervene in the above captioned case.

3. I am a life-long resident of the Bedford-Stuyvesant community in Brooklyn, New York.

4. For the past two years, I have resided at 1121 Atlantic Avenue, Brooklyn, New York.

5. I have been a registered voter for fifteen years and regularly vote.

6. I reside within Senate District 18 and Assembly District 57.

7. I am currently employed by the Bridge Street Development Corporation. The mission of the Bridge Street Development Corporation (BSDC) is to build partnerships with businesses, government, and other community stakeholders to provide civic and economic opportunities to the residents of Central Brooklyn.

8. BSDC was founded in 1995 by members of the oldest continuing African-American congregation in Brooklyn, the Bridge Street African Wesleyan Methodist Episcopal Church, which was incorporated in 1818.

9. At BSDC, I am responsible for organizing tenants in Central Brooklyn. In addition, I am a member of Brooklyn Community Board 3, which covers the communities of Bedford-Stuyvesant, Stuyvesant Heights and Ocean Hill.

10. I am also involved in the community gardening movement. I am a member of the Brooklyn Queens Land Trust. The Brooklyn Queens Land Trust works to educate and inspire people of all ages to become involved in community gardening. The Brooklyn Queens Land Trust currently manages 34 community gardens, twenty-nine in Brooklyn and five in Queens.

11. I am deeply concerned about the quality of life in my community. Of particular concern to me is ensuring that communities in Central Brooklyn receive the funding for public education and housing that they are entitled to from the federal, state and city governments. Because I care about what happens in my community, I regularly vote in elections so that my voice can be heard. I do not want my vote diluted in elections but expect it to count fully.

12. I supported the passage of Section XX because allocating incarcerated persons for redistricting purposes to their places of incarceration rather than their home addresses violates the " one person, one vote" principle by wrongly inflating the votes of persons living near prisons.

13. Moreover, while the majority of incarcerated persons in New York State are Black and Latinos and reside in communities such as Bedford-Stuyvesant, East New York and Ocean Hill-Brownsville, the majority of the New York's prisons are located upstate in predominately white communities. It does not make sense that these incarcerated persons would be included in the apportionment bases of the prison counties when these persons are not able to participate in community life up there and almost always return home to their pre-arrest residences after completing their sentences.

14. Thus, allocating incarcerated persons at their place of incarceration also dilutes the votes of Black voters such as myself who reside in communities which are home to a significant number of incarcerated persons before they were arrested. Most of these incarcerated persons, from what I have seen, return home after completing their sentences.

15. If the instant lawsuit is successful, and the Assembly an Senate districts hosting prisons are required to include incarcerated persons in their apportionment bases, I will be injured because my vote will have less weight than a voter who resides in a district where a prison is located, contrary to the "one, person, one vote" rule.

16. If the instant lawsuit is successful, my vote and the votes of other Black voters in my community will be diluted for New York State Senate and Assembly redistricting purposes.

17. I am seeking to intervene in this action because I fear that the defendants, the New York Legislative Task Force on Research and Reapportionment and the New York State Department of Correctional Services, will not vigorously pursue or adequately represent my interests in safe-guarding the principle of the "one person, one vote" and preventing the dilution of my vote and the votes of Black voters' in my community because they have different responsibilities and interests.

18. LATFOR's primary responsibility is to provide technical assistance to the state legislature to assist it in meeting the requirements of the legislative timetables for the reapportionment of Senate, Assembly and Congressional districts.

19. New York State Department of Correctional Services' primary responsibility is the confinement of incarcerated persons. Neither of these institutions is in the business of protecting voters' interests.

WHEREFORE, I respectfully request that the Court grant my motion to intervene.

Dated: Brooklyn, New York
May 11, 2011

Michael Bailey

SWORN TO BEFORE ME THIS ____
DAY OF MAY 2011

NOTARY PUBLIC

JOAN P GIBBS
Notary Public, State of New York
No. 02GI8220490
Qualified in Kings County
Commission Expires April 12, 2014

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AFFIDAVIT OF ROBERT BALLAN

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'C. LITTLE, ET AL.

Index No.:2310/2011

Plaintiffs,

-against-

AFFIRMATION OF ROBERT BALLAN

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,
NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendant(s).

----------X

STATE OF NEW YORK)

) ss.:

COUNTY OF ST. LAWRENCE)

Robert H. Ballan, an attorney and counselor at law, affirms that the following is true under penalties of perjury:

1. My name is Robert Ballan, and I am over the age of eighteen.

2. I submit this Affirmation in support of my motion to intervene in the above-captioned case.

3. I have resided at 207 Lakeshore Drive, Norwood, New York 13668 since June of 1988.

4. Since 1988, I have been registered to vote at the above address. I usually vote in all general elections. In such elections I vote for federal, town and county candidates..

5. I live in Senate District 47, in Assembly District 118 and in the 12th District of St. Lawrence County.

6. I am an attorney and counselor at law, duly admitted to practice in the State of New York, on January 14, 1982, by the Appellate Division of Supreme Court, sitting in and for the Third Judicial Department. I have been employed in this capacity by the St. Lawrence County Public Defender since May of 2010. Before joining the Public Defender's Office, I had my own law practice in the Village of Norwood, New York, from 1983 through May of 2010. I was a general practitioner, and accepted labor, criminal, family, civil rights, administrative and personal injury cases, including appellate work.

7. Before and after joining the Public Defender's Office, I have had occasion to represent incarcerated persons as well as those who had formerly been incarcerated in nearby New York State prisons. Based on my professional experience, incarcerated persons typically prefer to return to their home communities. Given that incarcerated persons do not have any ties to the counties in which the prisons are located – they don't use the parks or hospitals, they don't benefit from local social services, and they cannot hold legislators accountable to their campaign promises, as they are unable to vote – I find it odd that they would be included in their apportionment bases.

8. Sometime in 2000, I became more interested and active in local politics. I eventually acted upon my interest by providing statistics and voter micro-targeting to local candidates, using techniques that predicted the relative probabilities of registered voters voting in a particular election and the likelihood of these voters supporting a particular candidate. I helped several local candidates win election with my analyses. When I began reviewing the voter database, and studying the census data, it occurred to me that there was a "one person, one vote" problem. The high number of incarcerated persons in

some election districts grossly inflates their apportionment bases. This is unfair to voters who live in neighboring districts without prison populations, without similar inflation of their census populations. As a result, the votes of those in districts without prison populations are diluted.

9. In 1992, St. Lawrence excluded incarcerated persons from its apportionment base. A decade later, in 2002, the county began to include the prison population, and many residents – myself included – became upset with this change. In response, I and a few others organized a petition drive to do away with prison-based gerrymandering. Unfortunately, that drive was not ultimately successful. Still, many county residents are hopeful that, with Part XX in place, the county will not ever be permitted again to include incarcerated persons in the apportionment base.

10. I strongly supported the recent enactment of Part XX, because I believe incarcerated persons should be included in the apportionment bases of their home communities, not in the counties where prisons are located. When a particular candidate is elected to the county or State legislature, and represents the interests of his or her district, it simply does not materially affect the lives of these incarcerated persons. Virtually nothing candidate X does in office will affect the livelihoods of these incarcerated persons. After all, the incarcerated persons are not stakeholders in the communities where prisons are housed; their interests lie in their home communities, the places where their lives will resume once they complete their sentences. It is not fair to deprive the real stakeholders – the members who are active in a community, the real, voting residents of a community – of an equally weighted vote in local and State elections by inflating the voting power of

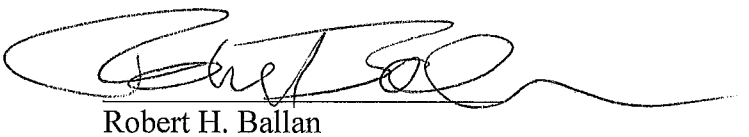
those residing in some districts with incarcerated persons included in the apportionment base.

11. If the current lawsuit were successful in striking down Part XX, I would be injured as a voter in county, State Senate, and State Assembly elections. I live in a county district that does not include prisons, but other districts in my county do house prisons and, thus, get the benefit of an inflated apportionment base. If the county continues to include incarcerated persons in the apportionment base, my vote will be diluted relative to that of other districts in county elections. I am also affected as a voter in State elections. My Senate District 47 includes incarcerated persons but Senate Districts 45 and 59 include several thousand more incarcerated persons than are in my district. My Assembly District 118 also includes incarcerated persons, but Assembly District 114 includes thousands more than are in 118. Against these districts, my individual vote will count less than the vote of others.

12. My interests in this litigation differ from those of the two named defendants. The New York Legislative Task Force on Demographic Research and Reapportionment (LATFOR) does not represent the interests of ordinary voters like me who are concerned about the impact of redistricting policy on the community, and the watering down of my individual vote. LATFOR is partially composed of legislators who have a vested interest in how redistricting occurs for their own districting purposes; the legislators' interests do not represent the interests of individual voters like me. Furthermore, the Department of Correctional Services (DOCS) does not represent my interests either. DOCS is responsible for the confinement and habilitation of persons convicted of crimes in New

York. Its mission is not to help create a more equitable districting system or to represent my interests in defending Part XX.

WHEREFORE, I respectfully request that the Court grant my motion to intervene in the above-captioned case.



Robert H. Ballan

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AFFIDAVIT OF JUDITH BRINK

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'C. LITTLE, ET AL.

Index No.:2310/2011

Plaintiffs,

-against-

AFFIDAVIT OF
JUDITH BRINK

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,
NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendant(s).

----------X

STATE OF NEW YORK)

) ss.:

COUNTY OF ALBANY)

Judith Brink, being duly sworn, declares and states:

1. My name is Judith Brink, and I am over the age of eighteen.

2. I submit this Affidavit in support of my motion to intervene in the above-captioned case.

3. I have resided at 604 Warren Street, Albany, NY 12208 for the past 12 years.

4. I have been registered to vote at the above-listed address since I first moved there 12 years ago.

5. I am a regular voter in town, county, state, and federal elections. For the past ten years, I have voted in almost every election.

6. I live in Senate District 46, in Assembly District 104, and in the 9th district in Albany County.

7. I have had several careers, but I am most passionate about working to end the unfair treatment of incarcerated persons. I came to Albany in 1999 to study chaplaincy at Albany Medical Center. The Center includes a prison unit where seriously ill incarcerated persons who are in need of high-level treatment come for care. I was called to that unit during my chaplaincy training, and that's where I first got a taste of the injustices of the criminal system. I met a young man there who learned he was dying of lung cancer. As a prisoner, he had no real decision-making power, so he asked me if I could help him die at home. I told him I would certainly try. I spoke to medical personnel who referred me to the representative who applied for his medical parole in my name. My friend never would have known of this option had I not done the proper research. Eventually, a hearing for his medical parole was scheduled. The day before the hearing, my friend died.

8. Soon after meeting that prisoner, I decided I would spend my time trying to better the criminal system – and the treatment of incarcerated persons – in whatever way I could. I attended a Prison Families of New York meeting to try to get more information on how I could be helpful to this man. I wanted to educate prisoners on their rights, and I wanted to begin devoting more time and energy to this kind of work.

9. To pursue these goals I founded Prison Action Network (PAN), along with six others, in 2002 or 2003. PAN's mission is to inform the community about the prison system's impact, counteract the demonization of those in prison and those who care about them, unite families and friends of the incarcerated, and create positive change. We are an all-

volunteer organization; we are not incorporated. I am the executive director, and in this capacity I publish a monthly newsletter for our members, I visit people in prison to hear their concerns and inform them that we work on their behalf, and I meet with legislators to advocate for changes in criminal justice law. We have also organized "family empowerment" days to help families recognize that they have a voice to improve the prison system. Additionally, I formed a policy group that writes legislation attempting to change parole policies.

10. I'm concerned about the prison community because, ultimately, I want all of us to live in a more equitable and safer society. As a voter, I am concerned about how laws are made – and who represents me – and particularly about the efforts our legislators make toward ameliorating violence and crime. It's important to me to vote in New York elections because I want to support politicians and programs that help solve these problems in an equitable way. That's why it's especially important to me that my vote count fully, and that it not be diluted.

11. I strongly supported the recent enactment of Part XX. Incarcerated persons should be counted in their home communities, not in the counties in which the prisons are located. When this issue came up, I signed petitions in favor of the legislation. For example, when organizations like Citizen Action asked me to support the issue, I provided my signature in support. I also promoted the issue in my monthly newsletter, on my website, and at my church.

12. It doesn't make any sense to me that legislators should count as their constituents people who have no influence over, and who have no voice with, the legislators themselves.

Incarcerated persons have no input as to what the legislators do; thus legislators are not accountable to them. No legislator should benefit from a voiceless community.

13. When incarcerated persons are included as "residents" of the prison counties' apportionment bases, legislators in those areas gain more clout. Yet the families of these prisoners – and the communities in which they live and to which the prisoners typically return a few years later – lose this population base and, thus, lose some representation. In my mind, these incarcerated persons are being used, and neither they nor their families get anything in return.

14. If the current lawsuit were successful in striking down Part XX, I would be injured because my vote would get diluted for Senate and Assembly districting purposes. Albany does not have any prisons, so naturally my state Senate and Assembly districts do not include any state or federal prisons. If the legislation gets struck down, and the districts with prisons begin to again include prisoners in their apportionment bases, then my vote in a district without the benefit of those populations will naturally be watered down. I do not want my vote diluted by this lawsuit. That is not my only concern, though. I am also concerned about the effect of the law statewide and I believe it's important as a matter of principle to correct the current distortion of representation that results from including incarcerated persons in the apportionment bases of the prison counties.

15. If the current lawsuit were successful in striking down Part XX, New Yorkers' votes in the State would have unequal value. It would run counter to the idea that each person's vote holds the same weight, and would violate the "one person, one vote" principle on which our democracy is based.

16. My interests in this litigation differ from those of the two named defendants. The New York Legislative Task Force on Demographic Research and Reapportionment (LATFOR) does not represent the interests of ordinary voters or of persons such as me who are particularly concerned about the impact of redistricting policy on incarcerated persons and their home communities. It provides technical assistance to the legislature and is partially composed of representatives who are allied with the Republican Senate plaintiffs who have filed this lawsuit. The Department of Correctional Services (DOCS) does not represent my interests either. DOCS is responsible for the confinement and habilitation of persons convicted of crimes in New York. Its mission is not to help create a more equitable districting system or to represent my interests in defending Part XX.

WHEREFORE, I respectfully request that the Court grant my motion to intervene in the above-captioned case.

Judith Brink

Sworn to before me this 12th
day of May 2011

Notary Public

Tameeka McCord
Notary Public, State of New York
Qualified in Albany County
No. 01MC6221992
Commission Expires June 21, 2014

7

AFFIDAVIT OF TEDRA COBB

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'C. LITTLE, ET AL.

Index No.:2310/2011

Plaintiffs,

-against-

AFFIDAVIT OF TEDRA COBB

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,
NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendant(s).

----------X

STATE OF NEW YORK)

) ss.:

COUNTY OF ST. LAWRENCE)

Tedra Cobb, being duly sworn, declares and states:

1. My name is Tedra Cobb, and I am over the age of eighteen.

2. I submit this Affidavit in support of my motion to intervene in the above-captioned case.

3. I have resided at 365 Townline Road, Hermon, NY 13652 since 1993. (My property line is on Townline Road of Canton, but the mail is delivered by Hermon.) Before that, I lived on County Route 25, also in Canton. I was there for three years.

4. Since 1993, I have been registered to vote at 365 Townline Road. I first registered to vote in 1990, when I first moved to Canton. I am a regular voter in town, county, state, and federal elections.

5. I live in Senate District 48, in Assembly District 118, and in the 8th District of St. Lawrence County.

6. Currently, I run a consulting firm dedicated to providing organizations with reliable, consistent and up-to-date training programs, along with other professional and development services.

7. From 2002 through 2010, I was a county legislator for District 8 in St. Lawrence County. In this capacity, I created a government review committee in which we rewrote the County Ethics Law. The previous law from 1991 did not meet the minimum requirements set by the General Municipal Law. Now, as required by the law, we have an ethics board and a new law in place. I'm proud of that achievement, because I believe in responsible government.

8. Also while acting as a local legislator, I served on the New York State Committee on Open Government. This is a local government position appointed by the Governor. In that capacity, I helped oversee implementation of the Freedom of Information Law and the Open Meetings Law. Again, these issues are important to me because I firmly believe in a transparent and accountable government. Government simply cannot function well unless elected officials are responsible to their constituents.

9. As a candidate and elected official, I developed a strong interest in the issue of redistricting and in ensuring that districts were drawn in a way that upheld the longstanding democratic principle of "one person, one vote." In St. Lawrence County,

every legislator has around 7400 people whom he or she represents. In my district – District 8 – I represented about 7400 people who all resided in the district, and who were (for the most part) eligible to vote. I had no prisons in my district, but the Ogdensburg and Gouverneur districts both include prisons. Before Part XX was passed, incarcerated persons were included in the apportionment plans, and – unlike some other counties – St. Lawrence County did not take it upon itself to remove the prison populations from its plans. In effect, then, legislators for the Ogdensburg and Gouverneur districts represented fewer than the requisite 7400 residents, because some of these people were prisoners who are not entitled to vote, do not participate in the political process, and do not interact with the community in any significant way. This system falsely inflates the numbers for some legislators, thereby giving them more power.

10. It is fundamentally unfair to include the prison populations in the upstate apportionment plans. Each legislator should be representing the same number of people who are true residents of the community and able to participate in the civic life of the community. Because the upstate counties are so rural, a legislator may represent large areas of land. Legislators in districts with prison populations do not have to travel far, or campaign widely, to secure their vote; other legislators do not get that benefit.

11. I ran for local government and became a legislator because I care about open government; I believe that government should be accountable to the people. If districts are drawn based on incarcerated populations, then legislators can be elected without real accountability to all their constituents.

12. I have heard some people say that including incarcerated persons in the apportionment bases of the prison counties should be allowed, since including student populations is

allowed. These two populations, though, are entirely different from each other. Students come here of their own accord; they are here on a voluntary basis. Prisoners do not have that same choice. Once students enroll at local universities, they can register to vote, vote, and can become quite politically active on campus. Prisoners have no such rights, and cannot vote. Students also interact with the community in ways that are legally barred to incarcerated persons. Legislators, then, are accountable to student populations, but they are not accountable to incarcerated persons.

13. I strongly supported the recent enactment of Part XX, and I agree that prisoners should be included in the apportionment bases of their home communities, rather than in the counties in which the prisons are located.

14. If the current lawsuit were successful in striking down Part XX, I would be injured insofar as how my vote is counted in my county. This issue no longer affects me as a legislator; it affects me as a voter. My district doesn't include a prison population, but two other districts in the county do include such populations. Under Part XX, St. Lawrence County finally will be required to remove non-resident prison populations from the apportionment base when drawing local districts. If the law gets struck down, and the other districts in my community go back to including incarcerated persons, my vote will get diluted; it will have less weight. I will also be affected in State Senate and Assembly elections. For example, my Senate District 48 includes incarcerated persons; Senate Districts 45 and 59, though, include several thousand more than are in my district. My Assembly District 118 also includes incarcerated persons, but Assembly District 114 includes thousands more than are in 118. Against these districts, my vote will count less.

15. My interests in this litigation differ from those of the two named defendants. The New York Legislative Task Force on Demographic Research and Reapportionment (LATFOR) does not represent the interests of ordinary voters like me who are concerned about the impact of redistricting policy on the community, especially one including a prison population in the county but not in the voter's district. LATFOR is partially composed of legislators who have a vested interest in how redistricting occurs for their own districting purposes; the legislators' interests do not line up with my interest in ensuring that prisoners do not get included in the upstate counties (the counties in which the prisons are located) in order to prevent vote dilution. Furthermore, the Department of Correctional Services (DOCS) does not represent my interests either. DOCS is responsible for the confinement and habilitation of persons convicted of crimes in New York. Its mission is not to help create a more equitable districting system or to represent my interests in defending Part XX.

16. I very much care about County elections. After all, I used to be a County Legislator. County government is important because that's where some of the closer-to-home issues – the issues that affect our day-to-day lives – get decided. As a regular voter, and one who cares about the issues that affect this state, I also want my vote to have full weight in all State elections.

17. If the current lawsuit were successful in striking down Part XX, New Yorkers' votes in the State would have unequal value. It would run counter to the idea that each person's vote holds the same weight.

WHEREFORE, I respectfully request that the Court grant my motion to intervene in the above-captioned case.

Tedra Cobb

Sworn to before me this 9
day of May 2011

Notary Public

PHYLLIS L. HOWARD
Notary Public, State of New York
No. 01HO5061068
Qualified in St. Lawrence County
My Commission Expires June 3, 2014

8

AFFIDAVIT OF FREDERICK A. EDMOND III

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'CONNOR LITTLE, SENATOR PATRICK GALLIVAN, SENATOR PATRICIA RITCHIE, SENATOR JAMES SEWARD, SENATOR GEORGE MAZIARZ, SENATOR CATHERINE YOUNG, SENATOR JOSEPH GRIFFO, SENATOR STEPHEN M. SALAND, SENATOR THOMAS O'MARA, JAMES PATTERSON, JOHN MILLS, WILLIAM NELSON, ROBERT FERRIS, WAYNE McMASTER, BRIAN SCALA, PETER TORTORICI,

Plaintiffs,

Index No. 2310-2011

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEWYORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

AFFIDAVIT FREDERICK A. EDMOND, III

Defendants.

STATE OF NEW YORK)

) ss:

COUNTY OF KINGS)

FREDERICK A. EDMOND, III, being duly sworn, deposes and says:

1 My name is Frederick A. Edmond, III and I am over the age of eighteen.

2. I submit this affidavit in support my motion to intervene in the above-captioned case.

3. For the last thirty-one years, I have resided at 194-14 Murdock Avenue, St. Albans, New York 11412.

4. I reside within Senate District 14 and Assembly District 33.

5. I regularly vote in primary and general elections.

6. I am employed full-time as an environmentalist at the New York City Department of Environmental Protection.

7. I was born and raised in Southeast Queens.

8. I have worked to improve the quality of life in Southeast Queens for over thirty years.

9. In 1979, when I purchased my home, I discovered that the Saint Albans area had severe flooding problems. In an effort to address this problem, I became the leader of the 114th Road Block Association and joined the Kiwanis Club of Cambria Heights.

10. I am still a member of the 114th Road Block Association and the Kiwanis Club as well as the local chapter of the NAACP. I am also a member of Queens Community Board 12.

11. Over the years, I have been involved in numerous efforts to improve the quality of life in Southeast Queens. The issues that are important to me are voting, voter registration, employment, education, the elderly and the environment. Because I want my voice heard on these issues, it is important to me that my vote fully count in all elections in which I participate.

12. Voting and electing candidates who are responsive to the community are key to improving the quality of life in Southeast Queens. Because of this, I have engaged in voter registration campaigns in my community for more than twenty years.

13. I support Section XX because prison gerrymandering unfairly privileges communities in which prisons are located by allowing these communities to unfairly bolster their populations for redistricting purposes. It also results in the dilution of the Black vote, particularly in New York City because while the majority of incarcerated persons in New York States are Black and Latino and from New York City, the majority of prisons are located upstate in predominately rural white communities. It does not make sense to include these incarcerated persons in those communities when they have no involvement, and cannot participate in the day-

to-day life, in them. These incarcerated persons most often return to their pre-arrest home communities.

14. As a voter within of Senate District 1 and Assembly District 13, if the instant lawsuit is successful, and the Senate and Assembly are required to include incarcerated persons in the apportionment bases of the districts in which they are incarcerated, I will be injured because my vote will have less weight than the vote of a voter in a community in which a prison is located, contrary to the "one person, one vote rule. My Senate District 14 and Assembly District 33 do not contain prison populations, so my vote will get diluted by those that do contain such populations.

15. As a Black voter residing in Senate District 14 and Assembly District 33, if the instant lawsuit is successful, my vote will be diluted.

16. I am seeking to intervene in this action because the defendants, the New York Legislative Task Force on Research and Reapportionment and the New York State Department of Correctional Services, have different interests than I do and will not be able to adequately protect my personal voting and representational interests protected by the "one person, one vote" doctrine and the Voting Rights Act. Defendant organizations do not represent the interests of voters, let alone Black voters, and not adequately represent me in this case.

WHEREFORE, I respectfully request that this Court grant my motion to intervene pursuant to C.P.L. R. section 1012, or alternatively C.P.L. R. Section 2013.

Dated: Brooklyn, New York

May 11, 2011

FREDERICK A. EDMOND

SWORN TO BEFORE ME THIS
11 DAY OF MAY 2011

NOTARY PUBLIC

JOAN P. GIBBS
Notary Public, State of New York
No. 02GI6220490
Qualified in Kings County
Commission Expires April 12, 2014

9

AFFIDAVIT OF MELVIN FAULKNER

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'CONNOR LITTLE, SENATOR PATRICK GALLIVAN, SENATOR PATRICIA RITCHIE, SENATOR JAMES SEWARD, SENATOR GEORGE MAZIARZ, SENATOR CATHERINE YOUNG, SENATOR JOSEPH GRIFFO, SENATOR STEPHEN M. SALAND, SENATOR THOMAS O'MARA, JAMES PATTERSON, JOHN MILLS, WILLIAM NELSON, ROBERT FERRIS, WAYNE McMASTER, BRIAN SCALA , PETER TORTORICI,

Plaintiffs,

Index No. 2310-2011

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEWYORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

AFFIDAVIT MELVIN FAULKNER

Defendants.

STATE OF NEW YORK)

) ss:

COUNTY OF KINGS)

MELVIN FAULKNER, being duly sworn, declares and states:

1. My name is Melvin Faulkner, and I am over 18 years of age.

2. I submit this affidavit in support of my motion to intervene in the above-captioned case.

3. For the past forty-five years I have resided in the East New York section of Brooklyn at 935 Schenck Avenue, Brooklyn, New York 11207.

4. I have been a registered voter and have regularly voted since 1961.

5. I reside within Senate District 19 and Assembly District 40.

6. I am currently employed as the community liaison for Assemblywoman Inez Barron. As the community liaison, I am responsible for budget issues and housing foreclosures.

7. Civic participation has long been one of my priorities. The issues that are important to me are stopping housing foreclosures, maintaining rent regulations, improving health care and increasing voter turnout.

8. Over half the population of East New York lives below the poverty line and receives some form of public assistance.

9. I always encourage people to vote and have participated in numerous voter registration campaigns in my community. I am very invested in my community and want my vote – along with the votes of others – to count fully in elections.

10. I strongly support Section XX because I believe that incarcerated persons should be represented with their neighbors at their home address rather than their place of their incarceration. Assigning incarcerated persons to their place of incarceration artificially increases the number of people in the communities where prisons are located. As a result, the votes of people living in communities where there are prisons have a greater weight than the vote of those who live in communities without prisons. As a result, the democratic process is corrupted.

11. At the same time, the votes of Black and Latino voters are also diluted because while the majority of prisoners are Black and Latino, the majority of prisons are located upstate in rural white communities.

12. East New York is home to a significant number of incarcerated persons.

13. As a Black voter within Senate District 19 and Assembly District 40, if the instant lawsuit is successful, I will be injured because my vote will have less weight than the vote of a voter in a community in which a prison is located, contrary to the "one person, one vote" rule. Neither my Senate District 19 nor my Assembly District 40 contains a prison population. If the

instant lawsuit is successful, and the Senate and Assembly districts housing prisons are required to include incarcerated persons in their apportionment bases, then my vote and the votes of those in my community will be comparatively diluted.

14. As a Black voter residing in Senate District 19, if the instant lawsuit is successful, my vote will be diluted.

15. I seek to intervene in this action because I fear that the two defendants, the New York Legislative Task Force on Research and Reapportionment and the New York State Department of Correctional Services, have different interests than I do and will not be able to adequately protect my personal voting and representational interests protected by "one person, one vote" doctrine and the Voting Rights Act. Defendant organizations do not represent the interests of voters generally, or voters of color specifically, and they have no incentive to litigate this case to protect my interests and the interests of those similarly situated.

WHEREFORE, I respectfully request that the Court grant my motion to intervene.

Dated: Brooklyn, New York
May 12, 2011

MELVIN FAULKER

SWORN TO BEFORE ME THIS 12th
DAY OF MAY 2011

NOTARY PUBLIC

JOAN P. GIBBS
Notary Public, State of New York
No. 02GI6220490
Qualified in Kings County
Commission Expires April 12, 2014

10

AFFIDAVIT OF DANIEL JENKINS

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'C. LITTLE, ET AL.

Index No.:2310/2011

Plaintiffs,

-against-

AFFIDAVIT OF DANIEL JENKINS

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,
NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendant(s).

----------X

STATE OF NEW YORK)

) ss.:

COUNTY OF FRANKLIN)

Daniel Jenkins, being duly sworn, declares and states:

1. My name is Daniel Jenkins, and I am over the age of eighteen.

2. I submit this Affidavit in support of my motion to intervene in the above-captioned case.

3. I have resided at 646 Indian Carry Road, Tupper Lake, NY 12986 in Franklin County for the past 15 years. My previous residence was in Jefferson County, but I moved from there to my current home in the late 1990s.

4. I registered to vote on September 1, 1996 at the address listed above. Since then, I have always been registered to vote in Franklin County. I am a regular voter in town, county, state, and federal elections.

5. I live in Senate District 45, in the Assembly District 114, and in the 7th district in Franklin County.

6. I am an independent hydro-geologist by profession, but I am also a political activist. Each time redistricting comes up, I take it upon myself to stay abreast of how the legislative districts are drawn and the populations reapportioned. For example, two redistricting cycles ago, I began reviewing Federal Census data to try to determine whether reapportionment in my county was being done fairly. If it seems as though maps are being drawn, or populations apportioned, in ways that run counter to longstanding democratic ideals of "one person, one vote," I take it upon myself to reach out to people in the community to determine whether anyone has interest in investigating the redistricting process. I write letters to the local newspaper on redistricting issues, and I collect signatures for public referenda on redistricting.

7. I strongly supported the recent enactment of Part XX because I believe that fair and equal representation requires that prisoners be allocated to their home communities, rather than to the regions where the prisons are located. About a tenth of the population in Franklin County is incarcerated; that amounts to about 5,000 people in a very concentrated area. The majority of the state prison cells in Franklin County are located in the town of Malone, but my town does not contain any state prisons.

8. Franklin County began removing the prison populations from their apportionment plans well before the passage of Part XX. It has been doing so for at least the past two redistricting cycles. As a voter, I feel as though it was the right thing for the county to do. It doesn't make sense to include incarcerated persons as residents of our local

districts when most of them are from elsewhere in the state and are likely to return their home communities.

9. If the current lawsuit were successful, I would be injured insofar as how my vote is counted in my county district because Franklin County will be required to begin including the prisoner population, rather than removing it from the apportionment plans. Districts near Malone would all of a sudden include a much larger population but have only a handful of voters. As a result, the influence of relatively few voters in areas near Malone will be equal to that of a much larger voting population in my own district. That is fundamentally unfair and undemocratic. I don't want my vote diluted in county elections. A handful of voters shouldn't have the same sway that thousands of other voters have. That is a real political inequity.

10. If the current lawsuit were successful in striking down Part XX, I would be injured because New Yorkers' votes, including mine, would have unequal value across the state. The votes of people in state and county districts without prisons would be diluted compared to people who live in neighboring districts with prisons. It would run counter to the idea that each person's vote holds the same weight.

11. My interests in this litigation are different from those of the New York Legislative Task Force on Demographic Research and Reapportionment (LATFOR) and the Department of Correctional Services (DOCS). LATFOR and DOCS – organizations, not individuals – simply cannot share my same interests, and cannot represent me as a voter in this litigation. The legislators on LATFOR will likely make decisions in this case that benefit them as legislators; they will not necessarily look out for the interests of all voters. As for DOCS, it is only in this litigation because it is the entity that must provide data on the

inmates' residences to LATFOR. Like LATFOR, DOCS does not represent the interest of the voters in this state.

WHEREFORE, I respectfully request that the Court grant my motion to intervene in the above-captioned case.

Daniel Jenkins

Sworn to before me this 7
day of May 2011

Notary Public

JULIE D. CONNORS
Notary Public, State of New York
Qualified in Essex County
No. 4977626
Commission Expires Feb. 11, 2015

11

AFFIDAVIT OF ROBERT KESSLER

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'C. LITTLE, ET AL.

Plaintiffs,

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendant(s).

----------X

Index No.:2310/2011

AFFIDAVIT OF ROBERT KESSLER

STATE OF NEW YORK)

) ss.:

COUNTY OF COLUMBIA)

Robert Kessler, being duly sworn, declares and states:

1. My name is Robert Kessler, and I am over the age of eighteen.

2. I submit this Affidavit in support of my motion to intervene in the above-captioned case.

3. I have resided at 63 White Hill Road, Hillsdale, New York 12529 in Columbia County for the past 11 years. Before that, I lived in Stuyvesant, New York – also in Columbia County – for 12 years.

4. Since moving to Hillsdale, I have always been a registered voter at the above-listed address. I regularly vote in all elections: town, county, state, and federal.

5. Professionally, I publish books on musicology. But I am also very involved in my local community. Until last year, I volunteered with the Board of Elections as the Democratic representative in Hillsdale; in this capacity, I would set, unload, and prepare the voting machines on Election Day. I also used to be the town chair of the Democratic Committee in Hillsdale and Stuyvesant. Additionally, for a few years – up until a year ago – I was an elections inspector in the county. In this role, I ensured polling places were properly set up and running smoothly on Election Day. I participated in all these activities because I care about the elections process and believe that, unless government is run on the principle of proper representation, it will not effectively respond to the needs of the people. I also consider myself to be a political activist, and very much wanted to do whatever I could to improve conditions in my town.

6. I reside in Senate District 41, in Assembly District 103, and in the Hillsdale township in Columbia County.

7. Until this year, I was the Hillsdale representative on the Columbia County Environmental Management Council. (Each town has its own representative, and I am the one from Hillsdale.) The Council's purpose is primarily to advise local and state governments on present and proposed methods of using, protecting, and conserving the environment. As the town representative, I and others conduct research, make recommendations, issue reports and plans, and disseminate public information and education on a range of environmental matters that affect our communities. I have also been involved in a local town committee called the Green Solutions Group, which conducts research on wind turbines, recycling, and solar power, and then makes recommendations to our Supervisor

on the County Board as to local environmental matters. I have been interested in environmental affairs, and in preservation and land use, for some time now.

8. I fully supported the enactment of Part XX. The Legislature did the right thing in removing incarcerated populations from the apportionment base of the communities in which the prisons are located. From a representation perspective, it is fundamentally unfair to include them. Since incarcerated persons are not active in the communities in which they are incarcerated – they simply cannot be, given their circumstances – it does not make any sense to include them in the base. Including their numbers in the counties in which the prisons are housed, but in which the incarcerated persons have no ongoing connections and engagement, unfairly gives these counties a political edge to which they are not entitled.

9. I care about this issue, because I care about a fair and well-functioning democracy. I also support strong local governments, as these address the needs of a community on a day-to-day basis. If the local community is the backbone of our society – and I believe it is, because all things start at a local level and progress outwards – then ensuring proper representation at our county and state government levels is critical, and must be accurate, so that the decisions the community makes collectively are implemented. Voters in districts housing large prison populations should not get a political advantage that those who do not live in such districts are deprived of.

10. If the current lawsuit were successful in striking down Part XX, I would be injured as a voter in both County and State elections. My vote will be diluted in county elections because, while I live in a district with no prisons, I live in a county that does house them. Thus, if the prison population is included in the apportionment base, my neighboring

districts in Columbia County will get the benefit of a higher population base without any additional voters in them. Additionally, there are several districts in New York State that contain more prisons than my district. I understand that Senate District 45 includes a prison population that is much higher than the prison population in my Senate District 41. My vote in Senate District elections, then, will be diluted by other districts with inflated counts if the Senate returns to the old practice of including the prisoner populations in apportionment bases. My vote in Assembly District elections will also be affected. Whereas my District 103 does contain incarcerated persons, Assembly Districts 114 and 147 each contain several thousand more prisoners than are in 103. So I stand to have my vote diluted in County, State Senate, and State Assembly elections if plaintiffs' lawsuit is successful.

11. My interests in this litigation differ from those of the two named defendants. My interests are not the same as those of the New York Legislative Task Force on Demographic Research and Reapportionment (LATFOR), because its mission and job is not to represent the interests of all voters. I'm coming at this from the perspective of a voter. If these legislators on LATFOR make decisions in this case in a way that benefits legislators, but not necessarily voters like myself, then they will certainly not be representing my interests.

12. My interests also differ from those of the Department of Correctional Services (DOCS). DOCS is only involved in this case because it is the entity required by the new legislation to provide data on the inmates' residences to LATFOR. DOCS is not really affected personally or organizationally by the outcome of this matter. I, on the other hand, am affected as a voter who does not want his vote diluted by the inclusion of prison

populations in apportionment bases of the prison community, when those populations are not real residents of the prison community.

WHEREFORE, I respectfully request that the Court grant my motion to intervene in the above-captioned case.

Robert Kessler

Sworn to before me this 7th
day of May 2011

Notary Public

Judith A Sledz
01SL6191940
Notary Public, State of New York
Qualified in Columbia County
My commission expires AUGUST 25th, 20 12

12

AFFIDAVIT OF STEVEN MANGUAL

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'CONNOR LITTLE, SENATOR PATRICK GALLIVAN, SENATOR PATRICIA RITCHIE, SENATOR JAMES SEWARD, SENATOR GEORGE MAZIARZ, SENATOR CATHERINE YOUNG, SENATOR JOSEPH GRIFFO, SENATOR STEPHEN M. SALAND, SENATOR THOMAS O'MARA, JAMES PATTERSON, JOHN MILLS, WILLIAM NELSON, ROBERT FERRIS, WAYNE McMASTER, BRIAN SCALA , PETER TORTORICI,

Plaintiffs,

Index No. 2310-2011

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEWYORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

AFFIDAVIT OF STEVEN MANGUAL

Defendants.

STATE OF NEW YORK)

) ss:

COUNTY OF BRONX)

STEVEN MANGUAL, being duly sworn, declares and states:

1. My name is Steven Mangual and I am over 18 years of age. I submit this affidavit in support of my motion to intervene in the above-captioned case.

2. I was born and raised in the Bronx where I currently reside at 2461 Belmont Avenue.

3. I have registered to vote last year and participated for the first time in the November 2010 gubernatorial election.

4. I reside within Senate District 34 and Assembly District 78.

5. I am a formerly incarcerated person. I served fourteen years in New York State prisons until my release on October 3, 2006. Since my release I have been gainfully employed and active in my community. During my incarceration and during the 2000 Census my body was counted as a resident of Sullivan County, New York as I was incarcerated at the Woodburn Correctional Facility, and not in my home county of the Bronx. As a result, I know fully well that the political power of my family and neighbors in my home district at that time was diluted by the practice of counting my body as a "resident" of Sullivan County.

6. I am currently employed as Community Liaison/Treatment Adherence Advocate at STAT Rx Pharmacy where I am responsible for providing training on the HIV/AIDS epidemic and providing direct advocacy for HIV/AIDS consumers.

7. Civic participation has long been one of my priorities. In fact I was one of the plaintiffs that challenged felon disfranchisement in New York State in the federal case titled Hayden v. Pataki. While that litigation was eventually unsuccessful it did expose the practice that is at stake in this litigation and contributed, in a small way, to Section XX the law that would correct one of the injustices highlighted in the Hayden case.

8. I am aware that a large, disproportionate share of Bronx residents live below the poverty line. Many in my neighborhood receive public assistance, Temporary Assistance for Needy Families, Supplemental Security Income and/or Medicaid.

9. I have consistently encouraged people to vote through my community based work and as Associate Producer for Latino Affairs for the WBAI radio program, "On the Count."

10. I strongly support Section XX because I believe, for purposes of redistricting, incarcerated persons must be allocated to their home address when redistricting rather than the place of their incarceration in order to cure the imbalance of political power that occurs by following this unjust census policy. Allocating people in prison to their place of incarceration artificially increases the number of people in the communities where prisons are located and unjustly inflates their political power compared to downstate communities where these people actually lived before their imprisonment. This policy corrupts the democratic process; a corruption that is exacerbated by the State's companion policies on felon disfranchisement.

11. In addition, the policy that is rectified by Section XX directly and negatively impacts the votes of Black and Latino voters who are also diluted because while the majority of people in prison are Black and Latino, the majority of prisons are located upstate in rural white communities.

12. The Bronx is home to a significant number of incarcerated persons. It is important to note that many people in prison immediately return to their home communities upon release.

13. As a voter within Senate District 34, if the instant lawsuit is successful, I will be injured because my vote will have less weight than the vote of a voter in a community in which a prison is located, contrary to the "one person, one vote" rule.

14. As a Latino voter residing in Senate District 34, if the instant lawsuit is successful, my vote will be diluted.

15. Equally important, as a formerly incarcerated person who was unjustly included in the apportionment base of Sullivan County during the 2000 Census I have the unique perspective of suffering these harms from multiple perspectives. Now that I am an active voter, the vote that

I am finally allowed to exercise should not be diluted by the policies that Part XX was meant to outlaw.

16. In this litigation, my interests differ from the two named defendants, the New York Legislative Task Force on Research and Reapportionment and the New York State Department of Corrections. LATFOR's role is to provide technical assistance in the redistricting process and they would not have any motivation to represent my interests as a voter. Similarly, the Department of Corrections is merely transferring data from the current prison population data files to LATFOR for the purposes of adjusting the census figures; it too, has no institutional interests in addressing my unique concerns as a voter in this litigation.

17. Accordingly, I respectfully request that this Court grant my motion to intervene.

Dated: Bronx, New York
May 11, 2011

STEVEN MANGUAL

SWORN TO BEFORE ME THIS 11th DAY OF MAY 2011

NOTARY PUBLIC

JUAN CARTAGENA
NOTARY PUBLIC-STATE OF NEW YORK
No. 02CA4767698
Qualified in New York County
My Commission Expires June 30, ~~2010~~ 2014

13

AFFIDAVIT OF EDWARD MULRAINE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'CONNOR LITTLE, SENATOR PATRICK GALLIVAN, SENATOR PATRICIA RITCHIE, SENATOR JAMES SEWARD, SENATOR GEORGE MAZIARZ, SENATOR CATHERINE YOUNG, SENATOR JOSEPH GRIFFO, SENATOR STEPHEN M. SALAND, SENATOR THOMAS O'MARA, JAMES PATTERSON, JOHN MILLS, WILLIAM NELSON, ROBERT FERRIS, WAYNE McMASTER, BRIAN SCALA , PETER TORTORICI,

Plaintiffs,

Index No. 2310-2011

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEWYORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

AFFIDAVIT EDWARD MULRAINE

Defendants.

STATE OF NEW YORK)

) ss:

COUNTY OF KINGS)

EDWARD MULRAINE, being duly sworn, deposes and says:

1 My name is Edward Mulraine and I am over the age of eighteen.

2. I submit this affidavit in support of my motion to intervene herein.

3. For the last seven years, I have resided at 48 East Second Street, Mount Vernon, New York 10550.

4. I have been a registered voter for over twenty years and regularly vote in primary and general elections.

5. I reside within Senate District 36 and Assembly District 87.

6. I am a pastor, professor and publisher. Community activism fuels all my work.

7. I currently lead the Unity Baptist Tabernacle of Mount Vernon, New York. I have also lectured at Manhattanville College on African American religions and the Political Philosophy of Martin Luther King, Jr. and taught homiletics at New York Theological Seminary.

8. I have been a member of the Williamsbridge branch of the NAACP since 1998 and am currently on its Executive Board. I am also a member of the United Black Clergy of Westchester.

9. My community activism is rooted in my concerns about the quality of life in my community. The issues that are of particular concern to me are housing foreclosures, education and sanitation services.

10. I have also worked on campaigns to stop the violence and for more funding for day care centers. Because I have a vested interest in my community and want my voice heard as to how it can be improved, it is important to me that my vote count fully, and not be diluted, in all elections in which I participate.

11. In addition, I regularly engage in voter registration campaigns and have worked on the political campaigns of candidates who I believed would be responsive to the issues impacting my community.

10. During the 2001 redistricting cycle, I was the chairperson of the Williambridge NAACP, which as part of the Bronx Coalition of NAACP Chapters, was involved in the lawsuit that challenged the then new congressional and legislative lines on the grounds that they violated the "one person, one vote rule" and the Voting Rights Act because certain senate districts were more populated than others and the new redistricting plan failed to include a majority-minority congressional districts in the northern Bronx.

11. I supported the passage of Section XX because I believe that allocating prisoners to their place of incarceration, instead of at their home addresses, violates the "one, person, one vote" principle by inflating the number of persons in communities where prisons are located.

12. Allocating prisoners to their place of incarceration, rather than their home address, also dilutes the voters of Black voters. This is because while the majority of prisoners in New York State are Black and Latino, the majority of prisons are located upstate in rural predominately white communities.

13. If the instant lawsuit is successful, and the Senate and Assembly are required to revert back to the practice of including incarcerated persons in the apportionment bases of the communities in which the prisons are located, I will be injured because my vote will have less weight than the vote of a voter in a community in which a prison is located. I live in a Senate district that contains a far smaller prison population than that of several other Senate districts in the State of New York; I also live in an Assembly district that contains no prison population. Compared to votes in districts with higher prison populations, then, my vote will be diluted.

14. If the instant lawsuit is successful, I will be injured because my vote, and the votes of other Black voters in Senate District 36 and Assembly District 87, will be diluted.

15. I am seeking to intervene in this action because I fear that the defendants, the New York Legislative Task Force on Research and Reapportionment and the New York State Department of Correctional Services, will not adequately protect my interests in safe-guarding the principles of the "one person, one vote" and the Voting Rights Act. Neither of these institutions has the mission of protecting the interests of voters, let alone Black voters.

WHEREFORE, deponent respectfully requests that the Court grant my motion to intervene pursuant to C.P.L. R. section 1012, or alternatively C.P.L. R. Section 2013.

Dated: Mount Vernon, New York
May 13, 2011

Edward Mulraine

SWORN TO BEFORE ME THIS 13th
DAY OF MAY 2011

NOTARY PUBLIC

JOAN P. GIBBS
Notary Public, State of New York
No. 02GI6220490
Qualified in Kings County
Commission Expires April 12, 2014

14

AFFIDAVIT OF CHRISTINE PARKER

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'CONNOR LITTLE, SENATOR PATRICK GALLIVAN, SENATOR PATRICIA RITCHIE, SENATOR JAMES SEWARD, SENATOR GEORGE MAZIARZ, SENATOR CATHERINE YOUNG, SENATOR JOSEPH GRIFFO, SENATOR STEPHEN M. SALAND, SENATOR THOMAS O'MARA, JAMES PATTERSON, JOHN MILLS, WILLIAM NELSON, ROBERT FERRIS, WAYNE McMASTER, BRIAN SCALA , PETER TORTORICI,

Plaintiffs,

Index No. 2310-2011

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEWYORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

AFFIIDAVIT OF CHRISTINE PARKER

Defendants.

STATE OF NEW YORK)

) ss:

COUNTY OF KINGS)

CHRISTINE PARKER, being duly sworn, deposes and says:

1 My name is Christine Parker and I am over the age of eighteen.

2. I submit this affidavit in support of my motion to intervene herein.

3. For the past ten years I have resided at 1308 Eastern Parkway, Brooklyn, New York.

4. I have been a registered voter for thirty years and regularly vote in primary and general elections.

5. I reside in Senate District 19 and Assembly District 55.

6. I am currently employed full-time as a Human Resource Administrator for the Citibank Citigroup. I am also a consultant at CAMBA, a Central Brooklyn based non-profit that offers integrated services and programs in economic development, education, youth development, family support services, HIV/AIDS Services, housing and legal services. In addition, I work with the Community Council of the 71st Precinct.

7. I am deeply concerned about the quality of life in my community, particularly the lack of services and the high incidence of crime. It is because of this concern that I engage in community work and vote so consistently.

8. I strongly support Section XX because allocating incarcerated persons for redistricting purposes to their place of incarceration, rather than their home address, violates the "one person, one vote" rule.

9. While the majority of New York State's prisons are located upstate, the majority of prisoners are from New York City. The votes of those in legislative districts where prisons are located, thus, have a greater weight than the votes of voters such as me, due to the significantly lower population of incarcerated persons housed in the City.

10. Allocating prisoners to their place of incarceration also results in the dilution of the votes of Black voters such as myself who reside in communities such as Crown Heights and Brownsville, both of which are home to a significant number of incarcerated persons.

11. If the instant lawsuit is successful, and state resumes the practice of crediting incarcerated people to the districts that contain prisons, my vote will have less value than a voter residing in a community in which a prison is located. Neither my Senate nor Assembly district houses a prison.

12. If the instant lawsuit is successful, my vote, as well as the votes of other Black voters in my Senate and Assembly districts, will be diluted when the new district lines are drawn.

13. I seek to intervene in this action because I fear that the defendants, the New York Legislative Task Force on Research and Reapportionment and the New York State Department of Correctional Services, have different interests than I do and will not be able to adequately protect my personal voting and representational interests protected by the "one person, one vote" doctrine and the Voting Rights Act. LATFOR is partially composed of legislators who have a vested interest in how redistricting occurs for their own districting purposes; the legislators' interests do not line up with my interest in ensuring that incarcerated persons do not get included in the counties in which the prisons are located in order to prevent vote dilution. The Department of Correctional Services (DOCS) does not represent my interests either. DOCS is responsible for the confinement and habilitation of persons convicted of crimes in New York. Its mission is not to help create a more equitable districting system or to represent my interests in defending Part XX.

WHEREFORE, I respectfully request that the Court grant my motion to intervene pursuant to C.P.L. R. section 1012, or alternatively C.P.L. R. Section 2013.

Dated: Brooklyn, New York
May 17, 2011

Christine Parker

SWORN TO BEFORE ME THIS 17th
DAY OF May 2011

NOTARY PUBLIC

JOAN P. GIBBS
Notary Public, State of New York
No. 02GI6220490
Qualified in Kings County
Commission Expires April 12, 2014

15

AFFIDAVIT OF PAMELA PAYNE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'CONNOR LITTLE, SENATOR PATRICK GALLIVAN, SENATOR PATRICIA RITCHIE, SENATOR JAMES SEWARD, SENATOR GEORGE MAZIARZ, SENATOR CATHERINE YOUNG, SENATOR JOSEPH GRIFFO, SENATOR STEPHEN M. SALAND, SENATOR THOMAS O'MARA, JAMES PATTERSON, JOHN MILLS, WILLIAM NELSON, ROBERT FERRIS, WAYNE McMASTER, BRIAN SCALA , PETER TORTORICI,

Plaintiffs,

Index No. 2310-2011

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEWYORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

AFFIDAVIT
PAMELA PAYNE

Defendants.

STATE OF NEW YORK)

)ss:

COUNTY OF KINGS)

PAMELA PAYNE, being duly sworn, declares and states:

1. My name is Pamela Payne and I am over eighteen years old.

2. I submit this affidavit in support of my motion to intervene in the above-captioned case.

3. For the past ten years, I have resided at 901 Washington Avenue, Brooklyn, New York 11225.

4. I reside within Senate District 20 and Assembly District 57.

5. I have been a registered voter for thirty years and regularly vote in both the primary and general elections.

6. I am currently employed full-time as a District Family Advocate for the New York City Department of Education.

7. I am the founder of the Professional Advocacy Mentorship Program. The mission of the Professional Advocacy Mentorship Program (PAMP) is to ensure that Parent Leaders within low income schools receive ongoing training.

8. I am also very active in my church, the Mount Sinai Baptist Church, located at 241-45 Gates Avenue, Brooklyn, New York 11238. I founded and am the Director of Mount Sinai's Praise Dance Ministry, and am also a member of the First Lady's Support Ministry. I also teach Sunday School.

9. I am deeply concerned about the social and economic conditions in my community. The issues that are of particular importance to me are housing, unemployment, the public education system and the lack of parental involvement the public schools. I vote regularly to voice my opinions on these issues. Because these issues are important to me, I want and expect my vote to count fully, as much as anyone else's.

10. I supported the passage of Section XX because allocating incarcerated persons at their place of incarceration violates the "one person, one vote" rule and causes the dilution of the votes of Black voters in my community.

11. While the majority of incarcerated persons in New York are Black and Latino and reside in New York City, the majority of prisons are located upstate in predominately white rural communities.

12. If the instant lawsuit is successful, and the Senate and Assembly districts hosting prisons are required to include incarcerated persons in their apportionment bases, the votes of voters in communities where there are prisons will continue to have greater weight than my vote and other voters in my community. Because my Senate District 20 and Assembly District 57 do not contain prisons, my vote will be diluted if Section XX gets struck down.

13. If the instant lawsuit is successful, my and the votes of other Black voters in my Senate and Assembly districts will continue to be diluted.

14. I am seeking to intervene in this case because I fear that the two named defendants, the New York Legislative Task Force on Demographic Research and Reapportionment and the New York State Department of Correctional Services, have different interests than I do and will not be able to adequately protect my personal voting and representational interests protected by "one person, one vote" doctrine and the Voting Rights Act. Neither of these institutions has the mission of protecting voters' interests, and they have no incentive to litigate this case to protect my interests as a voter.

WHEREFORE, I respectfully request that the Court grant my motion to intervene.

Dated: Brooklyn, New York
May 11, 2011

Pamela Payne

SWORN TO BEFORE ME THIS ____
DAY OF MAY 2011

NOTARY PUBLIC

JOAN P. GIBBS
Notary Public, State of New York
No. 02GI6220490
Qualified in Kings County
Commission Expires April 12, 2014

16

AFFIDAVIT OF DIVINE PRYOR

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'CONNOR LITTLE, SENATOR PATRICK GALLIVAN, SENATOR PATRICIA RITCHIE, SENATOR JAMES SEWARD, SENATOR GEORGE MAZIARZ, SENATOR CATHERINE YOUNG, SENATOR JOSEPH GRIFFO, SENATOR STEPHEN M. SALAND, SENATOR THOMAS O'MARA, JAMES PATTERSON, JOHN MILLS, WILLIAM NELSON, ROBERT FERRIS, WAYNE McMASTER, BRIAN SCALA , PETER TORTORICI,

Plaintiffs,

Index No. 2310-2011

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEWYORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

AFFIDAVIT OF DIVINE PRYOR

Defendants.

----------X

STATE OF NEW YORK)

) ss:

COUNTRY OF KINGS)

DIVINE PRYOR, being duly sworn, declares and states:

1. My name is Divine Pryor and I am over 18 years old.

2. I submit this affidavit in support of my motion to intervene in the above-captioned matter.

3. For the past ten years, I have resided at 246-14 135th Road, Rosedale, New York.

4. I am a registered voter and regularly vote.

5. I have worked on voter registration campaigns for the past 15 years and have also worked on a number of political campaigns.

6. I reside in the 14th Senate District and the 29th Assembly District.

7. I am the Executive Director of Center for NuLeadership on Urban Solutions. The Center for NuLeadership on Urban Solutions (CNUS) is a national public policy, research and advocacy organization that is concerned about the disproportionate representation of minorities in America's prisons and advocates for reform of the system. CNUS was founded and is directed and staffed by people who were formerly incarcerated.

8. I am an ordained minister and pastor of Greater Works ministries. I also belong to the Bible Faith Ministries Family. I am a member of numerous other community and faith based organizations throughout the State of New York, among them the New York Faith-Based Community Empowerment Coalition. I also organize and facilitate an annual faith based legislative breakfast.

9. As the Executive Director of CNUS, I am consistently engaged in voter registration and civic education activities designed to get formerly incarcerated persons more involved in community projects that improve the public health, safety and the overall quality of life. I am also currently working to educate the general public and elected officials about prison gerrymandering and the benefits of ending it.

10. Since its inception, CNUS has been involved in the campaign to end prison gerrymandering because it unfairly benefits the prison communities at the expense of those from which incarcerated persons come. CNUS conducted research on legislative precedent that prohibits the allocation of residents in counties where they are incarcerated.

11. CNUS participated in Congressional, New York State Senate and Assembly briefings, hearings and testimonials on prison gerrymandering. We have worked directly with the New York State Senate and Assembly to educate their members about the importance of allocating

individuals where they legally reside, and where they lived pre-arrest, and not where they are currently incarcerated.

12. I strongly support Section XX and was involved in numerous activities to secure its passage, including providing expert testimony on how census data has been misused to the benefit of the upstate counties, at the expense of the communities from which the prisoners come, particularly New York City, where the majority of incarcerated persons from, to secure unearned political and economic advantages. I also attended press conferences, conducted teach-ins, met with other advocates and activists to provide updates and spoke at forums on Section XX throughout New York.

13. Prison gerrymandering unfairly privileges communities in which prisons are located by allowing these communities to unfairly to bolster their populations for redistricting purposes.

14. The practice of prison gerrymandering also results in the dilution of the Black vote, particularly in New York, because while the majority of incarcerated persons in New York State are Black and Latino and from New York City, the majority of prisons are located upstate in predominately rural white communities.

15. The other issue that of particular concern to me is the mis-education and victimization of the Black and Latino youth in my community by the public education system. I am especially concerned about the criminalization of student's school based behavior and their entanglement in the juvenile justice system as a result.

16. As a voter within Senate District 14 and Assembly District 29, if the instant lawsuit is successful, and the districts housing prisons resume claiming incarcerated persons in their apportionment bases, I will be injured because my vote will have less weight than the vote of a

voter in a prison community, because both my Senate and Assembly districts do not contain prisons. This dilution would be contrary to the "one person, one vote rule.

17. As a Black voter residing in Senate District 14 and Assembly District 29, if the instant lawsuit is successful, my vote will be diluted.

18. I am seeking to intervene in this action because I fear that the defendants, the New York Legislative Task Force on Research and Reapportionment and the New York State Department of Correctional Services, will not adequately protect my interests in safe-guarding the principles of the "one person, one vote" and the Voting Rights Act.

19. Neither LATFOR nor the New York State Department of Correctional Services represent the interests of voters such as myself.

20. LATFOR is charged with providing technical assistance to the state legislature and is partially comprised of representatives who are allied with the Republican Senate plaintiffs in this case.

21. The New York State Department of Correctional Services is principally responsible for the confinement of incarcerated persons.

22. Additionally, as a formerly incarcerated person, I do not trust the Department of Correctional Services to represent by interests as a voter or otherwise.

WHEREFORE, I respectfully request that the Court grant my motion to intervene pursuant to C.P.L. R. section 1012, or alternatively C.P.L. R. Section 2013.

Dated: Brooklyn, New York
May 11, 2011

DEVINE PRYOR

SWORN TO BEFORE ME THIS
11 DAY OF MAY 2011

NOTARY PUBLIC

JOAN P. GIBBS
Notary Public, State of New York
No. 02GI6220490
Qualified in Kings County
Commission Expires April 12, 2014

17

AFFIDAVIT OF TABITHA SIELOFF

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'C. LITTLE, ET AL.

Index No.:2310/2011

Plaintiffs,

-against-

AFFIDAVIT OF TABITHA SIELOFF

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,
NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendant(s).

----------X

STATE OF NEW YORK)

) ss.:

COUNTY OF DUTCHESS)

Tabitha Sieloff, being duly sworn, declares and states:

1. My name is Tabitha Sieloff, and I am over the age of eighteen.

2. I submit this Affidavit in support of my motion to intervene in the above-captioned case.

3. I have resided at 13 Jackman Drive, Apt. A, Poughkeepsie, NY 12603 in Dutchess County for the past year. I moved here in May of 2010.

4. I am registered to vote at my current address, and intend to vote in upcoming elections. When I first moved here, I submitted a voter registration application to the county clerk, but later learned that for some reason it was not processed or recorded. I was disappointed that I could not vote in the November 2010

elections. After I sent in another registration application in February of 2011, I called the county clerk's office and confirmed that I am now registered.

5. I first registered to vote soon after turning 18 in 2004. I earlier lived in Albany at 133 Snyders Lake Road, Apt. G for a short period before coming to Poughkeepsie, and was registered to vote at that location. Before living in Albany, I lived in Colorado and Virginia, and was registered to vote in both those states.

6. I have voted in federal and state elections, and I have become increasingly interested in local issues. Now that I am settling down in the City of Poughkeepsie, I have a strong interest in voicing my opinion as to how local government is run.

7. I live in Senate District 41, in Assembly District 102, and in the 1st District in Dutchess County.

8. I am a social worker, and am employed by two agencies in Dutchess County: Lexington Center for Recovery and Family Services. I work on issues of adolescent substance abuse, and I also work with incarcerated persons on parole or on probation. I went into social work specifically because I wanted to work with formerly incarcerated persons; I wanted to work on behalf of people who were disregarded by society, who were considered "valueless." I decided I wanted to help formerly incarcerated people and their families, and also help teach the rest of society that these people are still valuable, that they do have worth, and that they're deserving of a voice.

9. On a volunteer basis, last year I worked with the Correctional Association of New York on their "Drop the Rock" campaign, which advocates for policies that reduce incarceration rates, including repealing the vestiges of the Rockefeller Drug Laws. (The Correctional Association is a nonprofit organization dedicated to a more just prison system. It "envisions a criminal justice system that holds a person accountable for a crime yet does not condemn an entire life based on a person's worst act, a system that goes beyond a process of law and accountability to encompass social and racial equality on all levels.") Part of its "Drop the Rock" campaign includes promotion of the "Merit Time" bill, on which I have collected sign-ons by petition. The "Merit Time" bill proposes to expand eligibility to a wider group of incarcerated prisoners to obtain merit time toward their sentences.

10. In addition to doing some volunteer work for the Correctional Association, I am also a member of the Prison Action Network (PAN), an organization led by Judith Brink. It was through PAN that I first heard about Part XX on how incarcerated persons should be counted for redistricting purposes. I'm currently in the process of organizing a legislative visit for my Senate and Assembly districts to promote PAN's parole-reform law. I hope at a meeting to provide information on the way parole laws currently work and to inform legislators of the proposed parole changes in an effort to get their support.

11. I strongly supported the recent enactment of Part XX. When I learned that this legislation got passed, I was thrilled. I have always believed that it is unfair for communities in which prisons are located to include incarcerated people for apportionment purposes when these individuals have no voice of their own in

elections. The practice inflates the political power of areas that have a vested interest in keeping prisons filled, because of the way prisons affect the county economically. This works to the disadvantage of incarcerated persons and a fairer criminal justice system generally.

12. I also care about this issue from the perspective of a voter. It just doesn't make sense to me that some districts should get the benefit of an inflated count of people who have not chosen to live there, who are not able to take part in the life of the community where the prison is located, and who cannot hold their legislators accountable. In any case, these incarcerated persons aren't residents of the prison communities. When they complete their sentences, they return to their home communities, and are not encouraged to stay in the prison community.

13. If the plaintiffs' lawsuit were successful, and Dutchess County is forced to include incarcerated populations in the county apportionment plans, I would be injured as a voter in county elections and State Senate and Assembly elections. (Even before Part XX was passed, Dutchess County on its own initiative had been excluding prison populations from the apportionment base for local elections.) My vote will be diluted in county elections because, while I live in a county district with no prisons, other districts in my county contain prisons. Thus, if the prison population is included in the apportionment base for local redistricting, my neighboring districts in Dutchess County will get the benefit of a higher population base without any additional voters in them. Additionally, I stand to lose as a voter in State Senate elections too. For example, I understand that Senate District 45 includes several thousand more incarcerated persons as are in

Senate District 41. Comparatively, then, my vote in Senate District elections will be diluted by other districts having inflated counts.

14. My interests in this litigation differ from those of the two named defendants. My interest differs from that of the New York Legislative Task Force on Demographic Research and Reapportionment (LATFOR), because its interests simply do not match up with those of the voters, prisoners, or the families of prisoners. That organization provides technical assistance to the legislature; its job is not necessarily to look out for voters like me who live in prison-less districts and who stand to have their votes diluted in elections. That is not LATFOR's mission. Also, because it is composed in part of legislators, LATFOR may be affected by partisan or political interests in terms of its role in this lawsuit.

15. My interests also differ from those of the Department of Correctional Services (DOCS). DOCS is only involved in this case because it is the entity required by the new legislation to provide data on the inmates' residences to LATFOR. DOCS is not really affected personally or organizationally by the outcome of this matter. I, on the other hand, am looking at this case from the perspective of someone who cares about the incarcerated communities, and as a voter who wants her vote to count fully, and not be diluted.

WHEREFORE, I respectfully request that the Court grant my motion to intervene in the above-captioned case.

Tabitha
T. Sieloff MSW, LMSW
Tabitha Sieloff

Sworn to before me this 9th
day of May 2011

Notary Public

Tabitha Sulloff known by NYDL 471277680 Ex. 9/1/15.

ANASTAZIA SIENTY
No. 01SI6186555
Notary Public, State of New York
Qualified in Dutchess County
My Commission Expires 05/05/2012

18

AFFIDAVIT OF GRETCHEN STEVENS

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

----------X

SENATOR ELIZABETH O'C. LITTLE, ET AL.

Plaintiffs,

-against-

NEW YORK LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES,

Defendant(s).

----------X

Index No.:2310/2011

AFFIDAVIT OF GRETCHEN STEVENS

STATE OF NEW YORK)

) ss.:

COUNTY OF COLUMBIA)

Gretchen Stevens, being duly sworn, declares and states:

1. My name is Gretchen Stevens, and I am over the age of eighteen.

2. I submit this Affidavit in support of my motion to intervene in the above-captioned case.

3. I live at 563 County Route 21, Hillsdale, NY 12529. I have lived in the Town of Hillsdale for the past 20 years, and at 563 County Route 21 for the past 17 years.

4. I have been registered to vote in Hillsdale for the past 20 years, and have voted in virtually every election over those years. I vote in town, county, state, and, federal elections.

5. I live in Senate District 41, Assembly District 103, and in the Hillsdale township in Columbia County.

6. Over the past six years, I have been active in various community efforts, especially related to revisions of the town comprehensive plan. Four years ago, I became a member of the Town of Hillsdale Conservation Advisory Council. The Council is an advisory commission to other town agencies, including the Planning Board, the Town Board, and the Zoning Board of Appeals. The members, including myself, are appointed to this council by the Town Board. As the secretary for the Council, I help review new development proposals and then make recommendations on them to the Planning Board. Additionally, the other Council members and I conduct research and make recommendations on town matters related to natural resource conservation.

7. I joined the Council because I am very interested in the issues of conservation and responsible development and am interested in ensuring that my community is properly protecting its natural resources. I'm a biologist by profession, and study issues surrounding the environment. It's important to me that I participate and contribute to the community in any way I can, and I want to ensure that my contributions and my voice are fully heard when it comes to local, county, and state matters that are important to me.

8. I fully supported the enactment of Part XX. I strongly believe that incarcerated people should be included in the apportionment bases where their families live and their interests lie – in their home communities. Incarcerated persons do not have an interest in the communities in which the prisons are located. They do not participate in, or contribute to, the day-to-day matters of these communities. Because of this distinction, they should not be included in the apportionment bases for the counties in which the prisons are

located. Instead, they should be included in their home counties, where they most often return after completing their sentences. Their lives and interests are in those communities, not in the prison communities.

9. If the current lawsuit were successful in striking down Part XX, I would be injured as a voter in both County and State elections. My vote will be diluted in County elections because, while I live in a town with no prisons, the city of Hudson contains a prison. Thus, if the prison population is included in the apportionment base, a district in Hudson will get the benefit of a higher population base in the county board of supervisors without any additional voters in them. Additionally, there are several senate and assembly districts in New York that contain more prisons than my senate or assembly districts. Senate District 45, for example, includes several thousand more incarcerated persons than are in my Senate District 41. My vote in Senate District elections, then, will be diluted by neighboring districts with inflated counts if prison populations are included in prison communities for apportionment. My vote in Assembly District elections will also be affected. Assembly Districts 116 and 147 both contain several thousand more incarcerated persons than are in my District 103. So I stand to have my vote diluted in County, State Senate, and State Assembly elections if plaintiffs' lawsuit is successful.

10. My interests in this litigation are different from those of the New York Legislative Task Force on Demographic Research and Reapportionment (LATFOR) and the Department of Correctional Services (DOCS). LATFOR and DOCS – organizations, not individuals – simply cannot share my same interests, and cannot represent me as a voter in this litigation. The legislators on LATFOR will likely make decisions in this case that benefit them as legislators; they will not necessarily look out for the interests of all voters. As

for DOCS, it is only in this litigation because it is the entity that must provide data on the inmates' residences to LATFOR. Like LATFOR, DOCS does not represent the interest of the voters in this state.

WHEREFORE, I respectfully request that the Court grant my motion to intervene in the above-captioned case.

Gretchen Stevens

Sworn to before me this 12th
day of May 2011

Notary Public

DEBORAH C. TREADWAY
Notary Public State of New York
No. 01TR5017597
Qualified in Dutchess County
Commission Expires September 7, 2013

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LATFOR LETTER

NEW YORK STATE
LEGISLATIVE TASK FORCE
ON DEMOGRAPHIC RESEARCH
AND REAPPORTIONMENT
250 Broadway-21st Floor
New York, New York 10007-2563
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CO-EXECUTIVE DIRECTORS
Debra A. Levine
Lewis M. Hoppe

May 11, 2011

Honorable
Supreme Court, Albany County

Re: Little, et al. v. New York State Legislative Task Force on Demographic Research and Reapportionment and NYS Department of Correctional Services

Your Honor:

The undersigned are the co-chairpersons of The New York State Legislative Task Force on Demographic Research and Reapportionment ("LATFOR"), a defendant herein. LATFOR is the entity responsible for developing redistricting plans for the New York State.

The instant action seeks, inter alia, a declaration of unconstitutionality of Section XX of Chapter 57 of the Laws of 2010, regarding the counting of incarcerated persons for redistricting purposes. We understand that the Attorney General will be appearing, or has already appeared, in this case.

At this time, LATFOR does not intend to make a formal submission to the Court. We are satisfied that counsel who will appear for co-Respondent Department of Correctional Services can adequately address the merits of the case. However, we write to impress upon the Court of the importance to LATFOR that the case proceed to judgment without delay.

LATFOR is tasked with developing proposals for three different sets of districting plans: the New York State Assembly, the New York State Senate, and the Congressional districts for the New York State delegation. This is a massive undertaking, delicate in its execution and requires input from, and agreement of, various different constituencies, including pre-clearance from the United State Department of Justice.

LATFOR has begun the redistricting process and needs to know how to apportion the prison population now, while the districts are being crafted. To implement lines and have them later overturned, if such a statutory challenge were successful, would wreak havoc with the political process in New York and would be prejudicial to the State, candidates and voters alike. We believe that the best interests of all would be served by avoiding the uncertainty imposed by a challenge waiting in the wings.

For these reasons, LATFOR most respectfully urges the Court to proceed with this action in a manner designed to result in a prompt resolution.

Respectfully submitted,

Michael J. Nozzolio 5/11/11

Signature Date

11th May 2011

Signature Date

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

.....

Senator Elizabeth O'C. Little, Senator Patrick Gallivan, Senator Patricia Ritchie, Senator James Seward, Senator George Maziarz, Senator Catharine Young, Senator Joseph Griffo, Senator Stephen M. Saland, Senator Thomas O'Mara, James Patterson, John Mills, William Nelson, Robert Ferris, Wayne Speenburgh, David Callard, Wayne McMaster, Brian Scala, Peter Tortorici,

Plaintiffs,

-against-

Index No. 2310-2011

VERIFIED ANSWER

New York State Task Force on Demographic Research and Reapportionment, New York State Department of Correctional Services,

Defendants,

-and-

NAACP New York State Conference, Voices of Community Activists and Leaders-New York, Common Cause of New York, Michael Bailey, Robert Ballan, Judith Brink, Tedra Cobb, Frederick A. Edmond III, Melvin Faulkner, Daniel Jenkins, Robert Kessler, Steven Mangual, Edward Mulraine, Christine Parker, Pamela Payne, Divine Pryor, Tabitha Sieloff, and Gretchen Stevens,

Defendant-Intervenors.

.....

DEFENDANT-INTERVENORS' VERIFIED ANSWER TO VERIFIED COMPLAINT

PRELIMINARY STATEMENT

During previous redistricting cycles, New York included incarcerated persons in the district in which they were confined when drawing state legislative districts, even though incarcerated persons remain residents of their home communities for virtually all other purposes under New York law. Because incarcerated persons disproportionately have their home residence in urban districts with high concentrations of African-American and Latino residents, this practice resulted in the systematic dilution of minority voting rights throughout the state, by using prison populations – persons ineligible to vote – to arbitrarily and artificially award greater representation to overwhelmingly white districts that house prisons, at the expense of the urban, largely minority districts where incarcerated persons retain their domicile.

New York's previous practice also improperly diluted the voting strength of voters living in all other legislative districts throughout the state that had no prisons, or that had smaller prison populations than other districts. In addition, for purposes of local redistricting, at least 13 counties in New York already had an established practice of not including incarcerated populations as local residents when drawing their county legislative districts, because of the enormous distortions in voting strength and representation that would result from including incarcerated populations in these local districts. The practices of these counties confirm that incarcerated persons are not considered residents of the prison district.

Part XX of Chapter 57 of the Laws of 2010, challenged in this action, was enacted in 2010 to remedy the injustice of the prior method of allocating prison populations to some districts. Part XX provides that incarcerated persons shall be allocated for state legislative districting purposes to their residence immediately prior to their incarceration, and for county and municipal redistricting purposes requires those bodies to either allocate incarcerated people at their residential addresses or to remove those individuals from their population. By their lawsuit, plaintiffs seek to both prevent incarcerated people from being allocated to their prior addresses, and to remove the discretion that counties with prisons had under the old law. The counties have historically had the discretion to choose the population basis for redistricting purposes, but the plaintiffs seek to replace that discretion with a mandatory requirement to engage in prison-based gerrymandering.

Plaintiffs' challenge to this statute is without merit. By this answer, defendant-intervenors reject all of plaintiffs' claims and ask the court to deny plaintiffs' request to restore the prior unjust and indefensible practice of padding the population of districts containing the largest prison populations, a practice that diluted the voting rights of minority communities, and, indeed, impaired the rights of all persons in New York who do not reside in districts with the largest incarcerated populations.

Defendant-intervenors, in filing this answer to plaintiffs' verified complaint, respond paragraph by paragraph as follows:

1. No response is required to the statement regarding the nature of the action. Deny that Part XX of Chapter 57 of the Laws of New York ("Part XX"), which the verified complaint labels "Section XX", is unconstitutional. Deny that plaintiffs are entitled to the relief requested.

2. No response is required to the statement regarding the nature of the action and the relief sought. Deny the remaining allegations.

3. Admit that Part XX was included in legislation that passed. Without sufficient information or knowledge to admit or deny the remaining allegations.

4. Part XX speaks for itself and therefore no response is required. The allegation also asserts a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied upon information and belief.

5. Part XX speaks for itself and therefore no response is required. To the extent a response is required, the allegations are denied.

6. Admit.

7. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

8. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

9. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

10. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

11. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

12. Upon information and belief, admit that plaintiff is a representative of the district specified, and that incarcerated persons within that district were, prior to the implementation of Part XX, included for apportionment purposes within that district. Without sufficient information or knowledge to admit or deny remaining allegations.

13. Upon information and belief, admit that plaintiff is a representative of the district specified, and that incarcerated persons within that district were, prior to the implementation of Part XX, included for apportionment purposes within that district. Without sufficient information or knowledge to admit or deny remaining allegations.

14. Upon information and belief, admit that plaintiff is a representative of the district specified, and that incarcerated persons within that district were, prior to the implementation of Part XX, included for apportionment purposes within that district. Without sufficient information or knowledge to admit or deny remaining allegations.

15. Upon information and belief, admit that plaintiff is a representative of the district specified, and that incarcerated persons within that district were, prior to the implementation of Part XX, included for apportionment purposes within that district. Without sufficient information or knowledge to admit or deny remaining allegations.

16. Upon information and belief, admit that plaintiff is a representative of the district specified, and that incarcerated persons within that district were, prior to the implementation of Part XX, included for apportionment purposes within that district. Without sufficient information or knowledge to admit or deny remaining allegations.

17. Upon information and belief, admit that plaintiff is a representative of the district specified, and that incarcerated persons within that district were, prior to the implementation of Part XX, included for apportionment purposes within that district. Without sufficient information or knowledge to admit or deny remaining allegations.

18. Upon information and belief, admit that plaintiff is a representative of the district specified, and that incarcerated persons within that district were, prior to the implementation of Part XX, included for apportionment purposes within that district. Without sufficient information or knowledge to admit or deny remaining allegations.

19. Upon information and belief, admit that plaintiff is a representative of the district specified, and that incarcerated persons within that district were, prior to the implementation of Part XX, included for apportionment purposes within that district. Without sufficient information or knowledge to admit or deny remaining allegations.

20. Upon information and belief, admit that plaintiff is a representative of the district specified, and that incarcerated persons within that district were, prior to the implementation of Part XX, included for apportionment purposes within that district. Without sufficient information or knowledge to admit or deny remaining allegations.

21. The allegation contains a legal conclusion to which no response is required. To the extent a response is required, that allegation is denied. Without sufficient information or knowledge to admit or deny the remaining allegations.

22. Admit that the LATFOR website provides similar information. Without sufficient information or knowledge to admit or deny remaining allegations.

23. Upon information and belief, admit that the New York State Department of Correctional Services (DOCS) is a department within the executive branch of New York

State government charged with the administration of correctional services. Upon information and belief, deny remaining allegations.

24. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

25. Without sufficient information or knowledge to admit or deny.

26. Without sufficient information or knowledge to admit or deny.

27. Upon information and belief, admit.

28. Upon information and belief, admit that Chapter 57 of the Laws of New York of 2010 was a revenue bill. Without sufficient information or knowledge to admit or deny remaining allegations.

29. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

30. Part XX speaks for itself and therefore no response is required.

31. Upon information and belief, admit.

32. Part XX speaks for itself and therefore no response is required.

33. Part XX speaks for itself and therefore no response is required. To the extent a response is required, the allegation is denied.

34. Part XX speaks for itself and therefore no response is required.

35. Part XX speaks for itself and therefore no response is required.

36. Part XX speaks for itself and therefore no response is required. To the extent a response is required, without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

37. Without sufficient information or knowledge to admit or deny.

38. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

39. Upon information and belief, deny.

40. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

41. The New York State Constitution speaks for itself and therefore no response is required. To the extent a response is required, the allegation is denied.

42. The New York State Constitution speaks for itself and therefore no response is required. To the extent a response is required, the allegation is denied.

43. The New York State Constitution speaks for itself and therefore no response is required. To the extent a response is required, the allegation is denied.

44. The New York State Constitution speaks for itself and therefore no response is required. To the extent a response is required, the allegations are denied.

45. Without sufficient information or knowledge to admit or deny.

46. Without sufficient information or knowledge to admit or deny.

47. Part XX and the New York State Constitution speak for themselves and therefore no response is required. To the extent a response is required, the allegations are denied.

48. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

49. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

50. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

51. The New York State Constitution speaks for itself and therefore no response is required.

52. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

53. The New York State Constitution speaks for itself and therefore no response is required. To the extent a response is required, the allegations are denied.

54. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

55. Upon information and belief, deny.

56. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

57. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

58. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

59. The New York State Constitution speaks for itself and therefore no response is required. To the extent a response is required, the allegations are denied.

60. Admit that, under current New York law, persons convicted of felonies and sentenced to incarceration do not have the right to vote while in prison. Deny remaining allegations.

61. Without sufficient information or knowledge to admit or deny.

62. Without sufficient information or knowledge to admit or deny.

63. Without sufficient information or knowledge to admit or deny.

64. Without sufficient information or knowledge to admit or deny.

65. Without sufficient information or knowledge to admit or deny.

66. Without sufficient information or knowledge to admit or deny.

67. Without sufficient information or knowledge to admit or deny.

68. Upon information and belief, deny.

69. Without sufficient information or knowledge to admit or deny.

70. Without sufficient information or knowledge to admit or deny.

71. Upon information and belief, deny.

72. Admit that Article II, Section 4 of the New York State Constitution provides that for the purposes of voting, a person "shall not be deemed to have gained or lost a residence . . . while confined in any public prison." Deny remaining allegations.

73. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

74. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

75. Without sufficient information or knowledge to admit or deny.

76. Without sufficient information or knowledge to admit or deny.

77. Without sufficient information or knowledge to admit or deny.

78. Without sufficient information or knowledge to admit or deny.

79. Deny that incarcerated persons do not have any other "fixed abode." Without sufficient information or knowledge to admit or deny the remaining allegations because they are confusing and ambiguous.

80. Without sufficient information or knowledge to admit or deny.

81. Without sufficient information or knowledge to admit or deny.

82. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

83. Without sufficient information or knowledge to admit or deny.

84. Deny.

85. Repeat and reallege all of the responses to allegations set forth in paragraphs "1" through "84" of the verified complaint as if fully set forth herein.

86. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

87. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

88. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

89. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

90. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

91. Part XX and the New York State Constitution speak for themselves and therefore no response is required. To the extent a response is required, the allegation is denied.

92. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

93. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

94. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

95. Repeat and reallege all of the responses to allegations set forth in paragraphs "1" through "94" of the verified complaint as if fully set forth herein.

96. Without sufficient information or knowledge to admit or deny.

97. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

98. Upon information and belief, deny.

99. Upon information and belief, deny.

100. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

101. Without sufficient information or knowledge to admit or deny.

102. Without sufficient information or knowledge to admit or deny.

103. The New York State Constitution and New York State Finance Law speak for themselves and therefore no response is required. To the extent a response is required, without sufficient information or knowledge to admit or deny.

104. Without sufficient information or knowledge to admit or deny.

105. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

106. Without sufficient information or knowledge to admit or deny.

107. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

108. Without sufficient information or knowledge to admit or deny.

109. The New York State Constitution speaks for itself and therefore no response is required. To the extent a response is required, without sufficient information or knowledge to admit or deny because the allegations are confusing and ambiguous.

110. The New York State Constitution speaks for itself and therefore no response is required. To the extent a response is required, without sufficient information or knowledge to admit or deny.

111. The New York State Constitution speaks for itself and therefore no response is required. To the extent a response is required, without sufficient information or knowledge to admit or deny.

112. Without sufficient information or knowledge to admit or deny.

113. Without sufficient information or knowledge to admit or deny.

114. Without sufficient information or knowledge to admit or deny.

115. Without sufficient information or knowledge to admit or deny.

116. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

117. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

118. Admit that Part XX contained a severability clause. Deny remaining allegations.

119. Part XX speaks for itself and therefore no response is required. To the extent a response is required, the allegation is denied.

120. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

121. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

122. Without sufficient information or knowledge to admit or deny.

123. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

124. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

125. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

126. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

127. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

128. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

129. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

130. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

131. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

132. Upon information and belief, admit that the paragraph presents one way to amend the Constitution in New York State. Deny the remaining allegations.

133. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

134. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

135. Without sufficient information or knowledge to admit or deny.

136. Without sufficient information or knowledge to admit or deny.

137. Without sufficient information or knowledge to admit or deny.

138. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

139. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

140. Repeat and reallege all of the responses to allegations set forth in paragraphs "1" through "139" of the verified complaint as if fully set forth herein.

141. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

142. The New York State Constitution speaks for itself and therefore no response is required.

143. Without sufficient information or knowledge to admit or deny because the allegations are confusing and ambiguous.

144. Without sufficient information or knowledge to admit or deny.

145. Without sufficient information or knowledge to admit or deny.

146. Without sufficient information or knowledge to admit or deny.

147. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

148. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

149. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

150. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

151. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

152. The allegation is a legal conclusion to which no response is required. To the extent a response is required, without sufficient information or knowledge to admit or deny.

153. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

154. Repeat and reallege all of the responses to allegations set forth in paragraphs "1" through "153" of the verified complaint as if fully set forth herein.

155. Part XX speaks for itself and therefore no response is required. To the extent a response is required, the allegation is denied.

156. Without sufficient information or knowledge to admit or deny.

157. Upon information and belief, admit.

158. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

159. Without sufficient information or knowledge to admit or deny.

160. Admit that Part XX only reallocates incarcerated persons. Deny remaining allegations.

161. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

162. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

163. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

164. Admit that Part XX only reallocates incarcerated persons. Deny remaining allegations.

165. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

166. Admit that a person loses the right to vote in New York when convicted of a felony and sentenced to incarceration. Deny remaining allegations.

167. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

168. Without sufficient information or knowledge to admit or deny.

169. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

170. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

171. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

172. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

173. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

174. Repeat and reallege all of the responses to allegations set forth in paragraphs "1" through "173" of the verified complaint as if fully set forth herein.

175. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

176. Deny.

177. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

178. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

179. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

180. Part XX speaks for itself and therefore no response is required. To the extent a response is required, without sufficient information or knowledge to admit or deny.

181. Part XX speaks for itself and no response is required. To the extent a response is required, the allegation is denied.

182. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

183. Without sufficient information or knowledge to admit or deny.

184. Without sufficient information or knowledge to admit or deny.

185. Without sufficient information or knowledge to admit or deny.

186. Upon information and belief, deny the allegation that the Federal Decennial Census was selected as the exclusive determining factor for reapportionment. Without sufficient information or knowledge to admit or deny the remaining allegations.

187. Without sufficient information or knowledge to admit or deny.

188. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

189. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

190. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

191. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

192. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

193. Without sufficient information or knowledge to admit or deny.

194. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

195. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

196. Repeat and reallege all of the responses to allegations set forth in paragraphs "1" through "195" of the verified complaint as if fully set forth herein.

197. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

198. Deny.

199. Without sufficient information or knowledge to admit or deny.

200. Without sufficient information or knowledge to admit or deny.

201. Without sufficient information or knowledge to admit or deny that Part XX "adds inhabitants to places where existing inhabitants occupy the space." Deny the remaining allegations.

202. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

203. Without sufficient information or knowledge to admit or deny because the allegation is confusing and ambiguous.

204. Deny.

205. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

206. Repeat and reallege all of the responses to allegations set forth in paragraphs "1" through "205" of the verified complaint as if fully set forth herein.

207. Admit that apportionment is one determinant of political power. Deny remaining allegations.

208. Deny.

209. Without sufficient information or knowledge to admit or deny.

210. Without sufficient information or knowledge to admit or deny.

211. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

212. Without sufficient information or knowledge to admit or deny.

213. Without sufficient information or knowledge to admit or deny.

214. Deny.

215. Upon information and belief, admit.

216. Without sufficient information or knowledge to admit or deny.

217. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

218. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

219. Without sufficient information or knowledge to admit or deny.

220. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

221. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

222. Repeat and reallege all of the responses to allegations set forth in paragraphs "1" through "221" of the verified complaint as if fully set forth herein.

223. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

224. No response is required to the statement regarding the nature of the relief sought. To the extent a response is required, deny that plaintiffs are entitled to the relief they seek.

225. No response is required to the description of the standard for the granting of a preliminary injunction. To the extent a response is required, deny that plaintiffs are entitled to a preliminary injunction.

226. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

227. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

228. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

229. Upon information and belief, deny.

230. Deny.

231. Deny.

232. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

233. Without sufficient information or knowledge to admit or deny.

234. The allegation is a legal conclusion to which no response is required. To the extent a response is required, the allegation is denied.

235. Without sufficient information or knowledge to admit or deny.

236. Without sufficient information or knowledge to admit or deny.

237. Admit plaintiffs seek the relief requested. Deny plaintiffs are entitled to the relief they seek. Without sufficient information or knowledge to admit or deny the remaining allegations.

238. Deny each and every allegation in the verified complaint not specifically responded to above.

AFFIRMATIVE DEFENSES

1. The complaint fails to state a claim as a matter of law.

2. The court lacks jurisdiction over some or all of the plaintiffs' claims because of plaintiffs' lack of standing, the claims are not justiciable, and/or the claims are not ripe for adjudication.

3. The practice of allocating incarcerated persons as residents of the prison district violates the Equal Protection guarantees of the Fourteenth Amendment to the United States Constitution and Article I, Section 11 of the New York State Constitution, and the enactment of Part XX therefore was necessary and proper to ensure New York's compliance with Equal Protection guarantees.

WHEREFORE, Defendant-intervenors request that the verified complaint be dismissed in its entirety.

Dated: May 17, 2011

Respectfully submitted,

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VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Jennifer Flynn, being duly sworn, deposes and says:

1. I am a Member of the Board of Directors and an officer of Voices of Community Activists and Leaders-New York, a New York corporation (hereinafter "VOCAL-NY") and proposed intervenor-defendant in this action.

2. I have reviewed the foregoing Proposed Answer and aver that the contents are true to the best of my knowledge and belief except as to those matters contained therein that are alleged on information and belief, which I believe to be true, and those allegations that are legal conclusions, to which no response is required.

3. This verification is made by me as an officer of VOCAL-NY pursuant to CPLR § 3020(d).

Jennifer Flynn

Sworn before me
this 16th day of May, 2011

Erika L. Wood
Notary Public, State of New York
No. 02WO6052308
Qualified in Kings County
Commission Expires 12/11/2014

UCS-840 (REV 1/2000)

REQUEST FOR JUDICIAL INTERVENTION

Supreme COURT, Albany COUNTY INDEX NO. DATE PURCHASED:
2310-2011 April 4, 2011

For Clerk Only
IAS entry date
Judge Assigned
RJI Date

PLAINTIFF(S):
Senator Elizabeth O'C. Little, Senator Patrick Gallivan, Senator Patricia Ritchie, et al.

DEFENDANT(S):
New York State Task Force on Demographic Research and Reapportionment [LATFOR], New York State Department of Correctional Services [DOCS],
Defendants,
NAACP New York State Conference et al.,
Proposed Intervenors-Defendants.

Date issue joined: _____ Bill of particulars served (Y/N): [ ] Y [x] N

NATURE OF JUDICIAL INTERVENTION (check **ONE** box only **AND** enter information)

[ ] Request for preliminary conference

[ ] Note of issue and/or certificate of readiness

[x] Notice of motion (return date: Tuesday, June 7, 2011)
Relief sought Intervention/Pro Hac Vice Admission

[ ] Order to show cause
(clerk enter return date: _____)
Relief sought

[ ] Other ex parte application (specify: _____)

[ ] Notice of petition (return date: _____)
Relief sought _____

[ ] Notice of medical or dental malpractice action (specify:)

[ ] Statement of net worth

[ ] Writ of habeas corpus

[ ] Other (specify: _____)

NATURE OF ACTION OR PROCEEDING (Check **ONE** box only)

MATRIMONIAL

[ ]	Contested	-CM
[ ]	Uncontested	-UM

COMMERCIAL

[ ]	Contract	-CONT
[ ]	Corporate	-CORP
[ ]	Insurance (where insurer is a party, except arbitration)	-INS
[ ]	UCC (including sales, negotiable instruments)	-UCC
[ ]	*Other Commercial _____	-OC

REAL PROPERTY

[ ]	Tax Certiorari	-TAX
[ ]	Foreclosure	-FOR
[ ]	Condemnation	-COND
[ ]	Landlord/Tenant	-LT
[ ]	*Other Real Property _____	-ORP

OTHER MATTERS

[x]	* Declaratory Judgment Action (CPLR 3001)	-OTH

TORTS

Malpractice

[ ]	Medical/Podiatric	-MM
[ ]	Dental	-DM
[ ]	*Other Professional _____	-OPM
[ ]	Motor Vehicle	-MV
[ ]	*Products Liability _____	-PL
[ ]	Environmental	-EN
[ ]	Asbestos	-ASB
[ ]	Breast Implant	-BI
[ ]	*Other Negligence _____	-OTN
[ ]	*Other Tort (including intentional) _____	-OT

SPECIAL PROCEEDINGS

[ ]	Art. 75 (Arbitration)	-ART75
[ ]	Art. 77 (Trusts)	-ART77
[ ]	Art. 78	-ART78
[ ]	Election Law	-ELEC
[ ]	Guardianship (MHL Art. 81)	-GUARD81
[ ]	*Other Mental Hygiene	-MHYG
[ ]	*Other Special Proceeding	-OSP

Check "YES" or "NO" for each of the following questions:

Is this action/proceeding against a

YES	NO		YES	NO	
[ ]	[X]	Municipality (Specify_____)	[X]	[ ]	Public Authority: LATFOR DOCS (Specify_____)

YES	NO	
[X]	[ ]	Does this action/proceeding seek equitable relief?
[ ]	[X]	Does this action/proceeding seek recovery for personal injury?
[ ]	[X]	Does this action/proceeding seek recovery for property damage?

Pre-Note Time Frames:
(This applies to all cases except contested matrimonials and tax certiorari cases)

Estimated time period for case to be ready for trial (from filing of RJI to filing of Note of Issue):

X Expedited: 0-8 months Standard: 9-12 months Complex: 13-15 months

Contested Matrimonial Cases Only: (Check and give date)

Has summons been served? No X Yes, Date April 4, 2011

Was a Notice of No Necessity filed? X No Yes, Date _____

ATTORNEY(S) FOR PLAINTIFF(S):

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ATTORNEY(S) FOR DEFENDANT(S):

Self Rep.*	Name	Address	Phone #
	SEE ATTACHED SHEET FOR FULL LISTING		

*Self Represented: parties representing themselves, without an attorney, should check the "Self Rep." box and enter their name, address, and phone # in the space provided above for attorneys.

INSURANCE CARRIERS:

RELATED CASES: (IF NONE, write "NONE" below):

Title	Index #	Court	Nature of Relationship

I AFFIRM UNDER PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: Tuesday, May 17, 2011

(SIGNATURE)
Wendy Weiser, Brennan Center for Justice at NYU School of Law
(PRINT OR TYPE NAME)
Proposed Intervenors-Defendants
ATTORNEY FOR

ATTACH RIDER SHEET IF NECESSARY TO PROVIDE REQUIRED INFORMATION

Attorneys for Defendants

Counsel for New York State Task Force on Demographic Research and Reapportionment:

UNKNOWN

Counsel for New York State Department of Correctional Services:

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