

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF RICHMOND: DCM PART 6

X

MYMOENA DAVIDS, by her parent and natural guardian  
MIAMONA DAVIDS, ERIC DAVIDS, by his parent  
and natural guardian MIAMONA DAVIDS, ALEXIS  
PERALTA, by her parent and natural guardian  
ANGELA PERALTA, STACY PERALTA, by her  
parent and natural guardian ANGELA PERALTA,  
LENORA PERALTA, by her parent and natural guardian  
ANGELA PERALTA, ANDREW HENSON, by his  
parent and natural guardian CHRISTINE HENSON,  
ADRIAN COLSON, by his parent and natural guardian  
JACQUELINE COLSON, DARIUS COLSON, by his  
parent and natural guardian JACQUELINE COLSON,  
SAMANTHA PIROZZOLO, by her parent and natural  
guardian SAM PIROZZOLO, FRANKLIN PIROZZOLO,  
by her parent and natural guardian SAM PIROZZOLO,  
IZAIYAH EWERS, by his parent and natural guardian  
KENDRA OKE.

**NOTICE OF  
APPEAL**

Consolidated  
Index No. 101105/14

(Minardo, J.S.C.)

Plaintiffs,

- against -

THE STATE OF NEW YORK, THE NEW YORK  
STATE BOARD OF REGENTS, THE NEW YORK  
STATE EDUCATION DEPARTMENT, THE CITY  
OF NEW YORK, THE NEW YORK CITY  
DEPARTMENT OF EDUCATION, JOHN AND JANE  
DOES 1-100, XYZ ENTITIES 1-100,

Defendants,

- and -

MICHAEL MULGREW, as President of the UNITED  
FEDERATION OF TEACHERS, Local 2, American  
Federation of Teachers, AFL-CIO,

Intervenor-Defendant,

- and -

SETH COHEN, DANIEL DELEHANTY, ASHLI  
SKURA DREHER, KATHLEEN FERGUSON,

RICHMOND COUNTY CLERK  
MSIS DEC-1-P-3-C4  
DIVISION OF LAW & EQUITY

ISRAEL MARTINEZ, RICHARD OGNIBENE, JR.,  
LONNETTE R. TUCK, and KAREN E. MAGEE,  
Individually and as President of the New York State  
United Teachers,

Intervenors-Defendants,

- and -

PHILIP A. CAMMARATA and MARK MAMBRETTI,

Intervenors-Defendants.

X

X

JOHN KEONI WRIGHT; GINET BORRERO; TAUANA  
GOINS; NINA DOSTER; CARLA WILLIAMS; MONA  
PRADIA; ANGELES BARRAGAN; LAURIE  
TOWNSEND; DELAINE WILSON;

Plaintiffs,

- against -

THE STATE OF NEW YORK; THE BOARD OF  
REGENTS OF THE UNIVERSITY OF THE STATE  
OF NEW YORK; MERRYL H. TISCH, in her official  
capacity as Chancellor of the Board of Regents of the  
University of the State of New York; JOHN B. KING,  
in his official capacity as the Commissioner of Education  
of the State of New York and President of the University  
of the State of New York;

Defendants,

- and -

SETH COHEN, DANIEL DELEHANTY, ASHLI  
SKURA DREHER, KATHLEEN FERGUSON, ISRAEL  
MARTINEZ, RICHARD OGNIBENE, JR., LONNETTE  
R. TUCK, and KAREN E. MAGEE, Individually and  
as President of the New York State United Teachers,

Intervenors-Defendants,

- and -

PHILIP A. CAMMARATA and MARK MAMBRETTI,

**Intervenors-Defendants,**

- and -

**NEW YORK CITY DEPARTMENT OF EDUCATION,**

**Intervenor-Defendant,**

- and -

**MICHAEL MULGREW, as President of the UNITED  
FEDERATION OF TEACHERS, Local 2, American  
Federation of Teachers, AFL-CIO,**

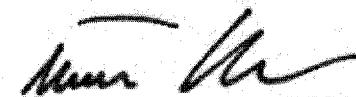
**Intervenor-Defendant.**

**X**

**PLEASE TAKE NOTICE that the defendants STATE OF NEW YORK, BOARD OF  
REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK (s/h/a "The New York  
State Board of Regents"), and NEW YORK STATE EDUCATION DEPARTMENT (hereinafter  
referred to collectively as the "State Defendants"), hereby appeal to the Appellate Division,  
Second Department, from the Decision and Order of the Supreme Court, Richmond County  
(Minardo, J.S.C.), dated October 22, 2015, and entered October 28, 2015, a copy of which is  
annexed hereto. This appeal is taken from the entire Decision and Order, and each and every  
part thereof, with the exception of the portion of the Order staying all further proceedings  
pending the determination of the Appellate Division.**

Dated: New York, New York  
December 7, 2015

ERIC T. SCHNEIDERMAN  
Attorney General of the  
State of New York  
Attorney for State Defendants  
By:



STEVEN L. BANKS  
Assistant Attorney General  
120 Broadway - 24th Floor  
New York, New York 10271  
(212) 416-8621

TO: JONATHAN W. TRIBIANO, PLLC  
Attorneys for Plaintiffs in Davids v. State  
1811 Victory Boulevard, Suite One  
Staten Island, New York 10314  
(718) 530-1445  
Attn: Jonathan W. Tribiano, Esq.

KIRKLAND & ELLIS LLP  
Attorneys for Plaintiffs in Wright v. State  
601 Lexington Avenue  
New York, New York 10022  
(212) 446-4800  
Attn: Jay P. Lefkowitz, Esq.  
Danielle R. Sassoon, Esq.  
Devora W. Allon, Esq.

ZACHARY W. CARTER  
Corporation Counsel for the City of New York  
Attorney for New York City Defendants/Intervenor-Defendant  
100 Church Street, Room 2-195  
New York, New York 10007  
(212) 356-2085  
Attn: Janice Birnbaum, Sr. Counsel  
Maxwell Leighton, Sr. Counsel

**STROOCK & STROOCK & LAVAN LLP**  
**Attorneys for Intervenor-Defendant Michael Mulgrew**  
180 Maiden Lane  
New York, New York 10038  
(212) 806-5400  
Attn: Charles G. Moerdler, Esq.  
Alan M. Klinger, Esq.

**RICHARD E. CASAGRANDE, ESQ.**  
**Attorney for Intervenors-Defendants Cohen, Delehanty, Dreher,**  
**Ferguson, Martinez, Ognibene, Tuck, and Magee**  
New York State United Teachers  
800 Troy-Schenectady Road  
Latham, New York 12110  
(518) 213-6000

**ARTHUR P. SCHEUERMANN, ESQ.**  
**Attorney for Intervenors-Defendants Cammarata and Mambretti**  
School Administrators Association of New York State  
8 Airport Park Boulevard  
Latham, New York 12110  
(518) 782-0600

Richmond County Clerk  
DIS 07/28 P 2/14  
2013-07-28 10:48:23 AM

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

**MYMOENA DAVIDS, by her parent and natural guardian  
MIAMONA DAVIDS, et al., and JOHN KEONI WRIGHT,  
et al.**

**Plaintiffs,**

-against-

**THE STATE OF NEW YORK, et al.,**

**Defendants.**

-and-

**MICHAEL MULGREW, as President of the UNITED  
FEDERATION OF TEACHERS, Local 2, American  
Federation of Teachers, AFL-CIO; SETH COHEN;  
DANIEL DIBBLEHANTY, ASHLI SKURA DREHER,  
KATHLEEN FERGUSON, ISRAEL MARTINEZ,  
RICHARD OGNIBENE, JR., LONNETTE R. TUCK,  
and KAREN E. MAGEE, Individually and as President  
of the New York State United Teachers; PHILIP A.  
CAMMARATA, MARK MAMBRUETTI, and THE  
NEW YORK CITY DEPARTMENT OF EDUCATION,**

**Intervenor-Defendants.**

**DCM PART 6**

**HON. PHILIP G. MINARDO**

**DECISION & ORDER**

**Index No. 101105/14**

**Motion Nos.\* 1996 - 013  
2012 - 014  
2110 - 015  
2111 - 016  
2186 - 017**

\*These motions have been consolidated for purposes of disposition.

**MYMOENA DAVIDS, et al. v. THE STATE OF NEW YORK, et al.**

The following papers numbered 1 to 12 were fully submitted on the 25<sup>th</sup> day of  
August, 2015.

Papers  
Numbered

Notice of Motion to Dismiss and/or Renew by Intervenors-Defendants MICHAEL MULGREW, as President of the UNITED FEDERATION OF TEACHERS, Local 2, American Federation of Teachers, AFL-CIO, with Exhibits and Memorandum of Law.  
(dated May 27, 2015) 1

Notice of Motion to Dismiss and/or Renew by Defendants THE CITY OF NEW YORK and THE NEW YORK CITY DEPARTMENT OF EDUCATION, with Exhibits and Memorandum of Law.  
(dated May 27, 2015) 2

Notice of Motion to Dismiss and/or Renew by Defendants STATE OF NEW YORK, et al., with Affirmation and Supplemental Affirmation of Assistant Attorney General Steven L. Banks, with Exhibits and Memorandum of Law.  
(dated May 27, 2015) 3

Notice of Motion to Dismiss and/or Renew by Intervenors-Defendants SETH COHEN, et al., with Exhibits and Memorandum of Law.  
(dated May 26, 2014) 4

Notice of Motion to Dismiss and/or Renew by Intervenors-Defendants PHILIP CAMMARATA and MARK MAMBRETTI, with Exhibits and Memorandum of Law.  
(dated MAY 26, 2015) 5

Affirmation in Opposition by Plaintiff JOHN KEONI WRIGHT, et al., to Defendants and Intervenors-Defendants' Motions to Dismiss and/or Renew, with Exhibits and Memorandum of Law.  
(dated June 26, 2015) 6

Affirmation in Opposition of Plaintiff MYOMENA DAVIDS, et al., to Defendants and Intervenors-Defendants' Motion to Dismiss and/or Renew, with Exhibits and Memorandum of Law.  
(dated December 5, 2014) 7

MYMOENA DAYIDS, et al. v. THE STATE OF NEW YORK, et al.

Reply Memorandum of Law by Intervenors-Defendants MICHAEL MULGREW, as President  
Of the UNITED FEDERATION OF TEACHERS, Local 2, American Federation of  
Teachers, AFL-CIO,  
(dated July 7, 2015) 8

Reply Affirmation by Defendants THE CITY OF NEW YORK and THE NEW  
YORK CITY DEPARTMENT OF EDUCATION.  
(dated July 7, 2015) 9

Reply Affirmation by Intervenors-Defendants PHILIP CAMMARATA and MARK  
MAMBRETTI,  
(dated July 1, 2015) 10

Reply Memorandum of Law by Intervenors-Defendants SETH COHEN, et al.,  
(dated July 7, 2015) 11

Reply Memorandum of Law by Defendants STATE OF NEW YORK, , et al.,  
(dated July 7, 2015) 12

---

Upon the foregoing papers, the motions by defendants and intervenor-defendants for, *inter alia*, dismissal of the complaints and/or leave to renew their prior motions for like relief are decided as follows:

The parties' familiarity with the facts is presumed from their participation in this litigation and the exhaustive Decision and Order of this Court entered on March 20, 2015.

In this action for a judgment declaring, singly and in combination, various sections of the Education Law as violative of Art. XI, §1 of the New York State Constitution<sup>1</sup> (hereinafter the Education Article), this Court previously denied defendants' and intervenor-defendants' several motions to dismiss the complaints on various grounds which the Court found to be without merit.

---

<sup>1</sup> To the extent relevant, this article guarantees to all of the students within the State of New York a "sound basic education".

NYMOENA DAVIDS, et al. v. THE STATE OF NEW YORK, et al.

Defendants and intervenor-defendants subsequently appealed that determination to the Appellate Division, Second Department, where it has yet to be calendared for oral argument. At or about the same time, the State Legislature undertook to amend certain sections of the Education Law challenged by plaintiffs, which prompted defendants and intervenor-defendants to file a second round of motions to dismiss on the ground that this action of the Legislature rendered the complaints moot and/or nonjusticiable. In the alternative, defendants and intervenor-defendants moved for leave to renew their prior motions based on "new facts not offered on the prior motions" or "a change in the law" (CPLR 2221[e][2]), both of which plaintiffs strenuously opposed. Oral argument was held on August 25, 2015, at which time decision was reserved.

Except to the extent hereinafter provided, the motions are denied.

In principal part, movants assert the same grounds for dismissal rejected by the Court in its prior determination. To this extent, the present motions to dismiss are essentially motions for leave to reargue and, as such, are improperly "based on matters of fact not offered on the prior motion(s)" (CPLR 2221[d][2]), e.g., the aforementioned legislative amendments. Accordingly, these motions are denied. Neither is the Court persuaded that the above amendments operated to render the prior motions nonjusticiable or moot, or to deprive this Court of subject matter jurisdiction (see CPLR 3211[a][2]; Matter of Newton v. Town of Middletown, 31 AD3d 1004, 1005-1006).

Moreover, while the introduction of "new facts" or "a change in the law" may serve as the basis for a renewal motion under CPLR 2221(e)(2), the motion will nevertheless be denied where, as here, neither of the foregoing "would change the prior determination" of the court (*id.*). In this case, the legislature's marginal changes affecting, e.g., the term of probation and/or the disciplinary proceedings applicable to teachers, are insufficient to achieve the required result.

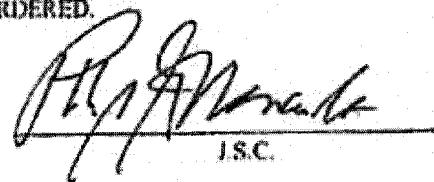
Office of the Richmond County Clerk - Page 5 of 8 11/3/2015 1:45:23 PM

**MYMOENA DAVIDS, et al. v. THE STATE OF NEW YORK, et al.**

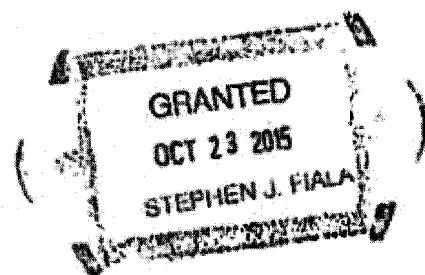
Nonetheless, given the extensive nature of discovery likely to be required in this case, it is only proper that all further proceedings in this matter should be stayed pending the determination of the Appellate Division.

Accordingly, it is:

SO ORDERED.

  
J.S.C.

Dated: Oct 23, 2015



**Supreme Court of the State of New York  
Appellate Division : Second Judicial Department**

**Form A - Request for Appellate Division Intervention - Civil**

See § 670.3 of the rules of this court for directions on the use of this form (22 NYCRR 670.3).

**Case Title:** See forth below the title of the cause on it appears on the summons, notice of petition or order to whom cause by whom the matter was or is to be accompanied, or as amended.

**MYMOENA DAVIDS, et al.,**

Plaintiffs,

-against-

**THE STATE OF NEW YORK, et al.,**

Defendants,

**JOHN KEONI WRIGHT, et al.,**

Plaintiffs,

-against-

**THE STATE OF NEW YORK, et al.,**

Defendants,

**For Court of Original Jurisdiction**

Data Notice of Appeal Filed

**For Appellate Division**

<p><b>Case Type</b></p> <p><input checked="" type="checkbox"/> Civil Action      <input type="checkbox"/> CPLR article 78 Proceeding</p> <p><input type="checkbox"/> CPLR article 75 Arbitration      <input type="checkbox"/> Special Proceeding Other</p> <p><input type="checkbox"/> Habeas Corpus Proceeding</p>	<p><b>Filing Type</b></p> <p><input checked="" type="checkbox"/> Appeal      <input type="checkbox"/> Transferred Proceeding</p> <p><input type="checkbox"/> Original Proceeding      <input type="checkbox"/> CPLR 5704 Review</p>									
<b>Nature of Suit: Check up to five of the following categories which best reflect the nature of the facts.</b>										
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; vertical-align: top;"> <p><b>A. Domestic Relations</b></p> <p><input type="checkbox"/> 1 Freedom of Information Law      <input type="checkbox"/> 1 Adoption      <input type="checkbox"/> 1 Discipline</p> <p><input type="checkbox"/> 2 Human Rights      <input type="checkbox"/> 2 Attorney's Fees      <input type="checkbox"/> 2 Jail Time Calculation</p> <p><input type="checkbox"/> 3 Licenses      <input type="checkbox"/> 3 Children - Support      <input type="checkbox"/> 3 Parole</p> <p><input type="checkbox"/> 4 Public Employment      <input type="checkbox"/> 4 Children - Custody/Visitation      <input type="checkbox"/> 4 Other</p> <p><input type="checkbox"/> 5 Social Services      <input type="checkbox"/> 5 Children - Terminate Parental Rights</p> <p><input type="checkbox"/> 6 Other</p> </td> <td style="width: 33%; vertical-align: top;"> <p><b>B. Business &amp; Commercial</b></p> <p><input type="checkbox"/> 1 Partnership/Joint Venture      <input type="checkbox"/> 6 Equitable Distribution      <input type="checkbox"/> 1 Condemnation</p> <p><input type="checkbox"/> 2 Business      <input type="checkbox"/> 9 Exclusive Occupancy of Residence      <input type="checkbox"/> 2 Determine Title</p> <p><input type="checkbox"/> 3 Religious      <input type="checkbox"/> 10 Expert's Fees      <input type="checkbox"/> 3 Easements</p> <p><input type="checkbox"/> 4 Not-for-Profit      <input type="checkbox"/> 11 Maintenance/Alimony      <input type="checkbox"/> 4 Environmental</p> <p><input type="checkbox"/> 5 Other</p> <p><input type="checkbox"/> 13 Paternity      <input type="checkbox"/> 5 Liens</p> <p><input type="checkbox"/> 14 Spousal Support      <input type="checkbox"/> 6 Mortgages</p> <p><input type="checkbox"/> 15 Other</p> </td> <td style="width: 33%; vertical-align: top;"> <p><b>C. Real Property</b></p> <p><input type="checkbox"/> 7 Children - JD/PINS      <input type="checkbox"/> 7 Partition</p> <p><input type="checkbox"/> 8 Maintenance/Alimony</p> <p><input type="checkbox"/> 10 Expert's Fees</p> <p><input type="checkbox"/> 11 Maintenance/Alimony</p> <p><input type="checkbox"/> 12 Marital Status</p> <p><input type="checkbox"/> 13 Paternity</p> <p><input type="checkbox"/> 14 Spousal Support</p> <p><input type="checkbox"/> 15 Other</p> </td> </tr> <tr> <td colspan="3" style="text-align: center; padding-top: 5px;"> <p><b>D. Contracts</b></p> <p><input type="checkbox"/> 1 Brokerage      <input type="checkbox"/> 13 Paternity</p> <p><input type="checkbox"/> 2 Commercial Paper      <input type="checkbox"/> 14 Spousal Support</p> <p><input type="checkbox"/> 3 Construction      <input type="checkbox"/> 15 Other</p> <p><input type="checkbox"/> 4 Employment      <input type="checkbox"/> 16 Other</p> <p><input type="checkbox"/> 5 Insurance</p> <p><input type="checkbox"/> 6 Real Property</p> <p><input type="checkbox"/> 7 Sales</p> <p><input type="checkbox"/> 8 Secured</p> <p><input type="checkbox"/> 9 Other</p> </td> </tr> <tr> <td colspan="2" style="text-align: center; padding-top: 5px;"> <p><b>E. Probate</b></p> <p><input type="checkbox"/> 1 Constructive Trust      <input type="checkbox"/> 1 City of Mount Vernon Charter §§ 120, 127-f, or 129</p> <p><input type="checkbox"/> 2 Debtor &amp; Creditor      <input type="checkbox"/> 2 Eminent Domain Procedure Law § 207</p> <p><input checked="" type="checkbox"/> 3 Declaratory Judgment      <input type="checkbox"/> 3 General Municipal Law § 212</p> <p><input type="checkbox"/> 4 Election Law</p> <p><input type="checkbox"/> 5 Notice of Claim</p> <p><input type="checkbox"/> 6 Other</p> </td> <td style="vertical-align: top;"> <p><b>F. Statutes</b></p> <p><input type="checkbox"/> 1 Accounting</p> <p><input type="checkbox"/> 2 Discovery</p> <p><input type="checkbox"/> 3 Probate/Administration</p> <p><input type="checkbox"/> 4 Trusts</p> <p><input type="checkbox"/> 5 Other</p> </td> </tr> </table>		<p><b>A. Domestic Relations</b></p> <p><input type="checkbox"/> 1 Freedom of Information Law      <input type="checkbox"/> 1 Adoption      <input type="checkbox"/> 1 Discipline</p> <p><input type="checkbox"/> 2 Human Rights      <input type="checkbox"/> 2 Attorney's Fees      <input type="checkbox"/> 2 Jail Time Calculation</p> <p><input type="checkbox"/> 3 Licenses      <input type="checkbox"/> 3 Children - Support      <input type="checkbox"/> 3 Parole</p> <p><input type="checkbox"/> 4 Public Employment      <input type="checkbox"/> 4 Children - Custody/Visitation      <input type="checkbox"/> 4 Other</p> <p><input type="checkbox"/> 5 Social Services      <input type="checkbox"/> 5 Children - Terminate Parental Rights</p> <p><input type="checkbox"/> 6 Other</p>	<p><b>B. Business &amp; Commercial</b></p> <p><input type="checkbox"/> 1 Partnership/Joint Venture      <input type="checkbox"/> 6 Equitable Distribution      <input type="checkbox"/> 1 Condemnation</p> <p><input type="checkbox"/> 2 Business      <input type="checkbox"/> 9 Exclusive Occupancy of Residence      <input type="checkbox"/> 2 Determine Title</p> <p><input type="checkbox"/> 3 Religious      <input type="checkbox"/> 10 Expert's Fees      <input type="checkbox"/> 3 Easements</p> <p><input type="checkbox"/> 4 Not-for-Profit      <input type="checkbox"/> 11 Maintenance/Alimony      <input type="checkbox"/> 4 Environmental</p> <p><input type="checkbox"/> 5 Other</p> <p><input type="checkbox"/> 13 Paternity      <input type="checkbox"/> 5 Liens</p> <p><input type="checkbox"/> 14 Spousal Support      <input type="checkbox"/> 6 Mortgages</p> <p><input type="checkbox"/> 15 Other</p>	<p><b>C. Real Property</b></p> <p><input type="checkbox"/> 7 Children - JD/PINS      <input type="checkbox"/> 7 Partition</p> <p><input type="checkbox"/> 8 Maintenance/Alimony</p> <p><input type="checkbox"/> 10 Expert's Fees</p> <p><input type="checkbox"/> 11 Maintenance/Alimony</p> <p><input type="checkbox"/> 12 Marital Status</p> <p><input type="checkbox"/> 13 Paternity</p> <p><input type="checkbox"/> 14 Spousal Support</p> <p><input type="checkbox"/> 15 Other</p>	<p><b>D. Contracts</b></p> <p><input type="checkbox"/> 1 Brokerage      <input type="checkbox"/> 13 Paternity</p> <p><input type="checkbox"/> 2 Commercial Paper      <input type="checkbox"/> 14 Spousal Support</p> <p><input type="checkbox"/> 3 Construction      <input type="checkbox"/> 15 Other</p> <p><input type="checkbox"/> 4 Employment      <input type="checkbox"/> 16 Other</p> <p><input type="checkbox"/> 5 Insurance</p> <p><input type="checkbox"/> 6 Real Property</p> <p><input type="checkbox"/> 7 Sales</p> <p><input type="checkbox"/> 8 Secured</p> <p><input type="checkbox"/> 9 Other</p>			<p><b>E. Probate</b></p> <p><input type="checkbox"/> 1 Constructive Trust      <input type="checkbox"/> 1 City of Mount Vernon Charter §§ 120, 127-f, or 129</p> <p><input type="checkbox"/> 2 Debtor &amp; Creditor      <input type="checkbox"/> 2 Eminent Domain Procedure Law § 207</p> <p><input checked="" type="checkbox"/> 3 Declaratory Judgment      <input type="checkbox"/> 3 General Municipal Law § 212</p> <p><input type="checkbox"/> 4 Election Law</p> <p><input type="checkbox"/> 5 Notice of Claim</p> <p><input type="checkbox"/> 6 Other</p>		<p><b>F. Statutes</b></p> <p><input type="checkbox"/> 1 Accounting</p> <p><input type="checkbox"/> 2 Discovery</p> <p><input type="checkbox"/> 3 Probate/Administration</p> <p><input type="checkbox"/> 4 Trusts</p> <p><input type="checkbox"/> 5 Other</p>
<p><b>A. Domestic Relations</b></p> <p><input type="checkbox"/> 1 Freedom of Information Law      <input type="checkbox"/> 1 Adoption      <input type="checkbox"/> 1 Discipline</p> <p><input type="checkbox"/> 2 Human Rights      <input type="checkbox"/> 2 Attorney's Fees      <input type="checkbox"/> 2 Jail Time Calculation</p> <p><input type="checkbox"/> 3 Licenses      <input type="checkbox"/> 3 Children - Support      <input type="checkbox"/> 3 Parole</p> <p><input type="checkbox"/> 4 Public Employment      <input type="checkbox"/> 4 Children - Custody/Visitation      <input type="checkbox"/> 4 Other</p> <p><input type="checkbox"/> 5 Social Services      <input type="checkbox"/> 5 Children - Terminate Parental Rights</p> <p><input type="checkbox"/> 6 Other</p>	<p><b>B. Business &amp; Commercial</b></p> <p><input type="checkbox"/> 1 Partnership/Joint Venture      <input type="checkbox"/> 6 Equitable Distribution      <input type="checkbox"/> 1 Condemnation</p> <p><input type="checkbox"/> 2 Business      <input type="checkbox"/> 9 Exclusive Occupancy of Residence      <input type="checkbox"/> 2 Determine Title</p> <p><input type="checkbox"/> 3 Religious      <input type="checkbox"/> 10 Expert's Fees      <input type="checkbox"/> 3 Easements</p> <p><input type="checkbox"/> 4 Not-for-Profit      <input type="checkbox"/> 11 Maintenance/Alimony      <input type="checkbox"/> 4 Environmental</p> <p><input type="checkbox"/> 5 Other</p> <p><input type="checkbox"/> 13 Paternity      <input type="checkbox"/> 5 Liens</p> <p><input type="checkbox"/> 14 Spousal Support      <input type="checkbox"/> 6 Mortgages</p> <p><input type="checkbox"/> 15 Other</p>	<p><b>C. Real Property</b></p> <p><input type="checkbox"/> 7 Children - JD/PINS      <input type="checkbox"/> 7 Partition</p> <p><input type="checkbox"/> 8 Maintenance/Alimony</p> <p><input type="checkbox"/> 10 Expert's Fees</p> <p><input type="checkbox"/> 11 Maintenance/Alimony</p> <p><input type="checkbox"/> 12 Marital Status</p> <p><input type="checkbox"/> 13 Paternity</p> <p><input type="checkbox"/> 14 Spousal Support</p> <p><input type="checkbox"/> 15 Other</p>								
<p><b>D. Contracts</b></p> <p><input type="checkbox"/> 1 Brokerage      <input type="checkbox"/> 13 Paternity</p> <p><input type="checkbox"/> 2 Commercial Paper      <input type="checkbox"/> 14 Spousal Support</p> <p><input type="checkbox"/> 3 Construction      <input type="checkbox"/> 15 Other</p> <p><input type="checkbox"/> 4 Employment      <input type="checkbox"/> 16 Other</p> <p><input type="checkbox"/> 5 Insurance</p> <p><input type="checkbox"/> 6 Real Property</p> <p><input type="checkbox"/> 7 Sales</p> <p><input type="checkbox"/> 8 Secured</p> <p><input type="checkbox"/> 9 Other</p>										
<p><b>E. Probate</b></p> <p><input type="checkbox"/> 1 Constructive Trust      <input type="checkbox"/> 1 City of Mount Vernon Charter §§ 120, 127-f, or 129</p> <p><input type="checkbox"/> 2 Debtor &amp; Creditor      <input type="checkbox"/> 2 Eminent Domain Procedure Law § 207</p> <p><input checked="" type="checkbox"/> 3 Declaratory Judgment      <input type="checkbox"/> 3 General Municipal Law § 212</p> <p><input type="checkbox"/> 4 Election Law</p> <p><input type="checkbox"/> 5 Notice of Claim</p> <p><input type="checkbox"/> 6 Other</p>		<p><b>F. Statutes</b></p> <p><input type="checkbox"/> 1 Accounting</p> <p><input type="checkbox"/> 2 Discovery</p> <p><input type="checkbox"/> 3 Probate/Administration</p> <p><input type="checkbox"/> 4 Trusts</p> <p><input type="checkbox"/> 5 Other</p>								

R.A.D.I.

<b>Appeal</b>					
<b>PaperAppealed From (check one only):</b>					
<input type="checkbox"/> Amended Decree	<input type="checkbox"/> Determination	<input checked="" type="checkbox"/> Order	<input type="checkbox"/> Resettled Order		
<input type="checkbox"/> Amended Judgment	<input type="checkbox"/> Finding	<input type="checkbox"/> Order & Judgment	<input type="checkbox"/> Ruling		
<input type="checkbox"/> Amended Order	<input type="checkbox"/> Interlocutory Decree	<input type="checkbox"/> Partial Decree	<input type="checkbox"/> Other (specify):		
<input type="checkbox"/> Decision	<input type="checkbox"/> Interlocutory Judgment	<input type="checkbox"/> Resettled Decree			
<input type="checkbox"/> Decree	<input type="checkbox"/> Judgment	<input type="checkbox"/> Resettled Judgment			
<b>Court:</b> Supreme Court		<b>County:</b> Richmond County			
<b>Dated:</b> October 22, 2015		<b>Entered:</b> October 28, 2015			
<b>Judge (name in full):</b> Hon. Philip G. Minardo		<b>Index No.:</b> 101105/14			
<b>Stage:</b> <input checked="" type="checkbox"/> Interlocutory <input type="checkbox"/> Final <input type="checkbox"/> Post-Final		<b>Trial:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes: <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury			
<b>Prior Unperfected Appeal Information</b>					
Are any unperfected appeals pending in this case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No.    If yes, do you intend to perfect the appeal or appeals covered by the annexed notice of appeal with the prior appeals? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No. Set forth the Appellate Division Cause Number(s) of any prior, pending, unperfected appeals: 2015-03922					
<b>Original Proceeding</b>					
<b>Commenced by:</b> <input type="checkbox"/> Order to Show Cause <input type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus			<b>Date Filed:</b>		
<b>Statute authorizing commencement of proceeding in the Appellate Division:</b>					
Proceeding Transferred Pursuant to CPLR 7804(g)					
<b>Court:</b>		<b>County:</b>			
<b>Judge (name in full):</b>		<b>Order of Transfer Date:</b>			
<b>CPLR 5704 Review of Ex Parte Order</b>					
<b>Court:</b>		<b>County:</b>			
<b>Judge (name in full):</b>		<b>Dated:</b>			
<b>Description of Appeal, Proceeding or Application and Statement of Issues</b>					
<p><b>Description:</b> If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of the proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.</p> <p>The Decision and Order denied defendants' respective motions to dismiss and/or for leave to renew their motions to dismiss the complaints filed in this consolidated declaratory judgment action, with the exception that the Court granted that part of State Defendants' motion which sought a stay of all proceedings in the trial court pending a determination by the Appellate Division.</p>					
<p><b>Amount:</b> If an appeal is from a money judgment, specify the amount awarded. \$</p> <p><b>Issues:</b> Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review.</p> <p>Plaintiffs seek a declaratory judgment striking down sections of the Education Law that pertain to teacher appointment, tenure, evaluation and removal. Did the trial court commit error when it declined to dismiss plaintiffs' complaints as moot and non-justiciable, and for failure to state a claim, after the sections of the Education Law challenged by plaintiffs were substantively amended on April 1, 2015?</p>					

**Issues Continued:****Use Form B for Additional Appeal Information.****Party Information**

**Instructions:** Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the petitioner, respondent, claimant, defendant, third-party plaintiff, third-party defendant, and intervenor. Examples of a party's original status include: plaintiff, defendant, petitioner, respondent, claimant, defendant, third-party plaintiff, third-party defendant, and intervenor. Examples of a party's Appellate Division status include: appellant, respondent, appellant-respondent, respondent-appellant, petitioner, and intervenor.

No.	Party Name	Original Status	Appellate Division Status
1	Mymoena Davids	Plaintiff	Respondent
2	Eric Davids	Plaintiff	Respondent
3	Alexis Peralta	Plaintiff	Respondent
4	Stacy Peralta	Plaintiff	Respondent
5	Lenora Peralta	Plaintiff	Respondent
6	Andrew Henson	Plaintiff	Respondent
7	Adrian Colson	Plaintiff	Respondent
8	Darius Colson	Plaintiff	Respondent
9	Samantha Pirozzolo	Plaintiff	Respondent
10	Franklin Pirozzolo	Plaintiff	Respondent
11	Izalyah Ewers	Plaintiff	Respondent
12	John Keoni Wright	Plaintiff	Respondent
13	Ginet Borrero	Plaintiff	Respondent
14	Tauana Goins	Plaintiff	Respondent
15	Nina Doster	Plaintiff	Respondent
16	Carla Williams	Plaintiff	Respondent
17	Mona Pradia	Plaintiff	Respondent
18	Angeles Barragan	Plaintiff	Respondent
19	Laurie Townsend	Plaintiff	Respondent
20	Delaine Wilson	Plaintiff	Respondent

**Attorney Information**

**Instructions:** Fill in the names of the attorneys or firms of attorneys for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be

provided.

In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

**Attorney/Firm Name:** Jonathan W. Tribiano, PLLC**Address:** 1811 Victory Boulevard, Suite One

City: Staten Island State: NY Zip: 10314 Telephone No.: 718-530-1445

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice

Party or Parties Represented (see forth party number(s) from table above or from Form C):

1 - 1 1

**Attorney/Firm Name:** Kirkland & Ellis LLP**Address:** 601 Lexington Avenue

City: New York State: NY Zip: 10022 Telephone No.: 212-446-4800

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice

Party or Parties Represented (see forth party number(s) from table above or from Form C):

1 2 - 2 0

**Attorney/Firm Name:** ERIC T. SCHNEIDERMAN, Attorney General of the State of New York**Address:** 120 Broadway, 24th Floor

City: New York State: NY Zip: 10271 Telephone No.: 212-418-8621

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice

Party or Parties Represented (see forth party number(s) from table above or from Form C):

2 1 - 2 3

**Attorney/Firm Name:** Zachary W. Carter, Corporation Counsel of the City of New York**Address:** 100 Church Street

City: New York State: NY Zip: 10007 Telephone No.: 212-356-2085

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice

Party or Parties Represented (see forth party number(s) from table above or from Form C):

2 4 - 2 5

**Attorney/Firm Name:** Stroock & Stroock & Lavan LLP**Address:** 180 Maiden Lane

City: New York State: NY Zip: 10038 Telephone No.: 212-806-5400

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice

Party or Parties Represented (see forth party number(s) from table above or from Form C):

2 6

**Attorney/Firm Name:** Richard E. Casagrande, Esq.**Address:** 800 Troy-Schenectady Road

City: Latham State: NY Zip: 12110 Telephone No.: 518-213-6000

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice

Party or Parties Represented (see forth party number(s) from table above or from Form C):

2 7 - 3 4

**Use Form C for Additional Party and Attorney Information.**

The use of this form is explained in § 670.3 of the rules of the Appellate Division, Second Department (72 NYCRR 870.3). In this form, it is to be filed for an appeal, place the required papers in the following order: (1) the Petition for Appellate Division Intervention (Form A, this document); (2) any required Additional Appeal Information Forms (Form B); (3) any required Additional Party and Attorney Information Forms (Form C); (4) the notice of appeal or order granting leave to appeal; (5) a copy of the paper or papers from which the appeal or appeal covered in the notice of appeal or order granting leave to appeal is taken; and (6) a copy of the decision or decisions of the court of original instance, if any.

Supreme Court of the State of New York

Appellate Division : Second Judicial Department

**Form C - Additional Party and Attorney Information**

Additional Party Information			
No.	Party Name	Original Status	Appellate Division Status
21	State of New York	Defendant	Appellant
22	Bd. of Regents of the Univ. of the State of N.Y.	Defendant	Appellant
23	State Education Department	Defendant	Appellant
24	City Of New York	Defendant	Appellant
25	New York City Department of Education	Defendant	Appellant
26	Michael Mulgrew, President of UFT	Intervenor-Defendant	Appellant
27	Seth Cohen	Intervenor-Defendant	Appellant
28	Daniel Delehanty	Intervenor-Defendant	Appellant
29	Ashli Skura Dreher	Intervenor-Defendant	Appellant
30	Kathleen Ferguson	Intervenor-Defendant	Appellant
31	Israel Martinez	Intervenor-Defendant	Appellant
32	Richard Ognibene, Jr.	Intervenor-Defendant	Appellant

Additional Attorney Information			
Attorney/Firm Name: Arthur P. Scheuermann			
Address: 8 Airport Park Boulevard			
City: Latham	State: NY	Zip: 12110	Telephone No.: 518-782-0600
Attorney Type:	<input checked="" type="checkbox"/> Retained	<input type="checkbox"/> Assigned	<input type="checkbox"/> Government
	<input type="checkbox"/> Pro Se	<input type="checkbox"/> Pro Hac Vice	
Party or Parties Represented (set forth party number(s) from table above or from Form A):	3	5	- 3 6
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No.:
Attorney Type:	<input type="checkbox"/> Retained	<input type="checkbox"/> Assigned	<input type="checkbox"/> Government
	<input type="checkbox"/> Pro Se	<input type="checkbox"/> Pro Hac Vice	
Party or Parties Represented (set forth party number(s) from table above or from Form A):	3	5	- 3 6
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No.:
Attorney Type:	<input type="checkbox"/> Retained	<input type="checkbox"/> Assigned	<input type="checkbox"/> Government
	<input type="checkbox"/> Pro Se	<input type="checkbox"/> Pro Hac Vice	
Party or Parties Represented (set forth party number(s) from table above or from Form A):	3	5	- 3 6
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No.:
Attorney Type:	<input type="checkbox"/> Retained	<input type="checkbox"/> Assigned	<input type="checkbox"/> Government
	<input type="checkbox"/> Pro Se	<input type="checkbox"/> Pro Hac Vice	
Party or Parties Represented (set forth party number(s) from table above or from Form A):	3	5	- 3 6

Supreme Court of the State of New York

Appellate Division : Second Judicial Department

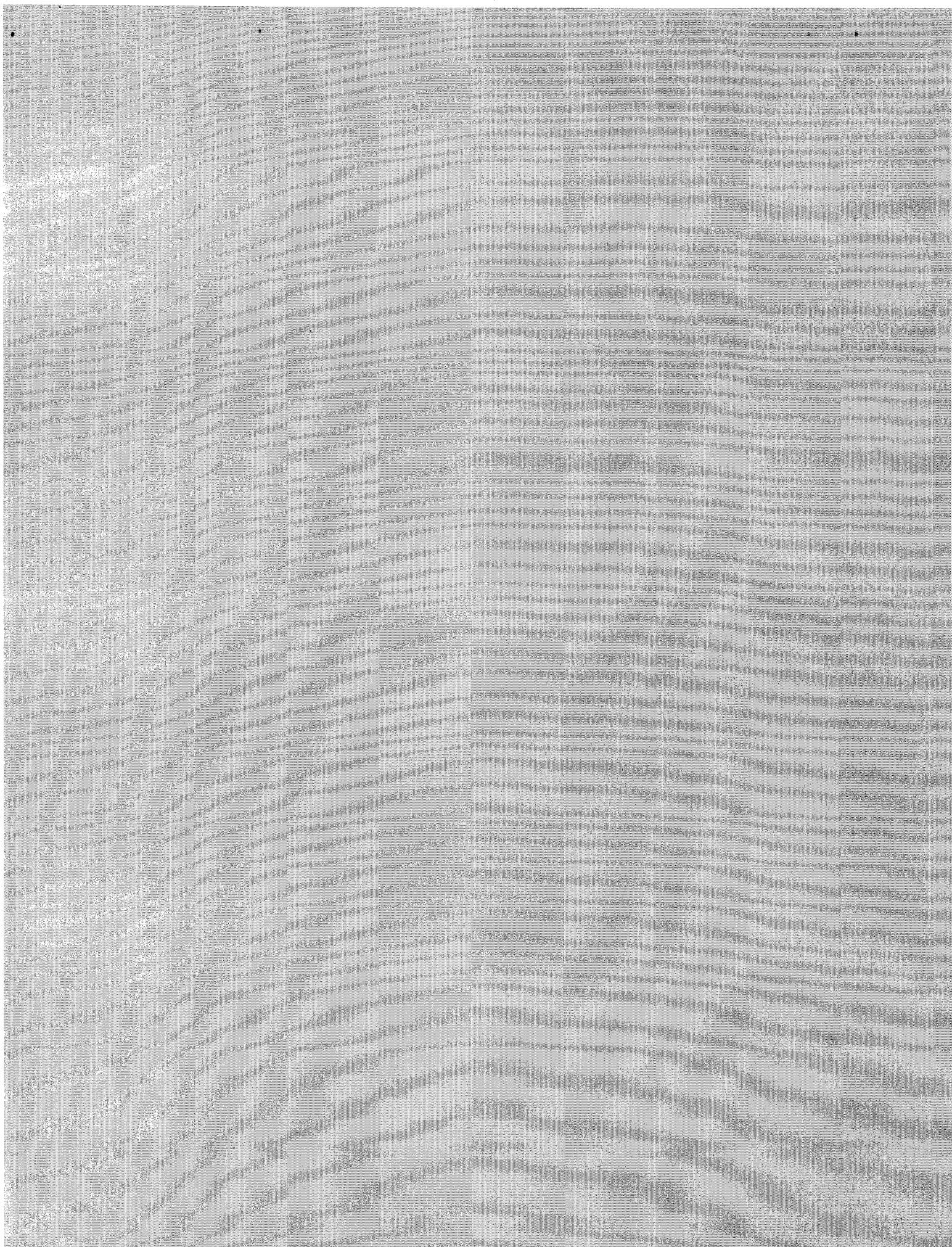
**Form C - Additional Party and Attorney Information**

Additional Party Information			
No.	Party Name	Original Status	Appellate Division Status
21	33 Lonnette R. Tuck	Intervenor-Defendant	Appellant
22	34 Karen E. Magee	Intervenor-Defendant	Appellant
23	35 Philip A. Cammarata	Intervenor-Defendant	Appellant
24	36 Mark Mambretti	Intervenor-Defendant	Appellant
25			
26			
27			
28			
29			
30			
31			
32			

**Additional Attorney Information**

Attorney/Firm Name:					
Address:					
City:	State:	Zip:	Telephone No.:		
Attorney Type:	<input type="checkbox"/> Retained	<input type="checkbox"/> Assigned	<input type="checkbox"/> Government	<input type="checkbox"/> Pro Se	<input type="checkbox"/> Pro Hac Vice
Party or Parties Represented (set forth party number(s) from table above or from Form A):					
Attorney/Firm Name:					
Address:					
City:	State:	Zip:	Telephone No.:		
Attorney Type:	<input type="checkbox"/> Retained	<input type="checkbox"/> Assigned	<input type="checkbox"/> Government	<input type="checkbox"/> Pro Se	<input type="checkbox"/> Pro Hac Vice
Party or Parties Represented (set forth party number(s) from table above or from Form A):					
Attorney/Firm Name:					
Address:					
City:	State:	Zip:	Telephone No.:		
Attorney Type:	<input type="checkbox"/> Retained	<input type="checkbox"/> Assigned	<input type="checkbox"/> Government	<input type="checkbox"/> Pro Se	<input type="checkbox"/> Pro Hac Vice
Party or Parties Represented (set forth party number(s) from table above or from Form A):					
Attorney/Firm Name:					
Address:					
City:	State:	Zip:	Telephone No.:		
Attorney Type:	<input type="checkbox"/> Retained	<input type="checkbox"/> Assigned	<input type="checkbox"/> Government	<input type="checkbox"/> Pro Se	<input type="checkbox"/> Pro Hac Vice
Party or Parties Represented (set forth party number(s) from table above or from Form A):					

030766285



**AFFIRMATION OF SERVICE TO NOTICE OF APPEAL**  
New York Supreme, Richmond County Index No.: 101105/14 (Minardo, J.S.C.)

STEVEN L. BANKS, an attorney duly admitted to practice and plead in the Courts of the State of New York, affirms under penalty of perjury, the following:

I am an Assistant Attorney General in the office of ERIC T. SCHNEIDERMAN, the Attorney General of the State of New York and attorney for the State Defendants herein. On the 7th day of December 2015, I served the attached **NOTICE OF APPEAL** upon:

JONATHAN W. TRIBIANO, PLLC  
Attorney for Plaintiffs in Davids v. State  
1811 Victory Boulevard, Suite One  
Staten Island, New York 10314  
(718) 530-1445  
Attn: Jonathan W. Tribiano, Esq.

ZACHARY W. CARTER  
Corporation Counsel for the City of New York  
Attorneys for New York City Defendants/Intervenor-Defendant  
100 Church Street, Room 2-195  
New York, New York 10007  
(212) 356-2085  
Attn: Janice Birnbaum, Sr. Counsel  
Maxwell Leighton, Sr. Counsel

STROOCK & STROOCK & LAVAN LLP  
Attorneys for Intervenor-Defendant Michael Mulgrew  
180 Maiden Lane  
New York, New York 10038  
(212) 806-5400  
Attn: Charles G. Moerdler, Esq.  
Alan Klinger, Esq.

KIRKLAND & ELLIS LLP  
Attorneys for Plaintiffs in Wright v. State  
601 Lexington Avenue  
New York, New York 10022  
(212) 446-4800  
Attn: Jay P. Lefkowitz, Esq.  
Danielle Sassoon, Esq.  
Devora Allon, Esq.

RICHARD E. CASAGRANDE, ESQ.  
Counsel for NYSUT Intervenors-Defendants  
New York State United Teachers  
800 Troy-Schenectady Road  
Latham, New York 12110

ARTHUR P. SCHEUERMANN, ESQ.  
School Administrators Association of New York State  
Counsel for Intervenors-Defendants Commartus and Mambretti  
8 Airport Park Boulevard  
Latham, New York 12110  
(518) 782-0600

attorneys for the above-referenced parties in the within entitled proceeding by depositing true and correct copies thereof, properly enclosed in a post-paid wrapper in a box regularly serviced by the UNITED STATES POSTAL SERVICE at 120 Broadway, New York, NY, 10271, directed to each of the foregoing firms and individuals at the specified addresses.

Dated: New York, New York  
December 7, 2015

  
STEVEN L. BANKS  
Assistant Attorney General

Consolidated Index No.: 101105714 (Mamona, J.S.C.)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF RICHMOND

MAMONA DAVIDS, by her parent and natural guardian MAMONA DAVIDS, et al.,  
Plaintiffs,  
Defendants.

THE STATE OF NEW YORK, et al.,  
- against -

MICHAEL MULGREW, as President of the UNITED FEDERATION OF TEACHERS, Local 2, American Federation of Teachers, AFL-CIO,  
Intervenor-Defendant.  
and -

ISRAEL MARTINEZ, et al. - and -  
SETH COHEN, et al. - and -  
JOHN KEONI WRIGHT; et al.,  
Plaintiffs,  
Defendants.

PHILIP A. CAMPARATA AND MARK MAMBRETTI,  
Intervenor-Defendants.

THE STATE OF NEW YORK, et al.,  
- against -

SETH COHEN, et al. - and -  
PHILIP A. CAMPARATA AND MARK MAMBRETTI,  
Intervenor-Defendants.

NEW YORK CITY DEPARTMENT OF EDUCATION,  
- and -

MICHAEL MULGREW, as President of the UNITED FEDERATION OF TEACHERS, Local 2, American Federation of Teachers, AFL-CIO,  
Intervenor-Defendant.

**NOTICE OF APPEAL**

ERIC T. SCHNEIDERMAN, Attorney General of the State of New York  
ATTORNEY FOR STATE DEFENDANTS

BY: STEVEN L. BROWN, Assistant Attorney General  
110 Broadway, 24th Floor, New York, NY 10271 Tel. No. (212) 416-6021; Fax No. 212-416-6028 (Notice of Service of Document)

The service of a copy of the within document on \_\_\_\_\_ day of \_\_\_\_\_ 2015

COURT DESK
TYPE: NOA
APPROVED: PEP
DATE: 12/7/2015