

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- X
JONATHAN BLATT, ALESANDRO FLORENTINO,
JOSENNY HIDALGO, ESTEBAN ALCARAZ,
KEVIN R. MARSHAL, ALI CHEIKHALI, and
NASEER NAIK,

Index. No.

Petitioners,

**VERIFIED PETITION UNDER
ARTICLE 78 AND ARTICLE 30
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

-against-

THE CITY OF NEW YORK, DEPARTMENT OF
CITYWIDE ADMINISTRATIVE SERVICES, and
LISETTE CAMILO, as Commissioner of the
Department of Citywide Administrative Services,

Respondents.

----- X

INTRODUCTION

Petitioners Jonathan Blatt, Alesandro Florentino, Josenny Hidalgo, Esteban Alcaraz, Kevin R. Marshal, Ali Cheikhali, and Naseer Naik by their attorneys, Newman Ferrara LLP, as and for their Verified Petition, allege as follows:

1. Petitioners are all employed by the City of New York’s Police Department (“NYPD”) as sergeants.
2. On April 18, 2015, each of the Petitioners herein sat for the Lieutenant’s exam administered by the Department of Citywide Administrative Services (“DCAS”).
3. DCAS is a department of the City of New York responsible for administering all civil services exams in the City of New York.
4. As more fully set out *infra* DCAS failed to properly administer the Lieutenant’s exam by, *inter alia*:

- (a) including subjects on the exam for which notice was not provided;
- (b) failing to provide adequate time for the completion of the exam;
- (c) failing to ensure that exam takers did not possess cell phones or other recording devices;
- (d) failing to provide a proper exam environment; and
- (e) failing to conduct, in a timely manner, a full investigation into allegations that sergeants who took make-up exams for the Lieutenant's exam did not engage in cheating through the use of disseminated answer keys to the exam.

5. Petitioners also bring this action under CPLR §3001 to challenge the foregoing failures of DCAS and to challenge the constitutionality of Civil Service Law §50-a (“§50-a”) inasmuch as the procedures established in §50-a limit protests of a civil service exam to challenges to proposed key answers or ratings guide.

6. Section 50-a does not authorize the Test Validation Board (“TVB”) or DCAS to review or consider challenges to the administration of the exam in question or to the content of the exam.

7. Accordingly, based on the foregoing, Petitioners allege that §50-a violates Article 5, §6 of the New York State Constitution.

8. Based on the foregoing, Petitioners also allege that the failures aforesaid are violative of Section 14-114 of the Administrative Code of the City of New York (“Admin. Code”) that restricts promotions to officers who have demonstrated, *inter alia*, superior capacity as shown by competitive examinations.

9. Petitioners bring this action as a class action.

10. On April 18, 2015, 2,401 NYPD sergeants sat for the Lieutenant's exam. Each of the officers who sat for the exam on that date were subject to similar conditions. Each of the officers who did not correctly answer questions that were based on subjects not listed in the Notice is similarly situated to Petitioners. Moreover, in the event the Court strikes certain questions from the exam, Petitioners and other members of the class could benefit by receiving a passing grade and moving up the ranks of those eligible for promotion.

PARTIES

11. Plaintiff Jonathan Blatt is a police sergeant employed by the City of New York.
12. Mr. Blatt sat for the Lieutenant's exam administered by DCAS on April 18, 2015.
13. Plaintiff Alesandro Florentino is a police sergeant employed by the City of New York.
14. Mr. Florentino sat for the Lieutenant's exam administered by DCAS on April 18, 2015.
15. Plaintiff Josenny Hidalgo is a police sergeant employed by the City of New York.
16. Ms. Hidalgo sat for the Lieutenant's exam administered by DCAS on April 18, 2015.
17. Plaintiff Esteban Alcaraz is a police sergeant employed by the City of New York.
18. Mr. Alcaraz sat for the Lieutenant's exam administered by DCAS on April 18, 2015.
19. Plaintiff Kevin R. Marshal is a police sergeant employed by the City of New York.
20. Mr. Marshal sat for the Lieutenant's exam administered by DCAS on April 18, 2015.
21. Plaintiff Ali Cheikhali is a police sergeant employed by the City of New York.

22. Mr. Cheikhali sat for the Lieutenant's exam administered by DCAS on April 18, 2015.

23. Plaintiff Naseer Naik is a police sergeant employed by the City of New York.

24. Mr. Naik sat for the Lieutenant's exam administered by DCAS on April 18, 2015.

25. Defendant City of New York ("City") is a municipal corporation duly organized and existing under the laws of the State of New York..

26. Defendant DCAS is the department of the City of New York that administers civil services examinations within the City of New York.

27. Defendant Lisette Camilo is the Commissioner of DCAS. Defendant City is the employer of Defendant Camilo.

FACTUAL ALLEGATIONS

The Lieutenant's Exam:

28. Prior to the application period, DCAS sent a Notice of Examination ("Notice") to every New York City Police precinct, which was displayed for a period of time.

29. The Notice contained instructions and information regarding the Promotion to Lieutenant (Police) Examination No. 5535.

30. The application period for Exam No. 5535 was from December 3, 2014 to December 23, 2014.

31. Exam No. 5535 was to be administered on April 18, 2015 in a multiple-choice format.

32. Exam No. 5535's nonrefundable application fee was \$101.00.

33. The Notice provided information regarding the "task areas" that were to be tested on the Lieutenant (Police) exam, in effect on January 18, 2015. A copy of the Notice is annexed hereto as Exhibit A.

34. However, the Notice did not list all of the items that were to be tested on the exam, such as Operations Orders and the NYPD Crime Complaint Reporting System Reference Guide.

35. Exam Questions 17, 18, and 27 tested the exam takers on Operations Orders.

36. Exam Questions 59 and 61 tested on the NYPD Crime Complaint Reporting System Reference Guide.

37. The Notice stated that the test would cover interim orders that were in effect up to, and including January 18, 2015.

38. In fact, questions were asked regarding orders that went into effect *after* January 18, 2015.

39. Question 106 involved an order that became effective starting January 23, 2015; days after the cutoff date in the Notice.

40. The Notice provided, in pertinent part, as follows:

“You are not permitted to enter the test site with cellular phones, beepers, pagers, cameras, portable media players, or other electronic devices. Calculators are permitted; however, they must be hand-held, battery or solar powered, numeric only. Calculators with functions **other than** addition, subtraction, multiplication and division **are prohibited**. Electronic devices with an alphabetic keyboard or with word processing or data recording capabilities such as planners, organizers, etc. are prohibited. If you are found to be in possession of any of these devices, you may not receive you test results, your test score may be nullified, and your application fee will not be refunded.” (*Emphasis in original.*)

41. The Notice contained a provision titled “Make-up Test,” which read:

“You may apply for a make-up test if you cannot take the test for any of the following reasons: (1) compulsory attendance before a public body; (2) on-the-job injury or illness caused by municipal employment where you are an officer or employee of the City; (3) absence for one week following the death of a spouse, domestic partner, parent, sibling, child or child of a domestic partner where you are an officer or employee of the City; (4) absence due to ordered military duty; (5) a clear error for which the Department of Citywide Administrative Services or the examining agency is responsible; or (6) a temporary disability, pregnancy-related, or child-birth related condition preventing you from taking the test.”

42. The Notice further provided a provision titled “Special Circumstances Guide,” which noted:

“This guide is located on the DCAS website at www.nyc.gov/html/dcas/downloads/pdf/misc/exam_special_circumstances.pdf. This guide gives important information about requesting an alternative test date because of religious observance or a special test accommodation for disability, claiming Veterans’ or Legacy credit, and notifying DCAS of a change in your mailing address. Follow all instructions on the Special Circumstances Guide that pertain to you when you complete your ‘Application for Examination.’”

43. The Notice further provided a provision titled “PENALTY FOR MISREPRESENTATION” which read:

“Any intentional misrepresentation on the application or examination may result in disqualification, even after promotion, and may result in criminal prosecution.”

44. Prior to 2013, test takers for NYPD promotion exams were given six hours to complete 100 questions, averaging about 3.6 minutes per question.

45. In 2015, twenty (20) research questions were added to the Lieutenant’s exam, and the time to complete the exam was extended by only forty-five minutes, averaging 3.375 minutes per question.

46. Thus, the 2015 exam takers were not afforded the same amount of time to complete the exam as had been afforded previous exam takers.

47. Exam No. 5535 was administered on Saturday April 18, 2015 at several locations in Brooklyn, Queens and Manhattan.

48. There were 2,401 sergeants who took the exam on April 18th.

49. Exam No. 5535 consisted of 120 multiple choice questions; 20 of which were “research” questions and were randomly interspersed throughout the exam.

50. Exam No. 5535 lasted six hours and forty-five minutes.

51. The exam was administered in classrooms of high schools.

52. Each classroom had approximately thirty (30) test-takers.

53. The test-takers, and their belongings, were not searched prior to entering the room.

54. Each classroom had one proctor who was stationed at a table in front of the room.

55. Prior to sitting for the exam, cellphones and other electronic devices were not removed from the test-takers. In fact, on at least one occasion, a proctor instructed test-takers who had a telephone to turn it off.

56. In a number of classrooms, during the exam, the proctor remained in the front of the room and did not walk around to observe the test-takers.

57. In a number of classrooms, the proctor left the room several times during the exam, leaving the room unsupervised for several periods.

58. During the exam, the test-takers were permitted to leave the room to use the restroom without having to sign out of the room or sign in upon their return. There was no limit as to how many test-takers could be out of the room at one time.

59. While there were several proctors positioned in the hallway outside of the exam room, many restrooms were unsupervised by proctors.

60. Test-takers in the restrooms were observed whispering among themselves regarding the ongoing examination.

61. In addition to the lax supervision, the exam was conducted under less-than-ideal situations.

62. A number of classrooms had their windows open and outside noises were audible throughout.

63. Furthermore, activities were being conducted in the vicinity of the high schools where the exams were being administered.

64. Additionally, sergeants were fingerprinted after the examination commenced; thereby distracting sergeants and reducing the time said sergeants could answer exam questions.

The Test Validation Board

65. Under §50-a, persons who took the Exam were permitted to file a protest to any answer or rating guide proposed by the Department of Personnel.

66. §50-a limits protests to answers or the rating guide.

67. Under §50-a, the City Personnel Director is required to submit protests to a Test Validation Board (“TVB”) for determination as to the validity of the protest.

68. On information and belief, the TVB does not address general complaints, complaints about the job-relatedness of the test, complaints about the administration of the test, or complaints about technical issues that may have occurred during the examination.

69. The TVB only considers protests to answers or the rating guide.

70. Additionally, the TVB is required to consist of three members.

71. Under §50-a, the TVB shall consist of one member appointed by the City Personnel Director, one member appointed by the City Personnel Director from a list of up to three incumbent employees nominated by the certified employee organization representing employees in the title of the examination in question and one member appointed jointly by the other two members.

72. On information and belief, one member of the TVB was promoted to Captain during the pendency of the TVB.

73. On information and belief, said member did not participate in all sessions of the TVB or in all of its deliberations.

74. On information and belief, at the time of his alleged service on the TVB, said member was no longer serving in the capacity of lieutenant during the pendency of the TVB process.

The Protest Session

75. On May 13-14, 2015, prior to the Make-Up Exams, DCAS administered a “protest session” where test-takers were invited to DCAS headquarters located at 1 Lafayette Street, Manhattan, to review their exams.

76. Test-takers were provided with a copy of the questions of Exam No. 5535, a list of the answers the test-taker selected, and an answer key, which contained a list of the official correct answers.

77. At the protest session, officers who took Exam No. 5535 were permitted to protest any questions they thought were unfair or erroneous.

78. Test-takers attending a protest session were advised that they were permitted to bring in certain documents to assist them in evaluating the questions such as their Patrol Guide, Operations Orders, etc.

79. Test-takers attending protest sessions were allowed to confer during the session.

80. While test-takers attending a protest session were advised that they were not permitted to bring in any electronic devices, they were not searched prior to entering.

81. Upon exiting the protest session, test-takers were required to surrender the documents received when they arrived.

82. However, the documents the test-takers may have brought with them to the protest session, such as a patrol guide, were not reviewed nor inspected prior to their exit.

83. On information and belief, one DCAS employee was present in the room during the protest session, but remained in the front of the room rather than walking around to observe and exited the room several times, leaving the test-takers present unsupervised.

84. Overall, there were 1,627 protests and eighty-eight (88) of the 100 questions were protested.

85. Question 1 was protested sixty-two (62) times; sixty-one (61) of the protests were considered to be “valid” by the TVB and DCAS, however, no change was made to the answer.

86. Any protests that argued that the Notice did not list the NYPD Crime Complaint Reporting System Reference Guide as a subject to be tested were considered “invalid” by the TVB and DCAS.

87. Any protests that argued that a question was based on Interim Orders that went into effect after the January 18, 2015 cutoff date were considered “invalid” by the TVB and DCAS.

88. Any protests that argued that a question based on Operations Orders were considered “invalid” by TVB and DCAS.

89. By failing to consider issues regarding the content of the examination and/or the administration of the examination, DCAS effectively denied Petitioners due process and rights secured by Article V, §6 of the New York State Constitution.

Make-Up Exams

90. Pursuant to the Examination Notice, sergeants who desired to take the Lieutenant Exam, but were precluded from doing so on April 18, 2015 for certain specified reasons, were permitted to take a make-up test at a later date.

91. On information and belief, the make-up sessions for the Lieutenant Exam were conducted on or about June 22, 2015, June 27, 2015, July 27, 2015, October 20, 2015, and December 17, 2015.

92. On information and belief, approximately 80 people took the exam on the Make-Up Dates, compared to the approximately 2,400 who took it on the original date of April 18th.

93. On information and belief, the make-up exams contained the same questions as the April Exam. Certain questions and the correct answers (in-basket questions) were in the same order as in the key answer that had been publicly disseminated via the Rising Star website, *infra*.

Evidence of Cheating

94. On information and belief, of the 2,401 sergeants that took the April 18th Exam, only 164 passed, approximately 6.8 percent.

95. Of the 80 sergeants who took the makeup exams, 48 percent passed.

96. On information and belief, the Lieutenant Exam questions and answers were circulated among several sergeants prior to the Make-Up Dates via, among other methods, an online message board frequented by NYPD officers known as “Rising Star.”

97. On information and belief, there were multiple messages on Rising Star from persons claiming to have a list of the Lieutenant Exam questions.

98. In one such message, dated May 18, 2015, the person who posted the message offers to send anyone the “exact wording” of “a specific question” on the Lieutenant Exam.

99. A post on Rising Star, dated May 13, 2015, contains a photograph of the list of officially “correct” answers. That answer key was identical to the one provided to the test-takers at the protest session.

100. On information and belief, some of the officers who took the exam on the Make-Up Dates had prior knowledge of the questions and/or answers on the Lieutenant Exam and were given an advantage over those who took the exam on the original date.

101. On information and belief, that prior knowledge contributed to the substantially higher pass-rate for those who took the exam on the Make-Up Dates.

102. On information and belief, the NYPD is currently conducting an investigation of the possible cheating and will assess how to respond if cheating is found to have occurred.

103. However, on information and belief, the NYPD review is limited to whether make-up exam test takers had proffered valid excuses for not taking the April exam.

104. On information and belief, the Department of Investigation (“DOI”) is conducting an investigation into whether cheating occurred during the Exam or the Make-Up Exams.

105. The DOI has not indicated whether in its alleged investigation, cell phone records, computer files, and social media outlets are being investigated to determine who, if any, of the make up test takers had access to answer keys posted on the Rising Star site or other social media sites or via text or emails.

106. On information and belief, the NYPD and DOI investigations have not been completed.

Eligible List

107. On or about February 17, 2016, DCAS published its civil-service list of the 204 candidates who earned passing scores.

108. On information and belief, sergeants are ranked on the Eligible List based on their score on the Lieutenant Exam and are promoted in descending numerical order.

109. On information and belief, the Eligible List currently contains sergeants who may have cheated on the Lieutenant Exam.

110. On information and belief, officers on the Eligible List will begin being promoted before the end of May or in the beginning of June.

111. Allowing officers who cheated and/or disseminated information regarding the Lieutenant’s Exam’s questions or answers prior to the make-up exams (and have thus not shown

to be qualified) to be promoted to lieutenant could endanger the lives of police officers working under them and the public-at-large.

112. Moreover, in the event the Court strikes certain subjects from the Exam, the entire exam will have to be re-graded in order to ensure that sergeants on the eligible list received a score of 70 on the revised test.

113. Accordingly, Petitioners seek to have the promotions enjoined until after the Court determines whether to strike certain exam questions.

CLASS ALLEGATIONS

114. Petitioners bring this class action pursuant to Article 9 of the New York Civil Practice Law and Rules (“C.P.L.R.”) on behalf of all of the sergeants who sat for the 2015 Lieutenant’s Exam.

115. The class is so numerous that joinder of all members is impractical.

116. There are questions of law and/or fact common to the class that predominate over questions affecting only class members. Among the questions of law and/or fact common to the class and which predominate over questions affecting individual class members are, *inter alia*:

- a. whether the Lieutenant’s Examination contained subjects that were not listed in the Notice (*See* Exhibit A);
- b. whether DCAS failed to properly administer the Lieutenant’s Examination by failing to provide proper exam taking conditions;
- c. whether the NYPD and the DOI are conducting a thorough investigation into whether there was cheating on the Lieutenant’s Examination;
- d. whether the TVB and DCAS properly deemed protests to the administration of the Exam as invalid;

- e. whether §50-a prohibits the TVB and DCAS from considering protests to the administration of the Exam, including, but not limited to, the subject matters to be tested;
- f. whether §50-a violates the New York State Constitution by not permitting challenges to the administration of the exam, including, but not limited to, the subjects to be tested; and
- g. whether the New York State Constitution, the Civil Service Laws, and the Administrative Code of the City of New York permits DCAS to test subjects that are not listed on a Notice.

117. The claims of the class representatives are typical of the claims of the class members, and by pursuing their own interests the class representatives will advance the interests of absent class members.

118. Petitioner's counsel are experienced civil rights and class action attorneys who have the resources to adequately represent the interests of the class.

AS AND FOR A FIRST CAUSE OF ACTION

(Article 78)

119. Petitioners incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

120. As aforesaid, the Notice failed to provide notice of the subjects to be tested on the Exam.

121. Questions on the Exam covered topics that were not listed on the Notice.

122. As Petitioners had no notice of subjects not listed on the Notice were going to be tested, they did not have the opportunity to properly prepare for the Exam.

123. The failure to provide such notice violated the New York State Constitution, the Civil Service Laws, and the Administrative Code of the City of New York.

124. On information and belief, if the challenged questions (numbers 17, 18, 27, 59, 61 and 106) were deleted Petitioners would have passed the Exam.

125. The failure to provide adequate security during the Exam and during the subsequent make-up exams was arbitrary and capricious and/or an abuse of discretion in violation of C.P.L.R. Article 78; thereby entitling Petitioners and the class they seek to represent relief.

126. The failure to properly administer the exam as aforesaid was arbitrary and capricious and/or an abuse of discretion in violation of C.P.L.R. Article 78; thereby entitling Petitioners and the class they seek to represent relief.

127. The failure to provide adequate notice of the subjects of the exam was arbitrary and capricious and/or an abuse of discretion in violation of C.P.L.R. Article 78; thereby entitling Petitioners and the class they seek to represent relief.

128. The failure to provide make-up examinations that contained different questions or questions in a different order was arbitrary and capricious and/or an abuse of discretion in violation of C.P.L.R. Article 78; thereby entitling Petitioners and the class they seek to represent relief.

129. The failure to consider protests to the administration of the exam, including, but not limited to, the content of the exam and topics to be tested was arbitrary and capricious and/or an abuse of discretion in violation of C.P.L.R. Article 78; thereby entitling Petitioners and the class they seek to represent relief.

AS AND FOR A SECOND CAUSE OF ACTION

(Declaratory Judgment)

130. Petitioners incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

131. The allegations aforesated and facts based thereon demonstrate that §50-a of the Civil Service Law violates the New York State Constitution by failing to provide any remedy for protests to the administration of the examinations governed by said statute.

132. The failure to provide such a remedy violates the rights secured to Petitioners and the class they represent.

133. The failure of DCAS to address the irregularities in the administration of the exam as aforesated created a justiciable controversy.

134. The establishment of the eligible list for promotions by DCAS without addressing the issues regarding cheating and/or other irregularities also created a justiciable controversy.

135. Petitioners have no adequate remedy at law for the aforesated actions and/or inactions of the Respondents.

136. Petitioners have not sought in this Court the relief sought herein.

137. As a result of these actions and/or inactions, Petitioners are entitled to declaratory and injunctive relief.

AS AND FOR A THIRD CAUSE OF ACTION

(Violation of Article V, Section 6 of the New York State Constitution)

138. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

139. Plaintiffs bring this claim individually and on behalf of a Class.

140. As a result of the Defendants' improper administration of the Lieutenant's exam, Plaintiffs' rights under the New York State Constitution were violated.

141. Defendants improperly administered make-up exams by failing to provide that promotions in the civil service of the State were made according to merit and fitness, ascertained by a competitive examination.

142. The release and transmission of the exam answers, prior to the make-up exam dates, eliminated the exam's competitiveness, as required for civil service exams under the New York State Constitution.

143. Defendants failed to act with sufficient care to communicate crucial information to Plaintiffs as to what material would be tested on the exam.

144. The promotions of the test-takers, who passed Exam No. 5535, therefore would be based on the unconstitutional administration of the exam.

AS AND FOR A FOURTH CAUSE OF ACTION

(Breach of Contract)

145. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

146. Plaintiffs bring this claim individually and on behalf of a Class.

147. Defendants solicited and invited Plaintiffs to register, pay for, attend and complete Exam No. 5535 as examinees.

148. Plaintiffs accepted Defendants' offer and purchased examination services from Defendants.

149. When Plaintiffs purchased exam services from Defendants, Plaintiffs entered into contracts (explicit or implied) with Defendants pursuant to which Defendants agreed to perform certain exam-related services.

150. Each purchase from Defendants made by Plaintiffs was made pursuant to the mutually agreed-upon implied contract with Defendants under which Defendants agreed to provide, administer, and score Exam No. 5535 in a reliable manner.

151. Plaintiffs would not have purchased the exam from Defendants in the absence of the contract (implied or explicit) between them and Defendants.

152. Plaintiffs would not have prepared for and/or sat for Exam No. 5535 had they known that the exam would not be administered or scored in a reliable manner.

153. Plaintiffs fully performed their obligations under the contracts with Defendants.

154. Defendants breached the contract it made with Plaintiffs by failing to administer the exam in a reliable manner.

155. As a direct and proximate result of Defendants' breaches of the implied contracts between Defendants and Plaintiffs, Plaintiffs sustained losses and damages as described in detail within this Complaint.

AS AND FOR A FIFTH CAUSE OF ACTION

(Breach of Duty of Good Faith and Fair Dealing)

156. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

157. Petitioners and Respondents herein entered into an agreement which was predicated upon notice of the exam subjects to be tested and a proper administration of the exam.

158. Petitioners by paying a fee for the examination accepted the Respondent's offer.

159. As a contract thereby existed between the parties, there was also a concomitant creation of a duty of good faith and fair dealing as defined by New York common law.

160. Respondents for the reasons aforestated breached their duty and/or implied covenant of good faith and fair dealing.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray for the following relief:

- A. The certification of this action as a class action pursuant to C.P.L.R. 9;
- B. A declaration that the administration of the 2015 Lieutenant's Exam contained topics that were not included in the Notice;
- C. A declaration that the inclusion of topics not listed in the Notice violated the rights of Petitioners under the New York Constitution, the Civil Service Laws and the Administrative Code of the City of New York;

- D. A declaration that the failure of the TVB and DCAS to consider protests to the topics to be tested was arbitrary and capricious;
- E. A declaration that the February 2016 eligible list is invalid as sergeants who took the April exam were not provided notice of the topics to be tested; whereas sergeants who took the make-up exams had such notice due to the widespread posting and dissemination of questions and answers to the April Exam;
- F. An order directing DCAS to regrade the 2015 exam after the deletion of questions 17, 18, 27, 59, 61 and 106;
- G. An order awarding all reasonable attorneys' fees and costs, including, but not limited to, expert fees;
- H. An order granting Petitioners and class members such other and further relief as the Court deems appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice.

Dated: May 12, 2016
New York, New York

Respectfully submitted,

NEWMAN FERRARA LLP



Randolph M. McLaughlin
rmclaughlin@nflfp.com

Lucas A. Ferrara
lferrara@nflfp.com

Debra S. Cohen
dcohen@nflfp.com


1250 Broadway, 27th Floor
New York, NY 10001
Tel. (212) 619-5400
Fax (212) 619-3090

Attorneys for Petitioners

VERIFICATION

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


Jonathan Blatt, being duly sworn, deposes and says that deponent is one of the named Plaintiffs in the within action, that he has read the foregoing Petition Under Article 78 and Article 30 for Declaratory and Injunctive Relief, and knows the contents thereof, that the contents are true to Deponent's own knowledge, except as to the matters stated therein to be alleged on information and belief, and that as to those matters deponent believes them to be true.



JONATHAN BLATT

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

On the 12th day of May, 2016, before me personally came Jonathan Blatt to be known to be the individual described herein and who executed the foregoing instrument, and who duly acknowledged to me the execution thereof.



NOTARY PUBLIC

ROMAN GRUTMAN
Notary Public, State of New York
No. 02GR6217717
Qualified in New York County
Commission Expires February 22, 2018