

*Rakoff*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

M.K.B., O.P., L.W., M.A., Marieme Diongue,  
M.E., P.E., Anna Fedosenko, A.I., L.A.M.,  
L.M., Denise Thomas, and J.Z., on their own  
behalf, and on behalf of their minor children and  
all others similarly situated,

Plaintiffs,

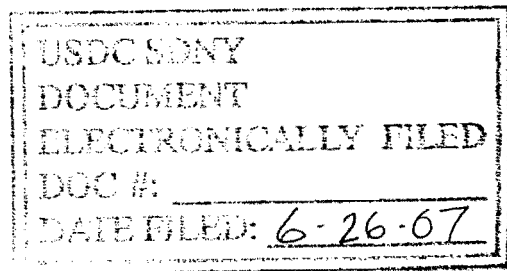
- against -

VERNA EGGLESTON, as Commissioner of  
the New York City Human Resources  
Administration; ROBERT DOAR, as  
Commissioner of the New York State Office of  
Temporary and Disability Assistance; and  
ANTONIA C. NOVELLO, as Commissioner of  
the New York State Department of Health,

Defendants.

*ECF*

05 Civ. 10446 (JSR)



**STIPULATION AND ORDER OF SETTLEMENT**

WHEREAS, plaintiffs commenced this lawsuit on behalf of themselves and all others similarly situated, by complaint filed December 13, 2005, against Verna Eggleston, as Commissioner of the New York City Human Resources Administration ("HRA") (the "City defendant"), Robert Doar, as Commissioner of the New York State Office of Temporary and Disability Assistance ("OTDA") and Antonia C. Novello, as Commissioner of the New York State Department of Health ("SDOH") (collectively "State defendants"); and

WHEREAS, plaintiffs moved for a preliminary injunction and for certification of a class, by Notice of Motion dated January 11, 2006; and

WHEREAS, City and State defendants opposed said motion; and

WHEREAS, the Court, by Order dated February 16, 2006, directed City and State defendants to undertake certain actions as specifically directed therein and further ordered a hearing on the motion for a preliminary injunction and class certification (the “Feb. 16, 2006 Order”); and

WHEREAS, the Court held such hearing on dates beginning March 14, 2006 through March 24, 2006; and

WHEREAS, the Court by Order dated August 29, 2006 granted plaintiffs’ motion for a preliminary injunction and class certification (the “Aug. 29, 2006 Order”) and issued a preliminary injunction which injunction incorporated by reference the Feb. 16, 2006 Order; and

WHEREAS, in the Aug. 29, 2006 Order, the Court certified this action as a class action pursuant to Fed. R. Civ. P. 23(b)(2), with the class defined as:

All Affected Immigrants who are, have been, or will be eligible for state or federally funded public assistance, Medicaid, or food stamps, and who either (a) have been or will be denied public benefits in whole or in part; (b) had or will have benefits discontinued or reduced, (c) have been or will be discouraged or prevented from applying; (d) have been or will be encouraged to withdraw an application by a New York City Job Center because of a misapplication of immigrant eligibility rules.

For purposes of the foregoing paragraph, the term “Affected Immigrants” means (1) battered spouses and battered children of U.S. citizens or lawful permanent residents, who are Qualified Aliens as defined in 8 U.S.C. § 1641(c); (2) their immigrant children, or in the case of battered children, their immigrant parents, provided that they too are Qualified Aliens as defined in 8 U.S.C. § 1641(c); (3) lawful permanent residents who have been in that status for less than five years; and (4) persons who are Permanently Residing Under Color of Law (PRUCOL).

hereinafter the “Class”; and

WHEREAS, State defendants, by Notice of Motion dated September 13, 2006 moved for reconsideration of that portion of the Court's Aug. 29, 2006 Order certifying the Class which motion was joined by City defendant; and

WHEREAS, the Court, by Order dated October 13, 2006 and decision dated November 8, 2006 denied said motion for reconsideration; and

WHEREAS, State defendants have fulfilled and completed their obligations pursuant to the Feb. 16, 2006 Order as set forth at pages "2 - 3" paragraphs numbered (7) through (9) of that Order; and

WHEREAS, defendants have denied any and all wrongdoing alleged in the complaint by Answers filed on behalf of City defendant, dated November 6, 2006 and on behalf of State defendants, dated June 14, 2006; and

WHEREAS, the parties believe that the best interests of the parties will be advanced by the settlement of this action; and

WHEREAS, plaintiffs and defendants are entering into the within Stipulation and Order of Settlement (the "Stipulation") solely for the purpose of settling the disputes between them and to avoid further litigation, and without admitting any fault or liability; and

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the undersigned attorneys for the respective parties herein, that this action is settled, subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, on the following terms and conditions:

### **Definitions**

For purposes of this Stipulation, the following definitions shall apply:

1. "Battered qualified aliens" means Class Members who are battered aliens treated as qualified aliens, as defined in 8 U.S.C. § 1641(c).

2. “Job Center” means all offices in New York City operated by the New York City Human Resources Administration at which an application for Family Assistance or Safety Net Assistance may be submitted.

3. “Family Assistance” means cash public assistance benefits reimbursed in part by the federal program of block grants to States for temporary assistance to needy families authorized by 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 1320b-7 and 8 U.S.C. §§ 1611 et seq., implemented in New York pursuant to New York Social Services Law (“N.Y. Soc. Serv. Law”) §§ 349 et seq.

4. “Safety Net Assistance” means assistance provided pursuant to N.Y. Soc. Serv. Law §§ 157 et seq. to persons not eligible to receive Family Assistance.

5. “Food Stamps” means benefits provided pursuant to the federal food stamp program authorized by 7 U.S.C. §§ 2011 et seq., 42 U.S.C. § 1320b-7, and 8 U.S.C. §§ 1611 et seq., and federal regulations at 7 C.F.R. Parts 271 through 282 and implemented in New York by N.Y. Soc. Serv. Law §§ 95 and 147 and State regulations at 18 N.Y.C.R.R. Parts 358, 359 and 387.

6. “Federal Medicaid” means payments for medical assistance reimbursed in part by the federal program of medical assistance authorized by 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1320b-7 and 8 U.S.C. §§ 1611 et seq., implemented in New York pursuant to N.Y. Soc. Serv. Law §§ 363 et seq.

7. “State Medicaid” means medical assistance provided pursuant to N.Y. Soc. Serv. Law §§ 363 et seq. to persons not eligible to receive Federal Medicaid.

8. “State food assistance benefits” (hereinafter “FAP”) means benefits provided pursuant to the state food assistance program, N.Y. Soc. Serv. Law § 95(10), which program ended as of September 30, 2005.

9. “Public benefits” means collectively Family Assistance, Safety Net Assistance, Federal Medicaid, State Medicaid, and Food Stamps.

10. “Plaintiffs” means the individually named plaintiffs as set forth in the action and the Class.

11. “City defendant” means Verna Eggleston, as Commissioner of the New York City Human Resources Administration and her successor in that office.

12. “State defendants” means Robert Doar, as Commissioner of the New York State Office of Temporary and Disability Assistance (“OTDA”) and Antonia C. Novello, as Commissioner of the New York State Department of Health (“SDOH”) and their successors in those offices.

13. “Class” means:

All Affected Immigrants who are, have been, or will be eligible for state or federally funded public assistance, Medicaid, or food stamps, and who either (a) have been or will be denied public benefits in whole or in part; (b) had or will have benefits discontinued or reduced, (c) have been or will be discouraged or prevented from applying; (d) have been or will be encouraged to withdraw an application by a New York City Job Center because of a misapplication of immigrant eligibility rules.

For purposes of the foregoing paragraph, the term “Affected Immigrants” means (1) battered spouses and battered children of U.S. citizens or lawful permanent residents, who are Qualified Aliens as defined in 8 U.S.C. § 1641(c); (2) their immigrant children, or in the case of battered children, their immigrant parents, provided that they too are Qualified Aliens as defined in 8 U.S.C. § 1641(c); (3) lawful permanent residents who have been in that status for less than five years; and (4) persons who are Permanently Residing Under Color of Law (PRUCOL).

14. “Class Member” means a member of the Class as defined above.

15. “Effective Date” means thirty (30) days from the date of the filing of the judgment in this action.

16. “Applicable federal and state law or regulations” means 42 U.S.C. §§ 601 et seq., N.Y. Soc. Serv. Law §§ 349 et seq., N.Y. Soc. Serv. Law §§ 157 et seq., 7 U.S.C. §§ 2011 et seq., N.Y. Soc. Serv. Law §§ 363 et seq., 42 U.S.C. § 1320b-7, 8 U.S.C. §§ 1611 et seq. and 42 U.S.C. §§ 1396 et seq.

17. “Apply for” and “application” mean any application by a Class Member for Family Assistance and/or Safety Net Assistance, and any application made for Federal Medicaid, State Medicaid, and/or Food Stamps made in conjunction with an application for Family Assistance and/or Safety Net Assistance made at a Job Center, including any request to be added to an existing public benefits case. An application made by one member of a mandatory filing unit is deemed an application by all members of the mandatory filing unit to the extent required by N.Y. Soc. Serv. Law § 131-c.

18. Action taken “based on immigration status” means an action taken based on: (i) a Class Member’s immigration status or immigration documentation, including documentation relating to battered qualified alien status; and/or (ii) a Class Member’s provision of or application for a Social Security Number (“SSN”), when the failure to provide a SSN is as a result of the United States Social Security Administration’s (“SSA”) denial of an application for a SSN based on immigration status.

19. “Immigrant Liaison” means an employee or agent of City defendant who has received specialized training in the eligibility of Class Members for public benefits based on

immigration status, and who functions in a Job Center as a specialist for making determinations regarding the eligibility of Class Members for public benefits.

**General Provisions**

During the term of this Stipulation:

20. City defendant shall refrain from denying, discontinuing or reducing public benefits at Job Centers based on immigration status to Class Members, who are eligible for those benefits, pursuant to applicable federal and state law or regulations.

21. City defendant shall refrain at Job Centers from (i) refusing to permit Class Members to submit applications for Family Assistance and/or Safety Net Assistance, and applications for Federal Medicaid and/or State Medicaid and/or Food Stamps made in conjunction with an application for Family Assistance and/or Safety Net Assistance at a Job Center, based on immigration status, and (ii) refrain from turning away, deterring or discouraging Class Members from submitting such applications based on immigration status.

22. City and State defendants may require Class Members to apply for a SSN to the extent necessary to establish or maintain eligibility for Family Assistance, Federal Medicaid or Food Stamps. City and State defendants may require Class Members to apply for a SSN with the SSA once at the time of an application for Safety Net Assistance. City defendant shall not deny and/or discontinue Safety Net Assistance, and State Medicaid applied for or received in conjunction with Safety Net Assistance, to a Class Member based on a failure to furnish a SSN, so long as the Class Member makes a timely and complete application to SSA for a SSN. If the Class Member cannot obtain a SSN, a receipt for the application or a letter of denial of an SSN from SSA, then the Class Member may submit to the Job Center an attestation for the purpose of establishing his/her eligibility for Safety Net Assistance and State Medicaid in conjunction with the Safety Net Assistance application describing how s/he applied for an SSN. A copy of the

attestation form is attached as Exhibit A. If the Class Member does not present the form attached as Exhibit A, City defendant will provide the Class Member with the form. An application for Safety Net Assistance or State Medicaid made in conjunction with the application for Safety Net Assistance may not be delayed or denied if the Class Member applied for a SSN and cannot get proof from SSA that s/he applied for a SSN and submits the completed attestation. If the Class member makes no attempt to obtain a SSN or does not execute a statement attesting to the Class Member's efforts to apply for one, the application may be denied. If the Class Member's case file indicates a change in the Class Member's immigration status to a qualified status as defined by 8 U.S.C. § 1641(b) or (c), City defendant shall require a Class Member to reapply for a SSN after providing assistance to the extent required by 18 N.Y.C.R.R. § 351.5(a) in obtaining information or documents necessary to apply for a SSN. If a Class Member is otherwise eligible for Food Stamps, but for having furnished a SSN, and the individual is denied a SSN by SSA, City defendant may require the Class Member to reapply for a SSN. City defendant will provide assistance to the applicant to the extent required by 7 C.F.R. § 273.6 and to the extent required by 18 N.Y.C.R.R. § 351.5(a) in obtaining information or documents necessary to apply for a SSN.

23. If a Class Member is eligible for Family Assistance, Safety Net Assistance, Federal Medicaid, State Medicaid and/or Food Stamps, but for any requirement to apply for or provide a SSN, City defendant shall provide the Class Member with a letter addressed to SSA, in a form approved by State defendants, and shall otherwise assist the Class Member in obtaining information or documents necessary to apply for a SSN to the extent required by 18 N.Y.C.R.R. § 351.5(a) and to the extent required by 7 C.F.R. § 273.6.

24. As described further in this paragraph, defendants shall provide Class Members who apply for public benefits at a Job Center and are denied or have their public benefits discontinued or reduced at a Job Center with notice of the denial, discontinuance and/or reduction of public benefits. Notice, whether issued by City defendant or State defendants, shall be adequate as defined by 18 N.Y.C.R.R. § 358-2.2 and shall be provided within the time frames required by law. Notice, whether issued by City or State defendants, shall include a separate indication of which household members are accepted for public benefits, which household members are denied public benefits, and for which public benefits such household members have been accepted or denied. When City defendant issues such notice, City defendant shall provide notice, in such form(s) for notice as are approved by State defendants, for the denial, discontinuance and/or reduction of public benefits at a Job Center. When State defendants issue such notice, State defendants shall provide Class Members with adequate notice of the denial, discontinuance and/or reduction of assistance based on the information entered into the Welfare Management System (WMS) by City defendant, within the time frames required by law if City defendant entered such information into WMS with sufficient time to cause State defendants' WMS system to issue such notices within the time frames required by law. Nothing in this paragraph relieves City and State defendants from their obligations to make timely determinations and to provide notice in compliance with the time frames required by law.

25. City defendant agrees to comply with its obligations to the Class pursuant to paragraphs numbered (1) through (6) of the Feb. 16, 2006 Order and paragraphs numbered (1) through (6) of page 76 of the Aug. 29, 2006 Order, which paragraphs are hereby set forth as follows:

February 16, 2006 Order:

- (1) Defendant Verna Eggleston (the "City Defendant") is ordered to publish, by March 8, 2006, a revised Policy Bulletin concerning the Human Resource [sic] Administration's ("HRA") responsibility to undertake a Medicaid Disability Review where necessary to establish eligibility for food stamps. See City Def. Letter Br. dated Feb. 8, 2006 ("City Br.") at 1; Declaration of Seth Diamond, dated Jan. 24, 2006 ("Diamond Decl."), at ¶ 4; see also General Information System Message 06MA0005, attached to Defs. Doar and Novello's Letter Br. dated Feb. 8, 2006 ("State Br.").
- (2) City Defendant is ordered to modify, by April 28, 2006, HRA's benefits administration computer system ("POS") to recognize through a "code" the category of battered aliens who hold an I-130 petition and present proof of domestic violence. See City Br. at 3; Diamond Decl. at ¶ 3.
- (3) City Defendant is ordered to publish, by February 28, 2006, an interim Policy Bulletin directing workers to refer all applications by battered qualified aliens (and PRUCOL aliens, see Diamond Decl. at ¶ 2), to the Job Center's designated subject matter experts for handling, and to train staff, in March 2006, to comply with this interim Policy Bulletin. See City Br. at 3; Diamond Decl. at ¶ 2.
- (4) City Defendant is ordered to publish, by February 28, 2006, an interim Policy Bulletin that provides instructions on opening the cases of those battered qualified aliens to whom the United States Custom and Immigration Service (USCIS) will not issue Alien Registration numbers, and to train staff, in March 2006, to comply with this interim Policy Bulletin. See City Br. at 3; Diamond Decl. at ¶ 2.
- (5) City Defendant is ordered to publish, within four weeks of the implementation of the modification to the POS system described in (2), a revised Policy Bulletin concerning the handling of battered qualified aliens and PRUCOL aliens, and, to train staff, during the month following its publication, to comply with the revised Policy Directive. See City Br. 3; Diamond Decl. at ¶ 5.
- (6) City Defendant is ordered to establish, by February 28, 2006, an informal relief system for non-citizen applications, if such, applications are not already covered

by other informal relief systems implemented in connection with other litigation, through which Plaintiffs' counsel may contact a designee of City Defendant on behalf of plaintiffs or members of the proposed class whose eligibility has been erroneously assessed. See City Br. at 4.

August 29, 2006 Order:

- (1) An order directing City defendant to correct all errors in its revised policy directives and bulletins regarding Social Security Numbers, and to conduct comprehensive training on these policy directives for all staff involved in eligibility determinations.
- (2) An order directing City defendant to correct errors regarding PRUCOL eligibility in PD-06-24-ELI. See Letter from Scott Rosenberg, Counsel for Plaintiffs, to the Court, dated August 1, 2006.
- (3) An order directing the City to refer all cases involving green card holders who have had their green cards for less than five years to the immigrant liaisons [sic], or in the alternative to train all workers involved in eligibility determinations on how to determine the number of years that an alien has been in qualified status, and to train workers on which dates must be entered into POS and WMS.
- (4) An order directing the City to conduct trainings for all staff who are involved in opening cases for immigrants directly in WMS.
- (5) An order directing the City to issue a policy directive and conduct training on the necessity of providing notices when individuals ask to be added to an existing case, and the need to issue notices listing the individual accepted, those denied public benefits, and the reason for the denial, whenever some members of a household are accepted and others are denied due to immigration status.
- (6) An order directing the City to provide all staff that handle eligibility determinations for proposed Class Members with the same training immigrant liaisons receive.

26. The State defendants agree to comply with their obligations pursuant to paragraphs numbered (1) through (4) of page 76 of the Aug. 29, 2006 Order, which paragraphs are hereby set forth as follows:

- (1) An order directing OTDA to add a second date field to WMS so that the date an immigrant became a qualified alien and the date the immigrant entered the country can both be recorded. An order directing the State to issue instructions explaining the use of these fields and clarifying that time accrued in different alien statuses should be added together to determine eligibility for federal food stamps.
- (2) An order directing OTDA to issue clear and comprehensive instructions on how to open cases for aliens directly in WMS, focusing particularly on multi-suffix cases.
- (3) An order directing OTDA to correct 02-INF-40, which on its face is not sufficient to cause SSA to issue a non-work Social Security Number (SSN) to an immigrant who lacks work authorization.
- (4) An order directing the State to revise its training materials so that they accurately and comprehensively explain which immigrants are eligible for Federal Medicaid.

27. For the duration of this Stipulation, City defendant shall refer all public benefits applications, recertifications, and discontinuances based on immigration status of battered qualified aliens and PRUCOL aliens who are members of the Class to the Immigrant Liaisons or workers with equivalent training for the handling of that part of the eligibility determination (including applications and recertifications) that is based on immigration status. For the duration of this Stipulation, City defendant shall refer all applications, recertifications, and discontinuances based on immigration status of lawful permanent residents who have been in that status for less than five years who are members of the Class to workers with training equivalent to that provided to the Immigrant Liaisons for the handling of that part of the eligibility determination (including applications and recertifications) that is based on

immigration status. City defendant shall conduct periodic reinforcement training for front line workers on such referrals.

28. Within sixty (60) days of the Effective Date of this Stipulation, City defendant shall issue a policy directive or bulletin reinforcing the instruction that a true copy of all documents related to immigration status presented by a Class Member, or a person acting on their behalf, to a Job Center in connection with an application for or receipt of Family Assistance, Safety Net Assistance, Federal Medicaid, State Medicaid, and/or Food Stamps shall be included in the Class Member's file through such means as City defendant determines in her discretion are appropriate for such retention including but not limited to scanning, imaging, or copying.

29. City defendant shall maintain an informal relief system established pursuant to paragraph (6) of the Court's Feb. 16, 2006 Order for the duration of this Stipulation ("Informal Relief"). In the case of an applicant for Informal Relief, submission of a document to a Job Center may be demonstrated by presentation of a copy of the document faxed to the Job Center together with a fax confirmation indicating receipt of all pages faxed to the Job Center. Any requests for Informal Relief should be addressed to the attention of M.K.B. v. Eggleston Informal Relief, at the HRA Office of Legal Affairs or such other office that City defendant designates. Plaintiffs and City defendant shall each maintain a single point of contact for the submission and processing of M.K.B. v. Eggleston Informal Relief requests.

30. When Family Assistance or Safety Net Assistance for a Class Member is denied or discontinued at a Job Center based on immigration status, City defendant shall enter a computer code that indicates the denial or discontinuance is based on immigration status and that causes the case to be referred for a separate determination for Medicaid.

**Training**

31. City defendant shall conduct periodic additional training regarding the policy directive or bulletin described in ¶ 28 supra for all personnel at a Job Center who receive documents pertinent to Class Members' eligibility for public benefits.

32. On or before sixty (60) days after the Effective Date of this Stipulation, City defendant shall train one hundred and fifty (150) Immigrant Liaisons. If City defendant's failure to meet the time frame set forth in this paragraph is solely due to the State defendant(s)' failure to take timely action to approve or modify City defendant's materials necessary for training, plaintiffs will not seek relief against City defendant regarding the provisions of this paragraph.

33. On or before sixty (60) days after the Effective Date of this Stipulation, City defendant shall develop appropriate curricula and training on (i) immigrant status recognition and the documentation relevant to the immigrant status, and (ii) eligibility of Class Members for public benefits, including SSN related requirements. City defendant will deliver training on these topics to all staff who handle the part of eligibility determinations (including applications and recertifications) that is based on immigration status for Class Members. The full elements of the curriculum will be incorporated into "new hire" training for all staff who handle the part of eligibility determinations (including applications and recertifications) that is based on immigration status for Class Members. City defendant will conduct periodic reinforcement training on (i) immigrant status recognition and the documentation relevant to the immigrant status, and; (ii) eligibility of Class Members for public benefits, including SSN related requirements. If City defendant's failure to meet the time frame set forth in this paragraph is solely due to the State defendants' failure to take timely action to approve or modify City defendant's materials necessary for training, plaintiffs will not seek relief against City defendant regarding the provisions of this paragraph.

**Retroactive Relief**

34. On or before ninety (90) days after the Effective Date of this Stipulation, City defendant shall identify all Class Members (i) whose application at a Job Center as reflected in computer records concerning them and/or any other Class member in their mandatory filing unit for Family Assistance and/or Safety Net Assistance, and any application for Federal Medicaid, State Medicaid, and/or FAP benefits made in conjunction with an application for Family Assistance and/or Safety Net Assistance, was denied, and/or whose assistance under those programs was discontinued, based on immigration status, between December 13, 2002 and the Effective Date of this Stipulation, or in the case of FAP benefits, whose FAP application was denied or whose FAP benefits were discontinued between December 13, 2002 and September 30, 2005, and (ii) whose application for Food Stamps at a Job Center as reflected in computer records concerning them and/or any other Class member in their mandatory filing unit was denied, and/or whose Food Stamps were discontinued, based on immigration status between December 13, 2004 and the Effective Date of this Stipulation. A Class Member who applied for Food Stamps shall be deemed to have applied for FAP benefits. The list of Class Members identified pursuant to this paragraph shall be generated only by means of an automated retrieval.

35. Within five (5) days of identifying Class Members pursuant to ¶ 34 supra, City defendant shall provide plaintiffs' counsel: (i) a detailed description of the methodology used to identify Class Members pursuant to ¶ 34 supra, including any and all computer codes, such as Alien Citizenship Indicator ("ACI") codes, Reason Denial Codes and/or WMS Error Codes, if any, used, and; (ii) a list of all Class Members identified using the methodology. If plaintiffs dispute the methodology or require more information regarding the methodology, they shall notify the defendants in writing within fourteen (14) days of receipt of the methodology. The parties shall meet and confer within seven (7) business days of plaintiffs' counsel's

notification. If the parties are unable to resolve the dispute, plaintiffs may seek appropriate relief from the Court within ten (10) business days, or such additional period as the parties may agree to. After the list of Class Members is finalized pursuant to this paragraph, City defendant shall promptly provide the list to plaintiffs' counsel and State defendants.

36. On or before forty-five (45) days after the creation of the final list of Class Members pursuant to ¶¶ 34 and 35 supra, City defendant shall identify, from among the Class Members identified pursuant to ¶¶ 34 and 35 supra, those Class Members whose U.S. citizen children were accepted for or receiving Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, and/or State Medicaid at a Job Center, but the Class Member was not accepted for Family Assistance, Safety Net Assistance, Federal Medicaid, and/or State Medicaid based on immigration status. After City defendant finalizes the list of Class Members identified pursuant to this paragraph, City defendant shall promptly provide the list to plaintiffs' counsel and State defendants.

37. If the Class Member identified pursuant to ¶ 36 supra was eligible for Family Assistance or Safety Net Assistance at the time the U.S. citizen child was accepted, and the Class Member is currently in receipt of Family Assistance or Safety Net Assistance, then City defendant will reverse the determination and issue retroactive Family Assistance or Safety Net Assistance in the amount necessary to provide the Class Member with the amount of Family Assistance or Safety Net Assistance that the Class Member would have received but for the failure to accept the Class Member for assistance based on immigration status, but not for any period prior to December 13, 2002. If the Class Member is not currently in receipt of Family Assistance or Safety Net Assistance, or currently remains excluded from the grant providing assistance to her U.S. citizen child(ren), then the procedure in ¶ 49 infra will apply. City

defendant will issue a notice to Class Members informing them of the outcome of the redetermination of their public benefits made pursuant to this paragraph. Copies of these notices are attached as Exhibit B1 and Exhibit B2. A copy of the Insert attached as Exhibit I will be sent with Exhibits B1 and B2. In any review conducted pursuant to this paragraph, City defendant shall determine whether the Class Member identified pursuant to ¶ 36, or any other Class Member(s) in the Mandatory Filing Unit: (i) is eligible for retroactive Food Stamps, and if so, shall issue retroactive Food Stamps back to no earlier than December 13, 2004, and (ii) was eligible for FAP at any time between December 13, 2002 and September 30, 2005, and if so, will provide such Class Member with a payment from non-welfare funds in the amount of fifty percent (50%) of the benefit the Class Member would have received under the FAP program. City defendant will issue a notice to Class Members informing them of the outcome of the FAP review. A copy of this notice is attached as Exhibit C. A copy of the Insert attached as Exhibit I will be sent with Exhibit C.

38. If City defendant determines that a Class Member identified in ¶ 36 is eligible for retroactive Family Assistance or Safety Net Assistance pursuant to ¶ 37, City defendant will determine that the Class Member is eligible to have medical bills for services provided by Medicaid incurred during the retroactive Family Assistance or Safety Net Assistance eligibility period and, if the Class Member is financially eligible, also for the three month period preceding the month of application (collectively “Medicaid Retroactive Period A”), paid through the Medicaid program for Federal Medicaid or State Medicaid, unless City defendant determines that the Class Member: a. received Medicaid during Medicaid Retroactive Period A based on a separate application for Medicaid-only; or b. previously submitted medical bills for reimbursement pursuant to the final order in Aliessa v. Novello, Index No.403748/98 (Sup Ct.,

N.Y. Co.) and the medical bills for which reimbursement is sought in this action were or could have been submitted for reimbursement at the same time the Class Member submitted medical bills for reimbursement pursuant to Aliessa v. Novello. A Class Member eligible for retroactive Family Assistance or Safety Net Assistance pursuant to ¶ 37 who made a subsequent separate application for Medicaid during Medicaid Retroactive Period A that was denied by City defendant's Medical Insurance and Community Service Administration ("MICA") for reasons other than immigration status, is eligible to have medical bills paid through the Medicaid program that were incurred during Medicaid Retroactive Period A until three-months before the month the subsequent separate Medicaid application was denied for reasons other than immigration status. The notice sent to Class Members pursuant to ¶ 37 (Exhibits B1 and B2) shall indicate whether the Class Member has been found eligible to have medical bills for services provided by Medicaid incurred during Medicaid Retroactive Period A paid through the Medicaid program and shall instruct Class Members who may have such medical bills paid by Medicaid how to submit such medical bills to City defendant for payment.

39. If City defendant determines that a Class Member identified in ¶ 36 is not eligible for retroactive Family Assistance or Safety Net Assistance pursuant to ¶ 37, the case shall be referred for a separate determination of Federal Medicaid or State Medicaid using the application date of the citizen child as the application date for Medicaid. If, when making the separate determination, City defendant determines that the Class Member would have been found eligible for Medicaid had a separate determination been made at the time the application of the citizen child for Family Assistance or Safety Net Assistance was accepted, City defendant will determine that the Class Member is eligible to have medical bills for services provided by Medicaid incurred during any period after the application date during which the Class Member is

otherwise eligible and, if the Class Member is financially eligible, also for the three month period preceding the month of application (collectively “Medicaid Retroactive Period B”), paid through the Medicaid program for Federal Medicaid or State Medicaid, unless City defendant determines that the Class Member: (a) received Medicaid during Medicaid Retroactive Period B based on a separate application for Medicaid-only; or (b) previously submitted medical bills for reimbursement pursuant to the final order in Aliessa v. Novello, and the medical bills for which reimbursement is sought in this action were or could have been submitted for reimbursement at the same time the Class Member submitted medical bills for reimbursement pursuant to Aliessa v. Novello. A Class Member who would have been found eligible for Medicaid had a separate determination been made at the time the application of the citizen child for Family Assistance or Safety Net Assistance was accepted, who made a subsequent separate application for Medicaid during Medicaid Retroactive Period B that was denied by MICSA for reasons other than immigration status, is eligible to have medical bills paid through the Medicaid program that were incurred during Medicaid Retroactive Period B until three months before the month the subsequent separate Medicaid application was denied for reasons other than immigration status. City defendant will issue a notice to Class Members whose cases are reviewed under this paragraph which shall indicate whether the Class Member has been found eligible to have bills for services provided by Medicaid incurred during Medicaid retroactive period B paid through the Medicaid program and shall instruct Class Members who may have such bills paid by Medicaid how to submit such bills to City defendant for payment. A copy of this notice is attached as Exhibit D. A copy of the Insert attached as Exhibit I will be sent with Exhibit D.

40. On or before forty-five (45) days after the creation of the final list of Class Members pursuant to ¶¶ 34 and 35 supra, City defendant shall identify, from among the Class

Members identified pursuant to ¶¶ 34 and 35 supra, those Class Members who were battered qualified aliens at the time of application or Lawful Permanent Residents who had been in that status for less than five years at the time of application whose non citizen children (under 18 at any time during the retroactive period) were not accepted for Food Stamps based on immigration status. If the failure to accept those children for Food Stamps was incorrect, City defendant will reverse the determination and issue retroactive Food Stamps in the amount necessary to provide the Class Member with the amount of Food Stamps that the Class Member would have received on behalf of those children but for the failure to accept those children for Food Stamps based on immigration status, but not for any period prior to December 13, 2004. In any review conducted pursuant to this paragraph, City defendant shall determine whether the Class Member, or any other Class member who is part of the Mandatory Filing Unit: (i) is eligible for retroactive Family Assistance or Safety Net Assistance, and if so, shall follow the procedure set forth for the provision of retroactive Family Assistance or Safety Net Assistance set forth in ¶ 37, (ii) if not already reviewed for retroactive Food Stamps pursuant to this paragraph, is eligible for retroactive Food Stamps, and if so, shall issue retroactive Food Stamps back to no earlier than December 13, 2004, (iii) was eligible for FAP at any time between December 13, 2002 and September 30, 2005, and if so, will provide such Class Member with a payment from non-welfare funds in the amount of fifty percent (50%) of the benefit the Class Member would have received under the FAP program and (iv) is eligible for retroactive Medicaid in accordance with the procedures set forth in ¶¶ 38 and 39. City defendant will issue a notice to Class Members informing them of the outcome of the redetermination of their public benefits made pursuant to this paragraph, copies of which are attached as Exhibits B1, B2 and C. After City defendant

finalizes the list of Class Members identified pursuant to this paragraph, City defendant shall promptly provide the list to plaintiffs' counsel and State defendants.

41. For all Class Members identified pursuant to ¶¶ 36 and 40 supra, City defendant shall determine whether (i) their case files contain immigration documentation demonstrating I-130, K or V visa status; or (ii) their case files do not contain immigration documentation sufficient to determine whether the Class Member may be eligible for retroactive assistance pursuant to ¶¶ 37 and 40 supra; or (iii) their case files do not contain financial information sufficient to determine the amount of retroactive payments, if any, for which the Class Member may be eligible pursuant to ¶¶ 37 and 40 supra. For each such Class Member, City defendant shall send a notice to all Class Members, attached hereto as Exhibit E, informing Class Members of their opportunity to prove their eligibility for retroactive relief or payments. City defendant will schedule an appointment for such Class Members in connection with redeterminations pursuant to this paragraph. A copy of the Insert attached as Exhibit I will be sent with Exhibit E. If the Class Member does not attend this appointment or reschedule it, the Class Member shall be entitled to receive retroactive benefits based only on information contained in the case file. City defendant shall complete any redetermination pursuant to this paragraph within ninety (90) days of the date of the appointment or the date the Class Member submits all necessary documents, whichever is later. All determinations made pursuant to ¶¶ 37-40 shall be completed within twenty-one (21) months of the identification of Class Members pursuant to ¶¶ 36 and 40.

42. City defendant will issue a notice, a copy of which is attached hereto as Exhibit F, based on a schedule of mailing one twelfth of the total number of Exhibit F notices every thirty (30) days, beginning six months after Class Members are identified pursuant to ¶¶ 36

and 40 supra. A copy of the Insert attached as Exhibit I will be sent with Exhibit F. City defendant will send Exhibit F to all Class Members identified pursuant to ¶¶ 34 and 35, who are not identified pursuant to ¶¶ 36, 40 and 45. Such notice will inform them of their right to request a redetermination of their eligibility for Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, and/or State Medicaid. The deadline for Class Members to request such a redetermination shall be one (1) year from the date of the mailing of the Class Member's Exhibit F notice. City defendant will issue a notice, attached hereto as Exhibit G, to all Class Members who timely request a redetermination in response to Exhibit F. A copy of the Insert attached as Exhibit I will be sent with Exhibit G. A Class Member who timely requests such a redetermination in response to the Exhibit F notice must attend an appointment in connection with such redetermination as required by City defendant. If the Class Member does not attend this appointment or attend any rescheduled appointment, the Class Member shall not be entitled to receive retroactive benefits pursuant to this Stipulation. City defendant shall complete any redetermination requested by a Class Member pursuant to this paragraph within ninety (90) days of the date the redetermination is requested or the date the Class Member submitted all necessary documents, whichever is later. If it is determined that the Class Member's application for Family Assistance or Safety Net Assistance was erroneously denied, or such benefits were erroneously discontinued, based on immigration status, and the Class Member is currently in receipt of such benefits, City defendant will reverse the determination and issue retroactive benefits in the amount necessary to provide the Class Member with the amount of benefits that the Class Member would have received but for the erroneous denial or discontinuance based on immigration status, but not for any period prior to December 13, 2002. If it is determined that the Class Member's application for Food Stamps was erroneously denied, or such benefits were

erroneously discontinued, based on immigration status, City defendant will reverse the determination and issue retroactive Food Stamps in the amount necessary to provide the Class Member with the amount of Food Stamps the Class Member would have received but for the erroneous denial or discontinuance based on immigration status, but not for any period prior to December 13, 2004. City defendant shall apply the provisions of ¶¶ 43 and 44 infra, when considering the eligibility for Federal Medicaid or State Medicaid of Class Members who respond to the Exhibit F notice. If the Class Member is not currently in receipt of Family Assistance or Safety Net Assistance, then the procedure in ¶ 49 infra will apply. City defendant will issue a notice to Class Members informing them of the outcome of the redetermination of their public benefits made pursuant to this paragraph. Copies of these notices are attached as Exhibits B1 and B2.

43. If City defendant determines that a Class Member who responds to the Exhibit F notice is eligible for retroactive Family Assistance or Safety Net Assistance, City defendant will determine that the Class Member is eligible to have medical bills for services provided by Medicaid incurred during the retroactive Family Assistance or Safety Net Assistance eligibility period and, if the Class Member is financially eligible, also for the three-month period preceding the month of application (collectively “Medicaid Retroactive Period C”), paid through the Medicaid program for federal Medicaid or state Medicaid, unless City defendant determines that the Class Member: (a) received Medicaid during Medicaid Retroactive Period C based on a separate application for Medicaid-only; or (b) previously submitted medical bills for reimbursement pursuant to the final order in Aliessa v. Novello, and the medical bills for which reimbursement is sought in this action were or could have been submitted for reimbursement at the same time the Class Member submitted medical bills for reimbursement pursuant to Aliessa

v. Novello. A Class Member eligible for retroactive Family Assistance or Safety Net Assistance pursuant to the review authorized by ¶ 42 who made a subsequent separate application for Medicaid during Medicaid Retroactive Period C that was denied by MICA for reasons other than immigration status, is eligible to have medical bills paid through the Medicaid program that were incurred during Medicaid Retroactive Period C until three months before the month the subsequent separate Medicaid application was denied for reasons other than immigration status. The notice sent to Class Members pursuant to ¶ 42 (Exhibits B1 and B2) shall indicate whether the Class Member has been found eligible to have medical bills for services provided by Medicaid incurred during Medicaid Retroactive Period C paid through the Medicaid program and shall instruct Class Members who may have such medical bills paid by Medicaid how to submit such medical bills to City defendant for payment.

44. If City defendant determines that a Class Member who responds to the Exhibit F notice is not eligible for retroactive Family Assistance or Safety Net Assistance, the case shall be referred for a separate determination of federal Medicaid or state Medicaid using the date the Class Member applied at a Job Center for public benefits as the application date for Medicaid. If the notice after the review described in ¶ 42, supra, (Exhibits B1 and B2) informs the recipient that after review no other public benefits are being provided to the recipient, the notice shall inform the recipient that a separate review of the Class Member's retroactive Medicaid eligibility will be made by City defendant. If, when making the separate determination, City defendant determines that the Class Member would have been found eligible for Medicaid had a separate determination of Medicaid eligibility been made at the time the Job Center application for other public benefits was denied, City defendant will determine that the Class Member is eligible to have medical bills for services provided by Medicaid incurred during

any period after the Class Member's application date during which the Class Member is otherwise eligible for Medicaid and, if the Class Member is financially eligible for Medicaid, also for the three-month period preceding the month of application (collectively "Medicaid Retroactive Period D"), paid through the Medicaid program for federal Medicaid or state Medicaid, unless City defendant determines that the Class Member: (a) received Medicaid during Medicaid Retroactive Period D based on a separate application for Medicaid-only; or (b) previously submitted medical bills for reimbursement pursuant to the final order in Aliessa v. Novello, and the medical bills for which reimbursement is sought in this action were or could have been submitted for reimbursement at the same time the Class Member submitted medical bills for reimbursement pursuant to Aliessa v. Novello. A Class Member who would have been found eligible for Medicaid had a separate determination been made at the time the Job Center application for other public benefits was denied, who made a subsequent separate application for Medicaid during Medicaid Retroactive Period D that was denied by MICA for reasons other than immigration status, is eligible to have medical bills paid through the Medicaid program that were incurred during Medicaid Retroactive Period D until three-months before the month the subsequent separate Medicaid application was denied for reasons other than immigration status. City defendant will issue a notice to Class Members whose cases are reviewed under this paragraph which shall indicate whether the Class Member has been found eligible to have bills for services provided by Medicaid incurred during Medicaid Retroactive Period D paid through the Medicaid program and shall instruct Class Members who may have such bills paid by Medicaid how to submit such bills to City defendant for payment. A copy of this notice is attached as Exhibit D. A copy of the Insert attached as Exhibit I will be sent with Exhibit D.

45. From among all Class Members identified pursuant to ¶ 34 and 35 supra, City defendant shall identify all battered qualified aliens, and lawful permanent residents who were 60 years of age or older when they applied for assistance, who received Family Assistance, Safety Net Assistance, Federal Medicaid, or State Medicaid between December 13, 2002 and September 30, 2005, but who did not receive Food Stamps or state food assistance benefits during that same period. City defendant shall send the Exhibit H notice on the same schedule as the Exhibit F notice is provided pursuant to ¶ 42 supra, to all Class Members identified pursuant to this paragraph. A copy of the Insert attached as Exhibit I will be sent with Exhibit H. The deadline for Class Members to request a redetermination of their benefits shall be one (1) year from the date of the mailing of the Class Member's Exhibit H notice. City defendant will issue a notice, attached hereto as Exhibit G, to all Class Members who timely request a redetermination in response to Exhibit H. A Class Member who timely requests such a redetermination in response to the Exhibit H notice must attend an appointment in connection with such redetermination as required by City defendant. If the Class Member does not attend this appointment or attend any rescheduled appointment, the Class Member shall not be entitled to receive retroactive benefits pursuant to this Stipulation. City defendant will review the eligibility of all Class Members who timely respond for retroactive Family Assistance, Safety Net Assistance, Food Stamps and for a payment in the amount of fifty percent (50%) of the benefit the Class Member would have received under the FAP program. City defendant will also review the eligibility of all Class Members who timely respond for retroactive Federal and State Medicaid in accordance with the procedures set forth in ¶¶ 43 and 44. City defendant shall complete any redetermination requested by a Class Member pursuant to this paragraph within ninety (90) days of the date the redetermination is requested or the date the Class Member

submitted all necessary documents, whichever is later. If it determined that the Class Member is eligible for retroactive Family Assistance, Safety Net Assistance, Federal Medicaid, State Medicaid or Food Stamps, City defendant shall issue such retroactive benefits in the amount the Class Member would have received but for any erroneous denial or discontinuance based on immigration status. If a Class Member who timely responds to the Exhibit H notice is determined to have been eligible for FAP benefits during the retroactive period, but did not receive FAP benefits based on immigration status, City defendant will provide such Class Member with a payment from non-welfare funds in the amount of fifty percent (50%) of the benefit the Class Member would have received under the FAP program, but not for any period prior to December 13, 2002. City defendant will issue a notice to Class Members informing them of the outcome of the redetermination of their benefits made pursuant to this paragraph. Copies of these notices are attached as Exhibits B1, B2 and C. After City defendant finalizes the list of Class Members identified pursuant to this paragraph, City defendant shall promptly provide the list to plaintiffs' counsel.

46. If any notice mailed to a Class Member pursuant to ¶¶ 37-45 supra is returned as undeliverable, City defendant shall retain a "People Locator" service for the purpose of finding a current address for that Class Member. City defendant shall mail a second notice to any Class Member for whom the People Locator provides a different address.

47. All eligibility determinations made by HRA Family Independence Administration pursuant to ¶¶ 37-45 supra shall be performed by personnel with training equivalent to that of an Immigrant Liaison. Starting thirty (30) days after City defendant begins making retroactive determinations pursuant to this Stipulation, and every thirty (30) days thereafter, City defendant will provide plaintiffs' counsel with a copy of all such determinations

made during the relevant thirty day period. A Class Member who is denied retroactive relief for Family Assistance, Safety Net Assistance, Medicaid and/or Food Stamps, or who disputes the amount of such relief or payment may challenge the determination in a fair hearing. A Class Member who is denied a retroactive payment in lieu of State Food Assistance Program benefits, or who disputes the amount of such payment may challenge the determination by seeking informal relief through the M.K.B. v Eggleston Informal Relief process (supra ¶ 29.) The informal relief determination is a final determination by City defendant but is not reviewable in a fair hearing.

48. For the purpose of eligibility determinations made pursuant to ¶¶ 37-45 supra the following shall apply:

- a. Any Class Member, whose application was not completed and/or for whom all necessary documentation was not copied or scanned into POS at the time of application, will be given an opportunity to provide information and/or documentation proving his or her eligibility as of the date of the original application or discontinuance.
- b. Class Members will not be required to come into a Job Center to resubmit information if that information is already contained within POS or otherwise in their public benefits case file.
- c. If a Class Member is required to attend an appointment in connection with the determination of his or her eligibility for or receipt of retroactive benefits, the Class Member will be given an appointment date and an opportunity to reschedule the appointment. If the Class Member does not attend the appointment or reschedule it, then City defendant will make a determination of eligibility for retroactive benefits based on information contained in the Class Member's case file.

d. City defendant will determine a Class Member's eligibility for retroactive relief based on eligibility rules applicable during the period for which the retroactive relief is determined.

49. For Class Members who have been determined eligible for retroactive Family Assistance or Safety Net Assistance pursuant to ¶¶ 37, 40, 41, 42 or 45 supra, and who, as of the date of the retroactive determination: (i) do not have an active Family Assistance or Safety Net Assistance case, or (ii) are not on the active assistance case of their citizen children, the following procedures will apply:

a. If the Class Member did not previously receive public benefits:

(i) If the Class Member seeks ongoing Family Assistance or Safety Net Assistance benefits as well as retroactive benefits, City defendant will conduct a complete application process. If the Class Member is found currently eligible for Family Assistance or Safety Net Assistance benefits, the Class Member shall be paid ongoing and retroactive benefits. If the Class Member is found not currently eligible, an underpayment correction credit shall be issued. Such underpayment correction credit shall be usable if and when the Class Member is found eligible for Family Assistance or Safety Net Assistance in the future. City defendant shall keep a computerized record of any underpayment correction credit issued pursuant to this Stipulation.

(ii) If the Class Member does not attend the appointment or attend on any rescheduled date, or does not seek ongoing Family Assistance or Safety Net Assistance benefits, an underpayment correction credit shall be issued. Such underpayment correction credit shall be usable if and when the Class

Member is found eligible for Family Assistance or Safety Net Assistance in the future.

b. If the Class Member previously received Family Assistance or Safety Net Assistance benefits:

(i) If the Class Member seeks only retroactive relief, City defendant will only verify information relevant to current financial eligibility for Family Assistance or Safety Net Assistance benefits. Such Class Members will not be required to re-verify items already on file, and will not be required to participate in orientation or other “up front” activities (except finger imaging for purposes of verifying identity). If found currently financially eligible, the Class Member will be paid the retroactive relief or payment. If the Class Member is found not currently financially eligible, an underpayment correction credit shall be issued. Such underpayment correction credit shall be usable if and when the Class Member is found eligible for Family Assistance or Safety Net Assistance in the future.

(ii) If the Class Member seeks ongoing Family Assistance or Safety Net Assistance benefits as well as retroactive benefits, City defendant will conduct a complete application process. If the Class Member is found currently eligible for Family Assistance or Safety Net Assistance benefits, the Class Member shall be paid ongoing and retroactive benefits. If found not currently eligible, an underpayment correction credit shall be issued. Such underpayment correction credit shall be usable if and when the Class Member is found eligible for Family Assistance or Safety Net Assistance in the future.

c. As of the date of the determination made pursuant to ¶¶ 37, 40, 41, 42 or 45 supra, if the children or sibling of the Class Member have an active Family Assistance or Safety Net Assistance case but the Class Member is currently not on the case, the Class Member shall be added to the active case and retroactive relief shall be provided in the amount necessary to provide the household with the amount of Family Assistance or Safety Net Assistance that the household would have received but for the failure to include the Class Member in the assistance unit, but not for any period prior to December 13, 2002.

#### **City Monitoring and Quality Assurance**

50. For purposes of this Stipulation, the term “the A Period” shall refer to the first six months of each year starting on the Effective Date of this Stipulation. The term “the B Period” shall refer to the second six months of each year after the Effective Date of this Stipulation.

51. Semiannually, City defendant will review a random sample of 150 public benefits cases drawn as described below. The first semiannual review shall be drawn from applications and undercare cases, including requests to be added to existing cases, filed at Job Centers during the A Period of each year; the second semiannual review shall be drawn from applications and undercare cases, including requests to be added to existing cases, filed at Job Centers during the B Period of each year.

a. 50 applications on which a final determination was made during the relevant period to a Job Center in which at least one household member was assigned an Alien Citizenship Indicator (“ACI”) code of (1) B (Battered Qualified Alien), (2) O (PRUCOL), (3) K or S (LPR) who has under five years of qualifying status, or (4) Blank, E, or 9.

b. 50 undercare cases in which at least one household member is assigned an ACI code of (1) B (Battered Qualified Alien), (2) O (PRUCOL), (3) K or S (LPR), or (4) Blank, E, or 9, in which an action to discontinue or reduce Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, or State Medicaid was made during the relevant period at a Job Center based on codes indicating that the determination was based on the immigration status (excluding codes relating to SSN issues). All parties will meet and confer regarding the codes to be used pursuant to this paragraph.

c. 25 undercare cases (not included among the 50 undercare cases in ¶ 51(b) supra) in which an action to discontinue, or reduce Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, or State Medicaid was made during the relevant period at a Job Center based on the failure to furnish a Social Security number (SSN) regarding a household member who was assigned an ACI code of (1) B (Battered Qualified Alien), (2) O (PRUCOL), (3) K or S (LPR), or (4) Blank, E, or 9.

d. 25 applications (not included among the 50 applications in ¶ 51(a) supra) in which at least one household member was assigned an ACI code of (1) B (Battered Qualified Alien), (2) O (PRUCOL), (3) K or S (LPR) who also has under five years of qualifying status, (4) Blank, E, or 9, in which a determination to deny both Family Assistance and Safety Net Assistance was made during the relevant period at a Job Center based on codes indicating that the determination was based on immigration status that trigger a separate determination for Medicaid. All parties will meet and confer regarding the codes to be used pursuant to this paragraph.

e. The strata will be defined, if feasible, by a two-way classification according to (1) status of the application (e.g., denied vs. accepted, denied for certain codes or not, denied for given types of benefits or not denied), and (2) four Alien Citizenship Indicators, grouped as identified above as (1) through (4).

52. For each application and undercare case action reviewed pursuant to ¶ 51 supra, City defendant will determine, based on all documents in the case file at the time of each determination:

- a. whether each Class Member in the household was eligible for Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, or State Medicaid at the time of the determination based on immigration status;
- b. whether each Class Member in the household was accepted or denied for Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, or State Medicaid at the time of the determination based on immigration status;
- c. whether, in the case of applications for Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, and/or State Medicaid, the provision of benefits was delayed beyond the statutory time frame for making a decision on the person's application, denied, or not accepted because the case "errored out" in WMS.
- d. in the case of actions based on failure to furnish a SSN, whether the Class Member was required to furnish a SSN as a condition of receiving the benefits that were denied, discontinued, or reduced at the time of the determination; and if so, whether the Class Member was furnished a letter that complies with ¶ 23 supra and was provided with assistance in applying for a SSN as required by this Stipulation.

e. whether adequate notice of the acceptance, denial, discontinuance and/or reduction of Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, or State Medicaid was provided in the manner required by this stipulation and within the time frames required by law for each determination.

53. If City defendant determines that an error based on immigration status was made in a case reviewed, it shall correct the error within 15 days. An “error type” refers to an error occurring within one of the strata defined in ¶ 51. If City defendant determines that the same type of error based on immigration status occurred in three or more cases reviewed during a Period, then it shall conduct reinforcement training in the affected Job Centers and/or, if necessary, shall correct any policy or procedure responsible in whole or in part for the errors. If City defendant’s position is that the error is caused by a policy or procedure of the State defendants, City defendant will notify State defendants and plaintiffs. If the State defendant in receipt of such a request agrees with City defendant, the State defendant shall modify its policy.

#### **City Reporting**

54. Within 90 days after the end of each Period, except for the last report which shall be due 60 days after the end of the final Period, City defendant shall report the results of the reviews and determinations made pursuant to ¶¶ 51, 52 and 56 to plaintiffs’ counsel. The reports shall include identification of all cases reviewed pursuant to ¶ 51 supra, and for each case, all information determined pursuant to ¶ 52 supra.

55. Upon reasonable notice, City defendant will make the files reviewed by City defendant pursuant to ¶¶ 51-52 available for inspection by plaintiffs’ counsel, including but not limited to: WMS Budget Print outs, WMS Benefits History Screens, NYCWAY screens, POS screens relevant to immigration status, POS case comments, and Application Print Outs.

56. As set forth in ¶ 54, City defendant shall submit a report to plaintiffs' counsel indicating:

- a. the total number of applications or cases in each of the categories (a) through (d) in ¶ 51 supra, broken down by Job Center and by ACI Code;
- b. the total number of applications in category (a) in ¶ 51 supra, in which the application was one made to add a Class Member to an existing Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, or State Medicaid case, broken down by Job Center and by ACI Code;
- c. the total number of applications in category (d) in ¶ 51 supra, in which the application was accepted and denied for Medicaid based on immigration status.
- d. the total number of active undercare cases in which one household member is assigned an Alien Citizenship Indicator ("ACI") code of B (Battered Qualified Alien), O (PRUCOL), K or S (LPR), or Blank, as of the last date of the relevant period.

57. Upon reasonable written notice by plaintiffs, within 30 days after the receipt of each semi-annual report, the plaintiffs may request a randomly drawn sample of a total of 15 applications and 15 undercare cases (occurring only at Job Centers) in which one or more household members have an ACI code of A, E, F, G, H, J, M, N, R, T, or V, for the purpose of evaluating whether such persons are Class Members in this action. After the first report is provided, or such other period as the parties may agree to, the parties will negotiate a threshold number of such misclassified persons that will require reinforcement training regarding the proper use of the ACI codes.

58. After drawing the cases as described in ¶ 51 supra, City defendant shall run the case numbers against the data contained in the Fair Hearing Information System ("FHIS"). If

a fair hearing was requested, or a decision after fair hearing was rendered during the A Period or B Period being reviewed, City defendant will discard that case and draw another case of the same type so that the universe of cases consists of cases with no fair hearing requests or decisions pending or decisions after fair hearings rendered equal to the numbers in the four categories listed in ¶ 51(a)-(d).

59. City defendant shall inform counsel for all parties about the cases excluded from the list of cases reviewed pursuant to ¶ 58 supra, including the case number, fair hearing number, and sufficient identifying information to allow plaintiffs' counsel to investigate the case and pursue remedies as plaintiffs' counsel deems appropriate. At the same time City defendant reports pursuant to ¶ 54 infra, City defendant shall provide plaintiffs' counsel with the complete case files, including all information referred to in ¶ 55, of all cases excluded from the sample pursuant to ¶ 58.

#### **State Monitoring and Quality Assurance**

60. Semiannually, OTDA shall review one out of every four cases reviewed by City defendant, up to a maximum of 37 cases, during the A Period and the B Period, respectively, pursuant to ¶ 51 supra. An "independently" determined review is one that is conducted de novo and in which the state reviewer does not have access to the result of City defendant's monitoring determinations pursuant to ¶¶ 52 and 53. For each case reviewed, OTDA shall determine, independently of City defendant, whether any member of the applicant household should have been categorized as a recipient of Family Assistance or Food Stamps. OTDA shall review whether persons to whom City defendant furnished Safety Net Assistance should have received ACI codes B, K or S. If OTDA determines that an error was made in a case reviewed and City defendant has not corrected the error, then it shall issue a directive to City defendant requiring City defendant to correct the identified error within fifteen (15)

business days after receipt of the directive from OTDA. If OTDA determines that a policy of City defendant may have led to the errors found in cases reviewed by OTDA, OTDA shall notify City defendant of its determination and shall direct City defendant to take corrective action. If, upon receipt of such a directive, City defendant believes that a policy of OTDA governing the administration of Family Assistance or Food Stamps results in the error, City defendant shall notify OTDA of its belief, and if OTDA agrees with City defendant, OTDA shall modify its policy. If OTDA determines that the same type of errors occurred in three or more cases reviewed during a Period, then OTDA shall determine whether City defendant has conducted reinforcement training in the affected Job Centers and/or, if necessary, whether City defendant has corrected any policy or procedure responsible in whole or in part for the errors. If City defendant has not undertaken such actions, then OTDA shall direct City defendant to conduct reinforcement training in the affected Job Centers and/or, if necessary, to correct any policy or procedure responsible in whole or in part for the errors.

61. Semiannually, SDOH shall review 15 applications made by Class Members and reviewed by City defendant pursuant to ¶ 51(d) in which a determination to deny Family Assistance or Safety Net Assistance was made at a Job Center during the A Period or the B Period based on a reason code indicating that the determination was based on immigration status, and where the application was subsequently referred for separate determination of Medicaid eligibility. For each application reviewed, SDOH shall determine, independently of City defendant, whether any member of the applicant household should have been categorized as a recipient of federally participating Medicaid, or a recipient of State-funded Medicaid with ACI codes of B, K or S. (See earlier definition of “independently.”) If SDOH determines that a policy of City defendant may have led to the errors found in cases reviewed by SDOH, SDOH

shall notify City defendant of its determination and shall direct City defendant to take corrective action. If, upon receipt of such a directive, City defendant believes that a policy of SDOH governing the administration of Federal Medicaid results in the error, City defendant shall notify SDOH of its belief and if SDOH agrees with City defendant, SDOH shall modify its policy. If SDOH determines that an error was made in a case reviewed and City defendant has not corrected the error, then it shall issue a directive to City defendant requiring City defendant to correct the error within 15 business days. If SDOH determines that the same type of error occurred in three or more cases reviewed during a Period, then SDOH shall determine whether City defendant has conducted necessary reinforcement training and/or, if necessary, whether City defendant has corrected any policy or procedure responsible in whole or in part for the errors. If City defendant has not undertaken such actions, then SDOH shall direct City defendant to conduct reinforcement training and, if necessary, to correct any policy or procedure responsible in whole or in part for the errors.

62. City defendant shall provide State defendants with access to the information maintained on POS and the POS viewer connected to the case files drawn pursuant to ¶ 51 and copies of documents not scanned into POS but which are considered part of those case files, at State defendants' New York City Offices for the purpose of State defendants' conducting the reviews required by ¶¶ 60-61 within five (5) business days of the completion of the drawing of the sample in each six month sample period.

63. Within ninety (90) days after the end of each Period, with the exception of the last report which shall be due 60 days after the end of the final period, State defendants shall report the results of the reviews and determinations made pursuant to ¶¶ 60-61 supra to plaintiffs' counsel.

64. Plaintiff's counsel shall protect the confidentiality of all identifying information (such as name, address, case number and SSN) concerning an individual Class Member that is provided to plaintiffs' counsel by defendants under the terms of this Stipulation and shall not disclose such information to any individual, or organization other than defendants and the individual whose case is involved, except to the extent necessary to enforce any right that individual Class Member may have under this Stipulation.

**Other Provisions**

65. During the term of this Stipulation, prior to taking any action against defendants based on alleged non-compliance with the provisions of this Stipulation, plaintiffs' counsel shall notify defendants' counsel in writing of the specific basis and evidence for the claim of non-compliance. Within thirty (30) days of such notice, counsel for the parties shall meet and confer in an attempt to resolve any differences or disputes arising from or out of the Stipulation. At the end of that 30-day period, plaintiffs may, if necessary, take steps to enforce and/or modify this Stipulation. Defendants may oppose.

66. The Court shall retain jurisdiction over this matter against City defendant solely for purposes of modification and enforcement of this Stipulation until four years after its Effective Date, except as set forth in ¶¶ 68 and 70 *infra*, at which time the Court's jurisdiction over City defendant shall end and City defendant's obligations under this Stipulation shall terminate.

67. The Court shall retain jurisdiction over this matter against State defendants solely for purposes of modification and enforcement of this Stipulation until thirty-one months (31) past the date the second monitoring reports by State defendants are due pursuant to ¶ 63, except as set forth in ¶¶ 69 and 70 *infra*, at which time the Court's jurisdiction over the State defendants shall end and State defendants' obligations under this Stipulation shall terminate.

68. Plaintiffs may, by motion filed no later than two (2) months prior to termination of this Stipulation as against City defendant, seek an order extending the term of this Stipulation, based upon City defendant's alleged non-compliance with its provision(s). Plaintiffs will notify the defendants in writing of their intention to make such a motion at least twenty (20) days prior to making the motion. In any motion to extend the term of this Stipulation, plaintiffs shall bear the burden of establishing that the alleged noncompliance is not minimal and isolated, but is sufficiently frequent or widespread as to be systemic. In any motion to extend the term or modify the provision(s) of this Stipulation, no party shall rely on the first set of reports provided pursuant to ¶¶ 54 and 63. If the Court determines that there has been a systemic failure by City defendant to comply with the provision(s) of the Stipulation, it may extend the Stipulation for an additional period as against City defendant to be determined by the Court in accordance with ¶ 70. In the event that plaintiffs move to seek an order extending the jurisdiction of the Court, the jurisdiction shall not lapse and this Stipulation shall remain in full force and effect until such motion has been decided.

69. Plaintiffs may, by motion filed prior to the termination of this Stipulation, seek an order extending the term of this Stipulation as against either State defendant based on that individual State defendant's alleged non-compliance with the Stipulation's provisions or extending the term of the Stipulation as against both State defendants, based upon both State defendants' alleged non-compliance with the provisions of the Stipulation. Plaintiffs will notify the defendants in writing of their intention to make such a motion at least twenty (20) days prior to making the motion. In any motion to extend the term of this Stipulation, plaintiffs shall bear the burden of establishing that the alleged noncompliance is not minimal and isolated, but is sufficiently frequent or widespread as to be systemic. In any motion to extend the term or

modify the provision(s) of this Stipulation, no party shall rely on the first set of reports provided pursuant to ¶¶ 54 and 63. If the Court determines that there has been a systemic failure to comply with the provision(s) of the Stipulation, it may extend the Stipulation for an additional period to be determined by the Court. In the event that plaintiffs move to seek an order extending the jurisdiction of the Court, the jurisdiction shall not lapse and this Stipulation shall remain in full force and effect against either or both State defendant(s) until such motion has been decided. In the event that plaintiffs make a motion to extend pursuant to ¶ 68 to extend jurisdiction against City defendant based upon conduct related to the provision of Family Assistance, Federal Medicaid and/or Food Stamps required to be monitored by either or both State defendant(s) pursuant to this Stipulation, plaintiffs may move the Court for an order extending jurisdiction against the State defendant(s) responsible for monitoring such conduct pursuant to this Stipulation.

70. In the event that plaintiffs seek further extensions of the Stipulation as against City defendant, the provisions of ¶ 68 shall apply to each extension against City defendant, provided, however, that the total duration of the Stipulation shall not exceed seven years. In the event that plaintiffs seek further extensions of the Stipulation as against State defendants, the provisions of ¶ 69 shall apply to each extension against State defendant, provided, however, that the total duration of the Stipulation shall not exceed seven years. Any motion for an extension of the Stipulation against State defendants shall be based on a systemic failure by City defendant to provide Family Assistance, Food Stamps, or Federal Medicaid to Class Members, or a systemic failure to provide adequate and timely notice regarding Family Assistance, Safety Net Assistance, Food Stamps, Federal Medicaid, or State Medicaid to Class Members. In such event, the motion shall be made two (2) months before the end of the extension period. Any additional

extensions shall be for a period to be determined by the Court, but the total duration of the Stipulation, including all extensions, shall not exceed seven years. Nothing herein shall preclude the plaintiffs from moving for an award of attorney's fees and costs in connection with enforcing or extending the term(s) of the Judgment.

71. In the event that the State defendants comply with the injunctive provisions of the Court's Orders of August 29, 2006, and fully and timely fulfill their obligations regarding Monitoring and Quality Assurance set forth in ¶¶ 60 and 61 supra, including promptly issuing corrective action orders to City defendant when violations of this Stipulation are found, then the plaintiffs will not seek to hold State defendants responsible for any violations by City defendant of the terms of this Stipulation. In the event of such violations by City defendant, nothing in this paragraph shall prohibit the plaintiffs from seeking additional relief against State and City defendants regarding Monitoring and Quality Assurance as may be necessary to remedy violations of this Stipulation, provided, however, that the total number of cases reviewed as part of Monitoring and Quality Assurance by City and State defendants shall not exceed the number set forth in this Stipulation.

72. In the event of any change in federal or state law that any party believes changes his or her responsibilities pursuant to this Stipulation, such party shall so notify all other parties and the parties shall attempt to come to an agreement as to any modifications of the Stipulation that are warranted by the changes in federal or state law. If, after thirty (30) days, the parties have not been able to agree, the dispute shall be submitted to the Court. If any defendant seeks to modify its responsibilities based on a change in federal or state statutory law or federal regulation, in order to stay the proposed modification plaintiffs shall seek relief from the Court. If any defendant seeks to modify its responsibilities based on a change in state regulation not

required by Federal statute or regulation or state statute, the defendant must seek approval of the Court to implement the proposed modification. Any application to the Court with respect to alleged changes in law shall be made pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. When plaintiffs have sought to prevent or modify implementation of the proposed change, City defendant will not implement the proposed modification until plaintiffs' application has been decided by the District Court, or one hundred and twenty (120) days after the application was filed, whichever is sooner. The filing by plaintiffs of an appeal of an adverse decision shall not operate as a stay of the defendant's right to implement the proposed modification without further order of the District Court or the Court of Appeals.

73. Upon the Court's approval of this Stipulation as fair, reasonable and adequate, plaintiffs, individually and on behalf of each member of the Class, and on behalf of the respective heirs, executors, administrators, personal representatives, successors and assigns of each of themselves and each of the members of the Class (the "Releasers"), hereby jointly and severally release and forever discharge, on the merits with prejudice, City defendant, the City of New York, including without limitations its past and present officials, employees, departments, agencies, representatives, directors and agents, their successors and assigns and their respective heirs, executors, administrators, personal representative, and transferees and each of them, and the State defendants, the State of New York, including without limitations its past and present officials, employees, departments, agencies, representatives, directors and agents, their successors and assigns and their respective heirs, executors, administrators, personal representatives, and transferees and each of them (collectively the "Releasees"), from any and all claims, actions, costs, expenses and attorneys' and expert fees whether known or unknown, foreseen or unforeseen, matured or unmatured, accrued or not accrued, direct or indirect, from

the beginning of time through the date the Court “so orders” this Stipulation that the individual plaintiffs and the members of the Class, and each of them, ever had, now has or have, or can, shall or may hereafter have against the Releasees or any of them, either alone or in any combination with others, for, by reason of, involving, concerning, arising from or in any way relating to any claim which has been raised, or any claim fairly encompassed in the named, individual plaintiffs’ claims or the claims of the Class that could have been raised based upon the facts, acts or omissions alleged against the Releasees in the complaint filed in this action. Nothing herein releases the defendants from complying with the terms of this Stipulation.

74. If any of the dates or periods of time described in this Stipulation fall or end on a public holiday or on a weekend, the date or period of time shall be extended to the next business day.

75. Nothing contained herein shall be deemed to be an admission by City defendant, the City of New York, HRA, or State defendants, State of New York, SDOH and OTDA, of liability or of the truth of any of the allegations set forth in the complaint, or that they have in any manner or way violated plaintiffs’ rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, the City of New York, or any other rules, regulations or bylaws of any department or subdivision of the City of New York or of the State of New York.

76. This Stipulation contains all of the terms and conditions agreed upon by the parties and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation regarding the subject matter of the Stipulation shall be deemed to exist, or to bind the parties or to vary the terms and conditions contained herein.

77. Each of the undersigned represents that he or she has been duly authorized to enter into this Stipulation.

78. All parties to this Stipulation have participated in its drafting; consequently, any ambiguity shall not be construed for or against any party.

79. All correspondence concerning this Stipulation should be sent to the following (or to such other address as the recipient named below shall specify by notice in writing hereunder):

To City defendant:

David Lock  
Deputy General Counsel  
HRA Office of Legal Affairs  
180 Water Street, 17<sup>th</sup> Floor  
New York, NY 10038  
Email: [lockd@hra.nyc.gov](mailto:lockd@hra.nyc.gov)

Jane Tobey Momo  
Jesse Levine  
Corporation Counsel of the  
City of New York  
100 Church Street, Room 2-192  
New York, New York 10007  
(212) 788-1281  
Email: [jmomo@law.nyc.gov](mailto:jmomo@law.nyc.gov)  
[jlevine@law.nyc.gov](mailto:jlevine@law.nyc.gov)

To the State defendants:

Robert L. Kraft  
Ivan B. Rubin  
Assistant Attorneys General  
Office of the Attorney General  
120 Broadway, 24<sup>th</sup> Floor  
New York, New York 10271  
Email: [robert.kraft@oag.state.ny.us](mailto:robert.kraft@oag.state.ny.us)  
[ivan.rubin@oag.state.ny.us](mailto:ivan.rubin@oag.state.ny.us)

John DiBari, Esq.  
Associate Attorney

Office of Temporary and Disability Assistance  
40 North Pearl Street  
Albany, New York 12243  
Email: [john.dibari@otda.state.ny.us](mailto:john.dibari@otda.state.ny.us)

Jane E. McCloskey, Esq.  
Senior Attorney  
New York State Department of Health  
Corning Tower, 24th Floor  
Albany, New York 12237  
Email: [jem07@health.state.ny.us](mailto:jem07@health.state.ny.us)

To plaintiffs' counsel:

Scott A. Rosenberg  
The Legal Aid Society  
199 Water Street, 3d Floor  
New York, New York 10038  
Attn: M.K.B. v. Eggleston  
Email: [srosenberg@legal-aid.org](mailto:srosenberg@legal-aid.org)

Jane Greengold Stevens  
Caroline Hickey  
New York Legal Assistance Group  
450 West 33<sup>rd</sup> Street, 11<sup>th</sup> Floor  
New York, NY 10001  
Attn: M.K.B. v. Eggleston  
Email: [jstevens@nylag.org](mailto:jstevens@nylag.org)  
[chickey@nylag.org](mailto:chickey@nylag.org)

Hughes Hubbard & Reed LLP  
One Battery Park Plaza  
New York, NY 10004  
Attn: Chair, Pro Bono Committee

All reports to be sent to any party pursuant to this Stipulation shall be sent to all parties at the addresses indicated above.

**Attorneys Fees**

80. All parties shall attempt to come to an agreement on attorneys' fees. If the parties are unable to agree, within sixty (60) days of the date this Stipulation is signed, or such additional time as the parties agree to, plaintiffs shall move the Court, pursuant to Rule 54 of the

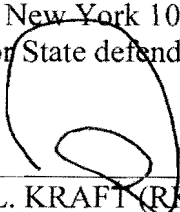
Federal Rules of Civil Procedure, for an Order awarding reasonable costs, fees and disbursements to plaintiffs pursuant to 42 U.S.C. § 1988.

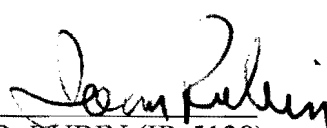
**Notice, Opportunity to Comment and Approval of this Stipulation**

81. After notice and an opportunity to comment on this Stipulation have been provided to the Class, the Court shall determine whether to approve this Stipulation as being a fair, reasonable and adequate settlement of this action. Pursuant to Federal Rules of Civil Procedure Rule 23(e), the Court will determine the manner in which notice of this Stipulation and an opportunity to comment will be given to members of this Class. This Stipulation shall not take effect until the Court enters an order approving the Stipulation as a fair, reasonable and adequate settlement of this action.

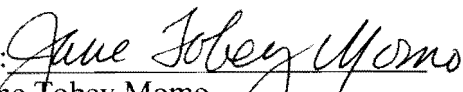
IN WITNESS WHEREOF, the undersigned, counsel for the parties in this action, have executed this stipulation on January 12, 2007.

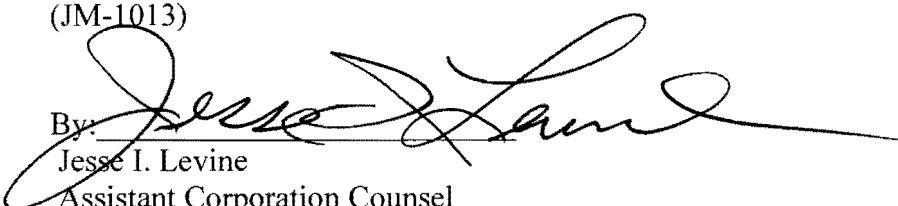
ANDREW M. CUOMO  
Attorney General of the State of New York  
120 Broadway, 24th Floor  
New York, New York 10271  
Attorney for State defendants


By:   
ROBERT L. KRAFT (RK 5418)  
Assistant Attorney General  
(212) 416-8632

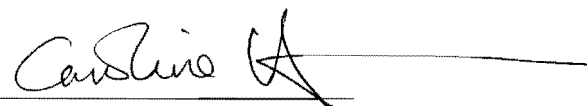
By:   
IVAN B. RUBIN (IR-5138)  
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Attorney for City Defendant  
100 Church Street, Room 2-192  
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(212) 788-1281

By:   
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Assistant Corporation Counsel  
(JM-1013)

By:   
Jesse I. Levine  
Assistant Corporation Counsel  
(JL-8829)

By:   
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By:   
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By: Ronald Abramson  
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Ronald Abramson (RA-0979)  
Russell Jacobs (RJ-3657)  
One Battery Park Plaza  
New York, N.Y. 10004  
212-837-6000

So ordered:

Jed S. Rakoff  
Hon. Jed S. Rakoff

Dated:

New York, New York  
As of 1/12, 2007