JONES DAY

Direct Number: (202) 879-7643
macarvin@JonesDay.com

April 27, 2012

BY ECF

The Honorable Reena Raggi
United States Court of Appeals
for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

The Honorable Gerard E. Lynch
United States Court of Appeals
for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

The Honorable Dora L. Irizarry
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Favors v. Cuomo*, No. 1:11-cv-05632-DLI-RR-GEL (E.D.N.Y.)

Dear Judges Raggi, Lynch, and Irizarry:

We represent the Senate Majority Defendants—New York State Senators Dean G. Skelos and Michael F. Nozzolio, and LATFOR member Welquis R. Lopez. We write to provide an update to the Court on the status of DOJ preclearance and the *Cohen v. Cuomo* state court proceeding

Today, the U.S. Department of Justice, Civil Rights Division, informed us that it has precleared the 2012 redistricting plan for the New York State Senate pursuant to 42 U.S.C. § 1973c. The DOJ's letter, which is attached hereto, referred to the State of New York's preclearance submission "as it relates to the increase in the number of senators from 62 to 63 and provides for the redistricting plan for the State Senate of the State of New York," and stated that "the Attorney General does not interpose any objection to the specified changes."

Also, the Court of Appeals of the State of New York heard oral argument yesterday in the *Cohen v. Cuomo* proceeding in which petitioners challenge the constitutionality of the legislation fixing the size of the New York State Senate at 63 seats in this redistricting cycle.

We will provide further updates to the Court as developments warrant.

Respectfully submitted,

/s/ Michael A. Carvin
Michael A. Carvin (MC 9266)
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
macarvin@jonesday.com
202/879-3939

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

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

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

cc: All counsel of record (by e-mail)

APR 27 2012

Mr. Michael A. Carvin, Esq.
Jones Day
51 Louisiana Avenue NW
Washington, D.C. 20001

Dear Mr. Carvin:

This refers to Chapter 16 (S.6696-A.9525) (2012), insofar as it relates to the increase in the number of senators from 62 to 63 and provides for the redistricting plan for the State Senate of the State of New York, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on March 16, 2012; additional information was received on April 10, 2012.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Because the status of this submission is before the United States District Court for the District of Columbia in *State of New York* v. *United States*, 1:12-cv-00413 (D.D.C.) (three-judge court), and the United States District Court for the Eastern District of New York in *Favors* v. *Cuomo*, No. 11-cv-5632 (E.D.N.Y.) (three-judge court), we are providing the Court and counsel of record with a copy of this letter.

Sincerely,

Thomas E. Perez
Assistant Attorney General