

NEW YORK STATE SUPREME COURT  
COUNTY OF ROCKLAND

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Spring Valley Branch of the NAACP,  
Nyack Branch of the NAACP, Glenda Davis,  
Jeremiah Conway, Tomara Aldrich, Nancy Phillips

**VERIFIED PETITION**

Petitioners,

Index No.: \_\_\_\_\_

-against-

Date Purchased: October 28, 2020

Rockland County Board of Elections, Rockland County  
Board of Elections Commissioner Patricia A. Giblin,  
and Ulster County Board of Elections  
Commissioner Kristen Stavisky,

Respondents,

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STATE OF NEW YORK    )  
                                  SS.:  
COUNTY OF BRONX     )

Petitioners respectfully allege, upon information and belief, as follows:

1.     Petitioner Spring Valley Branch of the National Association for the Advancement of Colored People (“Spring Valley NAACP”) is a local affiliate of the National Associate for the Advancement of Colored People. The Spring Valley NAACP’s mission is to ensure the political, educational, social, and economic equality of rights of all persons, to eliminate racial hatred and racial discrimination, and to remove the barriers of racial discrimination through democratic processes. There are approximately 450 members of the Spring Valley NAACP. The membership includes registered voters in Rockland County who reasonably need to vote early in person but have been unable to do so yet.

2.     Petitioner Nyack Branch of the National Association for the Advancement of Colored People (“Nyack NAACP”) is a local affiliate of the National Associate for the

Advancement of Colored People. The Nyack NAACP's mission is to ensure the political, educational, social, and economic equality of rights of all persons, to eliminate racial hatred and racial discrimination, and to remove the barriers of racial discrimination through democratic processes. There are approximately 450 members of the Nyack NAACP. The membership of the Nyack NAACP includes registered voters in Rockland County who reasonably need to vote early in person but have been unable to do so yet.

3. Among members of the Spring Valley NAACP and Nyack NAACP branches are people who have waited in line for at least 90 minutes at every early voting site, more than 2 hours at most sites, and over 4 hours at times. Some members of these organizations report waiting as many as four hours to cast a ballot during early voting.

4. Petitioner Glenda Davis is a registered voter in Rockland County and a member of the Spring Valley NAACP. She is seventy-two years old and has had a hip replacement. It is impossible for her to stand in a line for over an hour to vote. She wants to participate in early voting because she works on the general election day, November 3, and so will have limited time to vote. She is also concerned that the lines will be very long on election day and that she will not be able to find parking close to her polling site because there is limited parking. Because of her age and condition, she cannot walk a long distance from where she finds parking to stand in a long line to vote. The most convenient early voting site for Ms. Davis is at Haverstraw Town Hall. Between October 25 and today, she has driven to Haverstraw Town Hall two or three times each day to try to vote early, but she has observed every time that the line has been so long it wraps around the building. She has tried to go in the morning, afternoon, and evening, but no matter the time of day, she has observed that the line is so long it would take hours for her to get through it. She has also observed that the parking lot at the Town Hall has always been full, so she would

have to park across the street at a strip mall and walk back across the street to vote. Ms. Davis drove up to the entrance of Haverstraw Town Hall and all around the building, but never saw any sign posted that people with a disability or the elderly could go to the front of the line. Instead, she observed multiple people getting out of their cars with canes and walking to the back of the long line. Because of her age and physical condition, she cannot walk so far to stand in such a long line to vote and because of the long line, she has not been able to vote.

5. Willie Trotman is 73 years old and is the President of the Spring Valley Branch of the NAACP. He voted in the General Election at Clarkstown Town Hall on Monday, October 26. He arrived half an hour before the polls opened at 8:30am waited two hours before casting his ballot. Mr. Trotman visited all four early voting sites in Rockland County. Neither during his wait at Clarkstown Town Hall nor his visits to the other sites did Mr. Trotman observe any signage notifying voters with disabilities about the availability of accommodations for voters with disabilities from the strain of waiting on long lines.

6. Oscar Cohen is 79 years old and is a member of the Spring Valley and Nyack Branches of the NAACP. Mr. Cohen voted in the General Election at Ramapo Town Hall on Saturday, October 24. He arrived half an hour before the polls opened at 8:30am and waited two hours before casting his ballot. During his wait at Ramapo Town Hall, Mr. Cohen did not observe any signage notifying voters with disabilities about the availability of accommodations for voters with disabilities from the strain of waiting on long lines.

7. Petitioner Jeremiah David Conway is a registered voter in Rockland County. Mr. Conway attempted to vote at his early voting polling site at the Town Hall in Orangetown on Sunday, October 25, but did not have time to wait in the extremely long line he observed at the site. He attempted to vote again on Wednesday October 29 but learned from his wife that the line

for early voting remained as long as it was on Sunday and was lasting about two hours. Mr. Conway, a public-school teacher, would like to vote early because he anticipates that he will have work commitments on election day and the early voting times work best for his schedule. However, it would be a substantial hardship for him to wait in such long lines because of work and childcare responsibilities and may jeopardize his ability to cast a ballot.

8. Petitioner Tomara Aldrich is a registered voter in Rockland County. She has not yet voted in the November 3, 2020 general election. Ms. Aldrich works full-time and is homeschooling her son three days each week. She went to vote early at Orangetown Town Hall on Monday at approximately 12pm, but ended up leaving due to the long lines because of pressing work and family obligations. Ms. Aldrich went to go vote on Monday because it is one of the days on which she is not homeschooling her child; however, upon her arrival at Orangetown Town Hall the line appeared to be well in excess of an hour long and Ms. Aldrich did not want to risk illness from waiting in the rain and cold for a long period of time.

9. Petitioner Nancy Phillips is a registered voter in Rockland County. She has not yet voted in the November 3, 2020 general election. Ms. Phillips attempted to vote early at the Orangetown Town Hall early voting site on Saturday, October 24. She waited in line for approximately 90 minutes before giving up and leaving because the line was not advancing meaningfully and Ms. Phillips had work and family obligations to attend to. Ms. Phillips returned to vote at the Orangetown Town Hall approximately 45 minutes before the polls opened on Monday, October 26, but again left after 90 minutes because the line did not meaningfully advance. Ms. Phillips drove by Orangetown Town Hall on Wednesday to attempt to vote early on Wednesday, October 28, but was deterred by the sight of very long lines. Work and family obligations make it uncertain whether Ms. Phillips will be able to vote on Tuesday, November 3,

and therefore she would like to cast her ballot early in person. Ms. Phillips did not want to vote absentee due to concerns about the reliability of the United States Postal Service and statements by the President of the United States indicating that he would regard votes cast by mail as illegitimate.

10. Rabia Nagin is a member of the Spring Valley NAACP who voted early in the November 3, 2020 general election at Ramapo Town Hall on October 24. She entered the line at approximately 11:30 a.m. and did not cast her vote until approximately 3:30 p.m.

11. Paul Nagin is a member of the Spring Valley NAACP who voted early in the November 3, 2020 general election at Ramapo Town Hall on October 24. He entered the line at approximately 11:30 a.m. and did not cast his vote until approximately 3:30 p.m.

12. Respondent Rockland County Board of Elections is the local board of elections for Rockland County, responsible for administering early voting sites in the County.

13. Respondent Rockland County Board of Elections Commissioner Kristen Stavisky is the Democratic commissioner for the Rockland County Board of Elections.

14. Respondent Rockland County Board of Elections Commissioner Patricia Giblin is the Republican commissioner for the Rockland County Board of Elections.

15. Election Law § 8-600(2)(a) requires county boards of elections to designate at least one early voting site for every full increment of fifty thousand registered voters in the county.

16. Election Law § 8-600(4) requires county boards of elections to keep polls hours for a minimum of 60 hours during the nine-day early voting period, including a minimum of eight (8) hours on weekdays (Election Law § 8-600(4(a))) and five (5) hours per day on weekends.

17. According to the most recent publicly available data from the New York State Board of Elections there are 209,673 registered voters in Rockland County.

18. For the November 3, 2020 general election, the Rockland County Board of Elections designated only four early voting sites and sixty (60) hours of early voting—the minimum permitted under state law.

19. On information and belief, early voting has proved extremely popular statewide and boards of elections have expanded early voting hours to accommodate demand. For example, Westchester County and New York City are each offering more than the minimum number of early voting sites and have also expanded early voting hours in response to long lines.

20. Since early voting began on Saturday, October 24, voters in each of Rockland County's four early voting sites have consistently waited to cast a ballot in lines in excess of 30 minutes during the vast majority of times that the polls have been open.

21. According to Respondent Commissioner Stavisky, most voters attempting to vote early in Rockland County are waiting one and one half to two hours to be processed.

22. On Saturday, for example, at Ramapo Town Hall, voters, including Rabia and Paul Nagin, reported waiting in line for up to 4 hours during the day to cast ballots.

23. On Saturday, October 24 and Tuesday October 26, Commissioner Stavisky observed wait times in excess of two hours at Clarkstown Town Hall.

24. The Town at Orangetown has placed a camera at Orangetown Town Hall, which provides live footage of the line at the early voting site and, on its Facebook page providing the live feed, explains that when the line crosses the flagpole, the wait is at least one hour. Over the course of early voting the line has regularly extended past the flagpole.

25. At the other early voting sites – Haverstraw Town Hall and Clarkstown Town Hall – wait times were similarly well over an hour, consistently.

26. The County's electronic poll books show that consistently voters are waiting in line until after the close of the polls to cast their ballots—frequently for over 30 minutes after the close of the polls. The polling hours and last check-in time are included for every early voting site as follows:

1. Clarkstown Town Hall

October 24, 2020 9AM – 2PM. Last check in: 15:13 (3:13PM)  
October 25, 2020 9AM – 2PM. Last check in: 15:25 (3:25PM)  
October 26, 2020 9AM – 5PM. Last check in: 17:58 (5:58PM)  
October 27, 2020 12Noon – 8PM. Last check in: 21:52 (9:52PM)  
October 28, 2020 9AM – 5PM. Last check in: 18:00 (6:00PM)

2. Haverstraw Town Hall

October 24, 2020 9AM – 2PM. Last check in: 14:45 (2:45PM)  
October 25, 2020 9AM – 2PM. Last check in: 14:43 (2:43PM)  
October 26, 2020 9AM – 5PM. Last check in: 17:09 (5:09PM)  
October 27, 2020 12Noon – 8PM. Last check in: 20:52 (8:52PM)  
October 28, 2020 9AM – 5PM. Last check in: 17:35 (5:35PM)

3. Orangetown Town Hall

October 24, 2020 9AM – 2PM. Last check in: 15:07 (3:07PM)  
October 25, 2020 9AM – 2PM. Last check in: 15:00 (3:00PM)  
October 26, 2020 9AM – 5PM. Last check in: 17:54 (5:54PM)  
October 27, 2020 12Noon – 8PM. Last check in: 21:41 (9:41PM)  
October 28, 2020 9AM – 5PM. Last check in: 18:14 (6:14PM)

4. Ramapo Town Hall

October 24, 2020 9AM – 2PM. Last check in: 16:59 (4:59PM)  
October 25, 2020 9AM – 2PM. Last check in: 14:56 (2:56PM)  
October 26, 2020 9AM – 5PM. Last check in: 17:31 (5:31PM)  
October 27, 2020 12Noon – 8PM. Last check in: 21:20 (9:20PM)  
October 28, 2020 9AM – 5PM. Last check in: 17:36 (5:36PM)

27. In short, at the end of the early voting days during the week—with the exception of one site on one night voters remained in line at the close of early voting every night at every site for over thirty minutes, and frequently for over an hour.

28. These delays continued throughout this week, despite some additional resources from the County Board of Elections.

29. Democratic Commissioner Stavisky has raised a number of measures with Republican Commissioner GIBLIN that would address wait times, including expanding voting hours by hours per day for Friday, October 30 through Sunday, November 1, and adding an additional early voting sites at a County-owned venue to expand capacity for the last weekend of early voting.

30. Costs for expanding hours and adding an additional site would be covered those by \$185,000 in additional funding through a grant made by the Center for Tech and Civic Life.

31. The County Board has exhausted realistic options beyond additional polling sites and expanded hours.

32. However, Commissioner GIBLIN has categorically refused to consider additional sites or expanded hours. She has even refused requests by Commissioner Stavisky to deploy additional electronic poll books for the purposes of increasing voter throughput at early voting sites.

33. Upon information and belief, the number of voters seeking to cast their ballots this weekend will be far greater than last weekend. Although there continued to be waiting times in excess of one hour at early voting sites in Rockland County on Thursday, October 29, the combination of long lines and heavy rain on Thursday, October 29 and in the forecast on Friday, October 30 will cause voters who would have voted early in person on those days to attempt to vote on Saturday, October 31 and Sunday, November 1.

34. Petitioners submit this Petition in support of their application for a declaratory and injunctive relief pursuant to CPLR §6301, and declaratory judgment pursuant to CPLR §3001 together with such other and further relief as this Honorable Court may deem just and proper.



### Venue

35. Petitioners are registered voters who reside in Rockland County and organizations whose members include hundreds of registered voters who reside in Rockland County, who are running for office or voting in Ulster County. Respondents are the members and entity that constitute the Rockland County Board of Elections, with an office located at 11 New Hempstead Road, New City, New York 10956.

### Undertaking Pursuant to CPLR 6312

36. Petitioners are prepared to satisfy any undertaking obligation the court may impose when granting the TRO. However, Petitioners submit to the court that the nature of this action deems an undertaking unnecessary.

### AS AND FOR FIRST CAUSE OF ACTION VIOLATION OF 9 NYCRR 6210.19

37. Respondents have violated 9 NYCRR 6210.19.

38. As part of the “[o]bligations of the county boards of elections,” 9 NYCRR 6210.19 provides that:

County boards shall deploy sufficient voting equipment, election workers and other resources so that voter waiting time at a poll site does not exceed 30 minutes. Each county board of elections may increase in a non-discriminatory manner, the number of voting devices used in any specific polling place. **If the voter waiting time at an early voting site exceeds 30 minutes the Board of Elections shall deploy such additional voting equipment, election workers and other resources necessary to reduce the wait time to less than 30 minutes as soon as possible but no later than the beginning of the next day of early voting.**

9 NYCRR 6210.19(d)(1) (emphasis added).

39. Early voting in Rockland county has had waiting times ranging from 45 minutes at the low end—e.g., at Haverstraw Town Hall during heavy rains on Thursday, October 29—to more than four hours at Ramapo Town Hall on Saturday, October 24. On Thursday, October 29 at approximately 1pm, the Town of Orangetown posted on Facebook live footage of a one-hour line to vote at Orangetown Town Hall. In the footage, voters can be seen holding umbrellas and waiting in the rain.

40. Notwithstanding the clear “shall” regarding additional resources, Respondents have failed to take the “necessary” steps to “reduce wait time to less than 30 minutes.”

41. Indeed, Commissioner Giblin has rejected requests by Commissioner Stavisky and members of the public to expand early voting in response concerns about the wait times. Commissioner Giblin has simply responded to requests to expand early voting hours in response to long lines by citing absentee voting and election day voting. Ms. Giblin has also stated her opinion the county has de facto expanded voting hours by allowing voters who are in line prior to the close of the polls to continue waiting—sometimes for well over an hour—to cast a ballot.

42. Because of the structure of New York boards of election, Commissioners need to act together. However, Commissioner Giblin has blocked any and all efforts by Commissioner Stavisky to address early voting wait times by expanding early voting hours or expanding the number of early voting sites.

43. Thus, Respondents have failed to act in any fashion to take the actions “necessary” to “reduce wait time to less than 30 minutes,” and have certainly not acted “as soon as possible but no later than the beginning of the next day of early voting” upon notice of the extensive waiting times this weekend. 9 NYCRR 6210.19(d)(1)

**AS AND FOR SECOND CAUSE OF ACTION**

**VIOLATION OF THE NEW YORK STATE HUMAN RIGHTS LAW**  
**EXECUTIVE LAW § 296(2)**

44. Petitioners re-allege and incorporate all preceding paragraphs.

45. By failing to provide notice that people with disabilities—who by reason of their disability may be unable to stand and wait in long lines—are entitled to reasonable modifications and accommodations to afford them access to early voting, Respondents have violated the New York State Human Rights Law, Executive Law § 296(2), which prohibits discrimination on the basis of disability and requires a place of public accommodation to “make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford facilities, privileges, advantages or accommodations to individuals with disabilities.”

46. New York State Human Rights Law disability discrimination claims are evaluated under the same standard as federal claims made pursuant to the Americans with Disabilities Act (ADA). *See, e.g., Whitfield v. New York State Div. of Human Rights*, 137 A.D.3d 709, 710 (1st Dept. 2016) (“ADA claims ‘are governed by the same legal standards’ as disability discrimination claims under the State HRL” (quoting *Pimentel v. Citibank, N.A.*, 29 A.D.3d 141, 147 n. 7, (1st Dept. 2006), *lv denied* 7 N.Y.3d 707 (2006)). Pursuant to the ADA, the Board must ensure that voters have access to information regarding their right to receive reasonable accommodations at polling sites. *See* 28 C.F.R. § 35.106. Specifically, early voting sites must provide notice to people with disabilities “and other interested persons” of their right, and the notice itself must be fully accessible. *See id.* Among the rights people with disabilities have under the ADA is the right to “reasonable modifications of policies, practices and procedures” in the process of voting, including the right to advance to the front the line, be provided a chair, have their place held in line, or whatever other “reasonable” modification would enable them to vote. 28 C.F.R. § 35.130(b)(7).

47. Thus, Respondents have failed to provide the required notice to people with disabilities of the modifications and accommodations to which they are entitled.

**AS AND FOR THIRD CAUSE OF ACTION**  
**VIOLATION OF CIVIL RIGHTS LAW § 40-c**

48. Petitioners re-allege and incorporate all preceding paragraphs.

49. Civil Rights Law § 40-c also prohibits discrimination on the basis of disability “by the state or any agency or subdivision of the state.”

50. “[F]acts sufficient to sustain a cause of action under Executive Law § 296 will support a cause of action under Civil Rights Law § 40–c.” *Gordon v. PL Long Beach, LLC*, 74 A.D.3d 880, 885 (2d Dept. 2010).

51. Petitioners have complied with the requirements of New York State Civil Rights Law § 40-d by serving notice on the state Attorney General.

**AS AND FOR FOURTH CAUSE OF ACTION**  
**REQUEST FOR TEMPORARY RESTRAINING ORDER (TRO) PURSUANT TO**  
**CPLR§ 6301**  
**Request for Temporary Restraining Order**

52. Under CPLR Article 63, a preliminary injunction may be granted when Petitioners demonstrate:

1. a likelihood of ultimate success on the merits;
2. the prospect of irreparable injury if the provisional relief is withheld; and
3. a balance of equities tipping in the moving party’s favor.

*See Doe v. Axelrod*, 73 N.Y.2d 748, 750 (1988). Petitioners meet this standard.

53. CPLR §6301 states that “A temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears that immediate and irreparable injury, loss or damage will result unless the defendant is restrained before the hearing can be had.”

54. Petitioners are likely to succeed on the merits. 9 NYCRR 6210.19 uses mandatory language, and Respondents have not taken a single meaningful step to “reduce wait time to less than 30 minutes.”

55. The prospect of irreparable injury is severe. The “predictable effect of government action,” i.e., allowing long line at early voting sites to continue in violation of state regulations, is that some voters will be deterred from voting altogether and others forced to wait hours in long lines will unnecessarily sacrifice their ability to perform other critical duties, including childcare, elder care, and work obligations among others. *Dep’t of Commerce v. New York*, 139 S. Ct. 2551, 2566, 204 L. Ed. 2d 978 (2019). Petitioners are merely a few of the Rockland County voters who risk irreparable harm in the form of disenfranchisement if they are unable to vote early in-person. Courts routinely find disenfranchisement to constitute irreparable harm. *See Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986) (noting that student applicants “would certainly suffer irreparable harm if their right to vote were impinged upon”). There are only three days of early voting left. Without relief, voters across the County will continue to face unconscionable waiting times that are specifically forbidden by state law.

56. A balance of equities also tips sharply in the Petitioners’ favor. New Yorkers’ interest in exercising their right to vote is substantial. “The right of suffrage is one of the most valuable and sacred rights which the Constitution has conferred upon the citizen of the state.” *People ex rel. Stapleton v Bell*, 119 N.Y. 175, 178 (1889). It “shall be given the highest respect, especially by our courts, and shall not be compromised, or allowed to be diminished.” *Held v. Hall*, 190 Misc.2d 444, 459 (Sup. Ct. Westchester Co. 2002) (internal citations omitted) (noting where a preliminary injunction involves the disenfranchisement of voters, “the equities might

weigh” in favor of upholding the right to vote). While there is a profound loss in the right to vote and the burden on voters in standing in line for hours, amid a global pandemic, there is a barely a cognizable administrative burden in mobilizing some additional resources to achieve a state-mandated interest in reducing waiting times to cast a ballot. Indeed, half of the Rockland County Board of Elections has already conceded that relief is appropriate – and as set out in the affidavit of Commissioner Stavisky, the measures proposed here would place little additional cost on the Board.

**AS AND FOR FIFTH CAUSE OF ACTION**  
**DECLARATORY JUDGMENT PURSUANT TO CPLR §3001**

57. Petitioners reiterate the facts and arguments set forth above and move this court for a declaratory judgment pursuant to CPLR §3001 declaring Respondents have violated their obligations under 9 NYCRR 6210.19(d)(1).

58. No prior application has been made for the relief requested herein.

WHEREFORE, it is respectfully requested that the court issue an Order as follows:

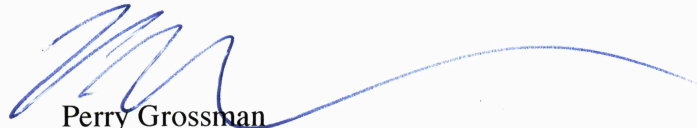
- (i) Pursuant to CPLR §3001, *declaring* Respondents have violated their obligations under 9 NYCRR 6210.19(d)(1);
- (ii) Pursuant to 9 NYCRR 6210.19 and CPLR 6301, *compelling* Respondents to deploy such additional voting equipment, election workers and other resources necessary to reduce the wait time to less than 30 minutes, including but not limited to by expanding the hours each day that early voting is available, and taking the other steps described below.
- (iii) Pursuant 9 NYCRR 6210.19, Exec. Law. § 296(2), Civil Rights Law § 40-c, and CPLR 6301, *compelling* Respondents to deploy such additional voting equipment,

election workers and other resources necessary to reduce the wait time to less than 30 minutes, including but not limited to by expanding the hours each day that early voting is available, beginning on this, the 28<sup>th</sup> day of October, 2020, and further specifically directing Respondents to take the following steps:

- (i) Expand early voting hours for the remaining days as follows:
  - a. Friday, 9 a.m. to 8 p.m. (three extra hours);
  - b. Saturday, 9 a.m. to 5 p.m. (three extra hours); and
  - c. Sunday, 9 a.m. to 5 p.m. (three extra hours)
- (ii) Evaluate whether any further expansion of early voting hours would be feasible; and
- (iii) To the extent any additional voting equipment, election workers, and other resources are available at existing sites, use those resources to address wait times.
- (iv) Evaluate whether any other polling sites could feasibly be made available this weekend;
- (v) Post written notices that are reasonably accessible to disabled voters at the entrance to each early voting sites and at 100 foot intervals along the customary path that the line of voters follows stating that voters with disabilities can advance to the front of the line or provided seating while they wait to vote.

DATED: October 29, 2020

Respectfully Submitted



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**VERIFICATION**

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

PERRY GROSSMAN, an attorney duly admitted to practice in the Courts of the State of New York, states:

I am an attorney at the NEW YORK CIVIL LIBERTIES UNION FOUNDATION, the attorneys for the Petitioners herein. I have read the foregoing PETITION and know the contents thereof; the same is true to my own knowledge, except as to those matters therein alleged to be on information and belief and, that as to those matters, I believe them to be true.

The reason this verification is made by me and not by the Petitioners is that the Petitioners are presently outside the county in which THE NEW YORK CIVIL LIBERTIES UNION FOUNDATION maintains its office.

The grounds of my belief as to all matters not stated upon my own knowledge are information, books, records, data and correspondence contained in deponent's file and conversations had with the Petitioners herein, as well as the affidavits concurrently herewith.

I affirm that the foregoing statements are true under the penalty of perjury.

Dated:            Bronx, New York  
                      October 29, 2020

Respectfully Submitted,

  
Perry Grossman