STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

BARBARA D. UNDERWOOD
SOLICITOR GENERAL
DIVISION OF APPEALS & OPINIONS

May 11, 2020

Hon. Ruby J. Krajick
Clerk of the Court
United States District Court for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *Tucker et al. v. Board of Elections in the City of New York et al.*
1:20-cv-03111-VEC

Dear Ms. Krajick:

This will acknowledge receipt of the papers forwarded to us in the above-mentioned matter pursuant to the notice requirements of 28 U.S.C. § 2403 and Rule 5.1 of the Federal Rules of Civil Procedure because the papers purport to challenge the constitutionality of a state statute as applied in the circumstances raised in the papers.

Please be advised that, after careful consideration, we have determined not to participate in the above-entitled matter at this time. Because there are many reasons why the Office of the Attorney General may decide not to participate, we respectfully suggest that no adverse inference regarding our view of the merits of the as-applied constitutional challenge to the state statute, or the nature of the State's interest, should be drawn from our non-participation at this stage.

We may choose to intervene for purposes of defending the constitutionality of the statute at a later appellate stage. We note that if this matter is appealed, the Office of the Attorney General must receive another notification of the constitutional challenge. *See* Fed. R. App. P. 44(b). We also would appreciate being advised of any final decision.

Thank you. Please do not hesitate to call me at (518) 776-2024 if you have any questions.

Respectfully yours,

/s/ Jennifer L. Clark

JENNIFER L. CLARK
Assistant Solicitor General

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