## UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

MARK A. FAVORS, et al.	)	
	)	
Plaintiffs,	)	
	)	
V.	)	Case: 1:11-cv-05632-DLI-RLM
ANDREW M. CUOMO, et al.  Defendants.	)	Date of Service: March 7, 2012
	)	
	)	
	)	
	)	

# ANSWER OF DEFENDANTS DEAN G. SKELOS, MICHAEL F. NOZZOLIO, AND WELQUIS R. LOPEZ TO COMPLAINT OF INTERVENORS ROSE, MILLS, HOFFMANN, THOMPSON-WEREKOH, BISHOP, RINZLER, STAMATIADES, RODRIGUEZ, AND AUSTER

Pursuant to the Court's Order, Defendants Dean G. Skelos, Michael F. Nozzolio, and Welquis R. Lopez generally deny that Intervenors Linda Rose, Everet Mills, Anthony Hoffmann, Kim Thomspon-Werekoh, Carlotta Bishop, Carol Rinzler, George Stamatiades, Josephine Rodriguez, and Scott Auster are entitled to any of the relief they seek in their Complaint, and, without assuming the burden of proof, plead the following affirmative defenses:

#### **FIRST AFFIRMATIVE DEFENSE**

(Failure To State A Claim)

Intervenors have failed to allege sufficient facts upon which a claim for relief may be granted.

#### SECOND AFFIRMATIVE DEFENSE

(Standing)

Intervenors lack standing to assert their claims.

#### THIRD AFFIRMATIVE DEFENSE

#### (Lack Of Justiciable Controversy)

Intervenors fail to raise a justiciable controversy between Intervenors and Defendants because Intervenors' claims are not ripe and/or are moot.

### **FOURTH AFFIRMATIVE DEFENSE**

#### (Abstention)

The Court must abstain from resolving any justiciable controversy because Intervenors' claims are premature as the Legislature has sufficient time to enact redistricting legislation.

WHEREFORE, Defendants respectfully request that the Court:

- Dismiss Intervenors' claims with prejudice and enter judgment for Defendants;
  - 2. Grant such other relief to Defendants as the Court may deem just and proper.

Respectfully submitted,

Dated: March 7, 2012

#### /s/Michael A. Carvin

Michael A. Carvin (MC 9266) JONES DAY 51 Louisiana Avenue, NW Washington, DC 20001-2113 202/879-3939

Todd R. Geremia (TG 4454) JONES DAY 222 East 41st Street New York, NY 10017-6702 212/326-3939

David Lewis (DL 0037) LEWIS & FIORE 225 Broadway, Suite 3300 New York, NY 10007 212/285-2290

Attorneys For Defendants Dean G. Skelos, Michael F. Nozzolio, and Welquis R. Lopez

#### **CERTIFICATE OF SERVICE**

I hereby certify that, on this 7th day of March, 2012, a true and correct copy of the

foregoing was served on the following counsel of record through the Court's CM/ECF system:

Richard Mancino Joshua Pepper

Daniel Max Burstein

Jeffrey Alan Williams

Assistant Attorney General
120 Broadway, 24th Floor

WHAT KIE FARR & GALLAGHER

WILLKIE FARR & GALLAGHER New York, NY 10271 787 Seventh Avenue

New York, NY 10019

Attorney for Defendants Andrew M. Cuomo,
Eric T. Schneiderman, and Robert J. Duffy

Attorneys for Plaintiffs

Leonard M. Kohen

67 E. 11th Street #703

New York, NY 10003

Jonathan Sinnreich
SINNREICH KOSAKOFF & MESSINA LLP
267 Carleton Avenue, Suite 301
Central Islip, NY 11722

Attorney for Defendants John L. Sampson

and Martin Malave Dilan Attorney for Defendant Robert Oaks

Joan P. Gibbs
Harold D. Gordon
Couch White, LLP
540 Broadway
Albany, NY 12201

Joan P. Gibbs
Center for Law and Social Justice
1150 Carroll Street
Brooklyn, NY 11225

Attorney for Defendant Brian M. Kolb Attorney for Defendant Brian M. Kolb Forrest, Johnson, Woolley, and Wright

James D. Herschlein

KAYE SCHOLER LLP

425 Park Avenue

New York, NY 10022

Jackson Chin

LatinoJustice PRLDEF

99 Hudson Street, 14th Floor

New York, NY 10013

Attorney for Intervenors Lee, Attorney for Intervenors Ramos, Chavarria, Chung, Hong, and Lang Heymann, Martinez, Roldan, and Tirado

Jeffrey Dean Vanacore Perkins Coie LLP 30 Rockefeller Center, 25th Floor New York, NY 10112

Attorney for Rose Proposed Intervenors

/s/Michael A. Carvin