

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ALBANY

---

NEW YORK STATE UNITED TEACHERS, by its President KAREN E. MAGEE; JULIET BENAQUISTO, Individually and as President of the Schenectady Federation of Teachers; BUFFALO TEACHERS FEDERATION, by its President PHILIP RUMORE; SETH COHEN, Individually and as President of the Troy Teachers Association; SELINA DURIO, Individually and as President of the North Babylon Teachers' Organization; MATTHEW J. HILL, Individually and as President of the Haverling Teachers Association; and YONKERS FEDERATION OF TEACHERS, by its President PATRICIA PULEO,

Plaintiffs-Petitioners,

-against

BOARD OF REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK; MERRYL H. TISCH, as Chancellor of the Board of Regents; NEW YORK STATE EDUCATION DEPARTMENT; and MARYELLEN ELIA, as Commissioner of the New York State Education Department,

Defendants-Respondents.

---

SUMMONS/  
NOTICE OF PETITION

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

Date Filed: \_\_\_\_\_

PLEASE TAKE NOTICE, that you are hereby summoned and required to serve upon plaintiffs-petitioners' attorney an answer to the complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint; and

PLEASE TAKE FURTHER NOTICE, that Albany County is designated as the venue of the proceeding as it is the County in which Defendants-Respondents have their principal place of

business, and in which the defendants-respondents engaged in the acts giving rise to this complaint.

PLEASE TAKE FURTHER NOTICE, that upon the annexed petition verified on January 14, 2016, the undersigned will move this Court on the 26<sup>th</sup> day of February 2016 at the Albany County Courthouse, Albany, New York at 9:30 a.m. on that date or as soon thereafter as counsel can be heard, for an order and judgment pursuant to CPLR Article 78, invalidating the challenged regulations along with such other and further relief as the court deems just and proper.

PLEASE TAKE FURTHER NOTICE that Respondents' papers in opposition to the Article 78 petition must be served no later than five (5) days before the return date hereof, and

PLEASE TAKE FURTHER NOTICE that Albany County is designated as the venue of this proceeding pursuant to CPLR 506(b), as Albany County is the principal office of defendants Board of Regents and State Education Department.

DATED: January 14, 2016  
Latham, New York

RICHARD E. CASAGRANDE, ESQ.  
Attorney for Plaintiffs-Petitioners  
800 Troy-Schenectady Road  
Latham, New York 12110-2455  
Telephone: (518) 213-6000

By:

  
James D. Bilik, Esq.

TO: BOARD OF REGENTS OF THE  
UNIVERSITY OF THE STATE OF NEW YORK  
Education Building  
89 Washington Avenue  
Albany, NY 12234

MERRYL H. TISCH, as Chancellor  
of the Board of Regents  
Education Building  
89 Washington Avenue  
Albany, NY 12234

NEW YORK STATE EDUCATION DEPARTMENT  
Education Building  
89 Washington Avenue  
Albany, NY 12234

MARYELLEN ELIA, as Commissioner  
of the New York State Education Department  
Education Building  
89 Washington Avenue  
Albany, NY 12234

ERIC T. SCHNEIDERMAN, ESQ.  
New York State Attorney General  
Office of the Attorney General  
The Capitol  
Albany, NY 12224

123444

STATE OF NEW YORK  
SUPREME COURT                      COUNTY OF ALBANY

---

NEW YORK STATE UNITED TEACHERS, by its President KAREN E. MAGEE; JULIET BENAQUISTO, Individually and as President of the Schenectady Federation of Teachers; BUFFALO TEACHERS FEDERATION, by its President PHILIP RUMORE; SETH COHEN, Individually and as President of the Troy Teachers Association; SELINA DURIO, Individually and as President of the North Babylon Teachers' Organization; MATTHEW J. HILL, Individually and as President of the Haverling Teachers Association; and, YONKERS FEDERATION OF TEACHERS, by its President PATRICIA PULEO,

Plaintiffs-Petitioners,

-against

BOARD OF REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK; MERRYL H. TISCH, as Chancellor of the Board of Regents; NEW YORK STATE EDUCATION DEPARTMENT; and MARYELLEN ELIA, as Commissioner of the New York State Education Department,

Defendants-Respondents.

---

VERIFIED COMPLAINT/  
PETITION

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

Date Filed: \_\_\_\_\_

Plaintiffs-petitioners New York State United Teachers, by its President KAREN E. MAGEE; JULIET C. BENAQUISTO, Individually and as President of the Schenectady Federation of Teachers; Buffalo Teachers Federation, by its President PHILIP RUMORE; SETH COHEN, Individually and as President of the Troy Teachers Association; SELINA DURIO, Individually and as President of the North Babylon Teachers' Organization; MATTHEW J. HILL, Individually and as President of the Haverling Teachers Association; and Yonkers Federation of Teachers, by its President PATRICIA PULEO; by their attorney, Richard E. Casagrande, Esq. (James D. Bilik, Esq.,

of Counsel), for their complaint/petition, respectfully allege:

PRELIMINARY STATEMENT

1. Plaintiffs-petitioners (“plaintiffs”) commence this hybrid action for declaratory and injunctive relief and Article 78 proceeding to declare illegal and to enjoin certain rules (regulations) adopted by the defendant-respondent (“defendant”) Board of Regents on January 12, 2016, effective on a permanent basis on January 27, 2016, purporting to implement the annual professional performance review (APPR) and teacher evaluation under Education Law §3012-d. Specifically, two of the adopted regulations are contrary to, and inconsistent with, the New York Public Employees Fair Employment Act, N.Y. Civil Service Law §§ 200-214 ( the “Taylor Law”). Those regulations are also illegal and void because the Board of Regents acted in an arbitrary and capricious manner in enacting them. Plaintiffs seek a declaration that the Regents’ actions were unconstitutional and otherwise illegal. Further, plaintiffs seek to permanently enjoin defendants from any implementation of the invalid regulations.

JURISDICTION

2. This Court has jurisdiction to issue a declaratory judgment pursuant to CPLR §3001 and §3017, to grant injunctive relief pursuant to CPLR Article 63, and to invalidate the illegal regulations pursuant to CPLR Article 78.

VENUE

3. Venue is laid in the County of Albany where defendants have their principal place of business, and where the material events occurred.

4. No prior application for the relief requested in this complaint/petition has been made in any forum.

## PLAINTIFFS

5. Plaintiff New York State United Teachers (NYSUT) is an unincorporated association and the state's largest labor union, representing approximately 600,000 in-service and retired teachers, school-related professionals, academic and professional faculty in higher education, and professionals in education and health care.

6. Karen E. Magee is NYSUT's duly elected President.

7. Local labor unions are also affiliated as member locals of NYSUT. NYSUT has over 1300 locals, including approximately 700 locals representing over 98% of New York's public school teachers.

8. Under Education Law §3012-d and the Taylor Law, every NYSUT local representing public school teachers has the right and duty to negotiate teacher evaluation and annual professional performance review issues with their employing boards of education and boards of cooperative educational services (BOCES).

9. The plaintiff Troy Teachers Association (Troy TA) is an unincorporated association and a labor union affiliated with NYSUT. The Troy TA represents a bargaining unit including classroom teachers employed by the Troy City School District. The Troy TA and the Troy City School District are parties to a collective bargaining agreement and have negotiated APPR provisions under Education Law §3012-c.

10. The plaintiff Buffalo Teachers Federation (BTF) is a local labor union affiliated with NYSUT. The BTF represents a bargaining unit including classroom teachers employed by the Buffalo City School District. The BTF and the Buffalo City School District are parties to a collective bargaining agreement and have negotiated APPR provisions under Education Law §3012-c.

11. The plaintiff Yonkers Federation of Teachers (YFT) is an unincorporated association and a labor union affiliated with NYSUT. The YFT represents a bargaining unit including classroom teachers employed by the Yonkers City School District. The YFT and the Yonkers City School District are parties to a collective bargaining agreement and have negotiated APPR provisions under Education Law §3012-c.

12. The plaintiff Haverling Teachers Association (Haverling TA) is an unincorporated association and a labor union affiliated with NYSUT. The Haverling TA represents a bargaining unit including classroom teachers employed by the Bath Central School District. The Haverling TA and Bath Central School District are parties to a collective bargaining agreement and have negotiated APPR provisions under Education Law §3012-c.

13. The plaintiff North Babylon Teachers' Organization (NBTO) is an unincorporated association and a labor union affiliated with NYSUT. The NBTO represents a bargaining unit including classroom teachers employed by the North Babylon Union Free School District. The NBTO and the North Babylon Union Free School District are parties to a collective bargaining agreement and have negotiated APPR provisions under Education Law §3012-c.

14. The Schenectady Federation of Teachers (SFT) is an unincorporated association and a labor union affiliated with NYSUT. The SFT represents a bargaining unit including classroom teachers employed by the Schenectady City School District. The SFT and the Schenectady City School District are parties to a collective bargaining agreement and have negotiated APPR provisions under Education Law §3012-c.

15. Under Education Law §3012-d and the Taylor Law, the above-named local unions have the right and duty to negotiate with their school districts concerning teacher evaluation and

annual professional performance review issues under 3012-d.

16. Plaintiffs Seth Cohen, Matthew J. Hill, Selina Durio, and Juliet C. Benaquisto, in addition to serving as presidents of their respective local unions, are also classroom teachers subject to annual professional performance review under Education Law §3012-d and the Board of Regents' regulations.

17. As tenured teachers, plaintiffs Cohen, Puleo, Hill, Durio and Benaquisto have constitutionally protected property interests in their continued public employment.

18. Any APPR ratings plaintiffs Cohen, Hill, Durio, or Benaquisto receive under Education Law §3012-d(1) are to be a "significant factor" in future employment decisions affecting them, including their very retention as tenured teachers.

#### DEFENDANTS-RESPONDENTS

19. Defendant Board of Regents of the University of the State of New York (Regents) was established by the Legislature as the governing body of the University of the State of New York and exercises those powers and duties authorized by the Legislature pursuant to Education Law Article 5.

20. Defendant Merryl H. Tisch is Chancellor of the New York State Board of Regents.

21. Defendant New York State Education Department (SED) is a department of state government established under Education Law §101. It has such powers and duties as are set forth in the Education Law, including the duty to generally manage and supervise New York's public schools. (Education Law §101).

22. Defendant MaryEllen Elia is the Commissioner of Education of the State New York, and exercises those powers and duties authorized by the Legislature pursuant to Education Law



Article 7.

FACTS

23. Education Law §3012-d, entitled “Annual Teacher and Principal Evaluations,” was enacted by the Legislature by Chapter 56 of the Laws of 2015.

24. Under Education Law § 3012-d, classroom teachers and principals receive APPR ratings of “highly effective,” “effective,” “developing,” or “ineffective.”

25. Section 3012-d applies to APPRs starting with the 2015-2016 school year, except that APPR plans involving provisions that were collectively bargained under section 3012-c and that were in place on or before April 1, 2015 remain in effect until a successor agreement is reached. Section 3012-d(12).

26. However, in any school district where there is no new, section 3012-d compliant APPR plan negotiated with the local union and approved by the State Education Department by September 1, 2016, the district will lose increases in State aid. Section 3012-d(11).

27. Pursuant to subpart E of Chapter 56 of the Laws of 2015, the Commissioner of Education was to adopt regulations in connection with the implementation of 3012-d.

28. Education Law § 3012-d(15) states in relevant part that “[t]he provisions of paragraphs d, k, k-1, k-2 and l of subdivision two and subdivisions four, five, five-a, nine, and ten” of Section 3012-c as amended shall apply to Section 3012-d “to the extent determined by the commissioner.”

29. The two provisions of section 3012-c that were referenced in 3012-d(15) and that are relevant here, are 3012-c(4) (involving teacher improvement plans, or TIPs) and 3012-c(9) (involving “monitoring and consequences”).

30. Education Law § 3012-c(4) reads as follows:

Notwithstanding any other law, rule or regulation to the contrary, upon rating a teacher or a principal as developing or ineffective through an annual professional performance review conducted pursuant to subdivision two of this section, the school district or board of cooperative educational services shall formulate and commence implementation of a teacher or principal improvement plan for such teacher or principal as soon as practicable but in no case later than ten school days after the opening of classes for the school year. *Such improvement plan shall be consistent with the regulations of the commissioner and developed locally through negotiations conducted pursuant to article fourteen of the civil service law.* Such improvement plan shall include, but need not be limited to, identification of needed areas of improvement, a timeline for achieving improvement, the manner in which improvement will be assessed, and, where appropriate, differentiated activities to support a teacher's or principal's improvement in those areas. (Emphasis added).

31. Education Law § 3012-c(9) reads as follows:

a. The department shall annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify school districts, boards of cooperative educational services and/or schools where evidence suggests that a more rigorous evaluation system is needed to improve educator effectiveness and student learning outcomes. The criteria for identifying school districts, boards of cooperative educational services and/or schools shall be prescribed in the regulations of the commissioner.

b. A school, school district or board of cooperative educational services identified by the department in one of the categories enumerated in paragraph a of this subdivision may be highlighted in public reports and/or the commissioner may order a corrective action plan, which may include, but not be limited to, requirements that the district or board of cooperative educational services arrange for additional professional development, provide additional in-service training and/or utilize independent trained evaluators to review the efficacy of the evaluation system, *provided that the plan shall be consistent with law and not in conflict with any applicable collective bargaining agreement.* (Emphasis added).

32. On or about June 15, 2015, the Board of Regents adopted emergency regulations entitled “Teacher or Principal Improvement Plans”, including 8 NYCRR Section 30-3.11, which stated as follows in relevant part:

(a) Upon rating a teacher... as Developing or Ineffective through an annual professional performance review conducted pursuant to Education Law section 3012-d... a district shall formulate and commence implementation of a teacher...improvement plan for such teacher...by October 1 in the school year following the school year for which such teacher’s...performance is being measured or as soon as practicable thereafter.

(b) *Such improvement plan shall be developed by the superintendent or his or her designee in the exercise of their pedagogical judgment* and shall include but not be limited to, identification of needed ways of improvement, a timeline for achieving improvement, the manner in which the improvement will be assessed, and, where appropriate, differentiated activities to support a teacher’s or principal’s improvement in those areas. (Emphasis added).

A copy of the relevant portions of the June 15, 2015 regulations is annexed hereto as Exhibit “A”.

33. Also included in the June 15, 2015 emergency regulations was Section 30-3.13 entitled “Monitoring and Consequences for Non-Compliance”, which stated as follows:

(a) The department will annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify districts and/or schools where evidence suggests that a more rigorous evaluation system is needed to improve educator effectiveness and student learning outcomes. The department will analyze data submitted pursuant to Subpart to identify:

(1) schools or districts with unacceptably low correlation results between student growth on the student performance category and the teacher observation/principal school visit category used by the district to evaluate its teachers and principals; and/or

(2) schools or districts whose teacher and principal overall ratings and subcomponent scores and/or ratings show little differentiation across educators and/or the lack of differentiation is

not justified by equivalently consistent student achievement results; and/or schools or districts that show a pattern of anomalous results in the student performance and observation/school visits categories.

(b) A district identified by the department in one of the categories enumerated above may be highlighted in public reports and/or the commissioner may order a corrective action plan, which may include, but not be limited to, a time frame for the district to address any deficiencies or the plan will be rejected by the Commissioner, changes to the district's target setting process, a requirement that the district arrange for additional professional development, the district provide additional in-service training and/or utilize independent trained evaluators to review the efficacy of the evaluation system.

(c) *Corrective action plans may require changes to a collective bargaining agreement.* (Emphasis added.)

34. A "Notice of Proposed Rule Making" regarding the June 15, 2015 emergency regulations was published in the State Register on July 8, 2015, with a 45-day public comment period. NYSUT and others submitted comments during this period.

35. On September 16, 2015, the Regents adopted revised emergency APPR regulations. A copy of the relevant portions of the revised regulations dated September 11, 2015, including comments and SED responses regarding Sections 30-3.11 and 30-3.13, is attached hereto as Exhibit "B".

36. NYSUT's comment on the June 2015 regulations criticized Section 30-3.11 to the extent that it purported to change Teacher Improvement Plans (TIPs) from an issue subject to collective bargaining to one of management prerogative. Exhibit "B" at pp.120-121.

37. NYSUT's comment also stated that Section 30-3.13 of the June 2015 emergency regulations, by purporting to authorize SED to require changes in collective bargaining agreements as part of a corrective plan, interferes with the collective bargaining process. Exhibit "B" at pp. 120-

121.

38. Notwithstanding NYSUT's comments, the revised emergency regulations adopted on September 16, 2015 contained sections 30-3.11(b) and 30-3.13(c), unchanged from the June 15, 2015 emergency regulations. Exhibit "B", pp. 59-62.

39. In connection with the September 16, 2015 adoption of revised emergency regulations, a "Notice of Revised Rule Making" was published in the State Register on October 7, 2015, with another 45-day public comment period.

40. NYSUT and others submitted comments in response to the September 16, 2015 emergency regulations during this period. Included in NYSUT's comments were criticisms of Sections 30-3.11(b) and 30-3.13(c). They were published by the State Education Department on November 9, 2015 in the "Commissioner's Regulations on Annual Professional Performance Review" of that date. A copy of the "summary" of NYSUT's comments and SED's responses rejecting them, from the November 9, 2015 publication, is attached hereto as Exhibit "C" (see comments 4 and 5 at pp. 73-75).

41. On January 12, 2016, the Regents adopted regulations including Sections 30-2.11(b) and 30-3.13(c), to become permanent effective January 27, 2016. A copy of relevant portions of the regulations (dated January 4, 2016), the summary, and the "comment" section issued in connection with the permanent regulations, is attached hereto as Exhibit "D".

42. Under Education Law §3020-b(2)(a), "a school district or employing board may bring charges of incompetence pursuant to this section against any classroom teacher... who receives two consecutive ineffective ratings. A school district...shall bring charges of incompetence...against any classroom teacher...who receives three consecutive ineffective ratings." Both proceedings are

“expedited” i.e., to be completed within 90 days in cases of two “ineffective” ratings, and within 30 days in cases of three “ineffective” ratings. Education §3020-b(3)(a).

43. Education Law §3020-b(2)(d) states, “[c]harges brought...for two consecutive ineffective ratings shall allege that the employing board has developed and substantially implemented a teacher improvement plan in accordance with... section three thousand twelve-d... for the employee following the first evaluation in which the employee was rated ineffective, and the immediately preceding evaluation if the employee was rated developing.”

44. Pursuant to Education Law §3020-b(3)(c)(v)(A), two consecutive ineffective ratings shall constitute *prima facie* evidence of incompetence. If not overcome by clear and convincing evidence to the contrary, the ineffective rating is deemed just cause for removal.

45. Pursuant to Education Law section 3020-b(3)(c)(v)(B), three consecutive ineffective ratings also constitute *prima facie* evidence of incompetence justifying removal, unless overcome by clear and convincing evidence that the calculation of one or more components of the APPR was fraudulent, e.g., involving mistaken identity.

46. The plaintiff local unions are obligated to negotiate with their employers over new APPR plans based on Education Law § 3012-d, and have been participating in such negotiations.

47. Section 30-3.11(b) of the regulations purports to limit what can be collectively bargained regarding TIPs, and Section 30-3.13(c) claims for SED the power to direct the employing school district or BOCES and the union representing teachers, to change collectively bargained provisions of the plan if SED decides such a change is necessary.

48. Evaluation and disciplinary procedures constitute mandatory subjects of bargaining pursuant to the Taylor Law.

49. The challenged regulations (sections 30-3.11(b) and 30-3.13(c)) interfere with rights protected by the Taylor Law by imposing restrictions on the negotiation of TIPs, which are a mandatory subject of bargaining, and by purporting to give SED the power to require changes in collectively bargained agreements.

50. Incorporated by reference into this hybrid complaint/petition are the affidavits of Seth Cohen, sworn to on January 11, 2016; Philip Rumore, sworn to on January 7, 2016; Patricia Puleo, sworn to on January 7, 2016; Matthew J. Hill, sworn to on January 7, 2016; Selina Durio, sworn to on January 8, 2016; and Juliet C. Benaquisto, sworn to on January 8, 2016.

51. Plaintiffs are not required to exhaust any administrative remedies before making the application herein.

#### FIRST CAUSE OF ACTION

52. Plaintiffs reallege and repeat each and every allegation contained in ¶¶1-51 as if fully set forth herein.

53. Under the New York State Constitution, Article III, the legislative power of this State is vested in the Legislature.

54. The public policy of New York, as expressed in New York State Constitution Article I, §17 and Civil Service Law §§200 *et seq.* (the Taylor Law), favors collective bargaining.

55. The challenged regulations are inconsistent with the Taylor Law, which establishes that all teacher evaluation and disciplinary procedures are mandatorily negotiable.

56. The plaintiff local unions and the approximately 700 other NYSUT affiliated locals that represent classroom teachers in public schools has, or will have, a right and duty to negotiate various aspects of APPR and teacher evaluation procedures with their respective employing boards

of education or BOCES pursuant to Education Law 3012-d.

57. In direct contravention of the right and duty to bargain collectively under the Taylor Law, the challenged regulations interfere with and violate this right and duty by limiting the scope of bargaining over teacher improvement plans and by claiming for SED the power to require changes in collective bargaining agreements as part of SED's "monitoring" function.

58. Upon information and belief, the challenged regulations will damage local teachers unions including the plaintiff local unions, and NYSUT, by unlawfully interfering with, and depriving local unions of, statutory collective bargaining rights.

59. Additionally, the challenged regulations will adversely affect the individual plaintiffs' property interests in their continued public employment by impairing local unions' rights to bargain certain elements of APPR and teacher evaluation, resulting in unfairness in the APPR.

60. The Regents' adoption of the challenged regulations was unconstitutional, violative of the Taylor Law, *ultra vires*, and void as against public policy.

#### SECOND CAUSE OF ACTION

61. Plaintiffs reallege and repeat each and every allegation contained in ¶¶1-51 as if fully set forth herein.

62. The defendants' actions in adopting the challenged regulations were arbitrary, capricious, irrational and contrary to law.

WHEREFORE, the plaintiffs-petitioners respectfully request that this Court:

- a. adjudge that the challenged regulations are unconstitutional, violative of the Taylor Law, arbitrary and capricious and otherwise unlawful;
- b. declare that the challenged regulations are unconstitutional, violative of the Taylor



Law, arbitrary and capricious and otherwise unlawful;

c. invalidate the challenged regulations;

d. permanently enjoin the defendants-respondents from implementing the challenged regulations; and

e. grant to the plaintiffs-petitioners such other and further relief as may be just and proper, together with reasonable costs.

DATED: January 14, 2016  
Latham, NY

RICHARD E. CASAGRANDE, ESQ.  
Attorney for Plaintiffs-Petitions  
800 Troy-Schenectady Road  
Latham, New York 12110-2455  
Telephone: (518) 213-6000

By: \_\_\_\_\_

James D. Bilik

123444

STATE OF NEW YORK  
SUPREME COURT                      COUNTY OF ALBANY

---

NEW YORK STATE UNITED TEACHERS, by its President  
KAREN E. MAGEE; JULIET BENAQUISTO, Individually  
and as President of the Schenectady Federation of Teachers;  
BUFFALO TEACHERS FEDERATION, by its President, PHILIP  
RUMORE; SETH COHEN, Individually and as President of the  
Troy Teachers Association; SELINA DURIO, Individually and  
as President of the North Babylon Teachers' Organization;  
MATTHEW J. HILL, Individually and as President of the  
Haverling Teachers Association; and, YONKERS FEDERATION  
OF TEACHERS, by its President, PATRICIA PULEO,

Plaintiffs-Petitioners,

-against

BOARD OF REGENTS OF THE UNIVERSITY OF  
THE STATE OF NEW YORK; MERRYL H. TISCH,  
as Chancellor of the Board of Regents; NEW YORK  
STATE EDUCATION DEPARTMENT; and  
MARYELLEN ELIA, as Commissioner of the New York State  
Education Department,

Defendants-Respondents.

VERIFICATION

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

Date Filed: \_\_\_\_\_

---

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

KAREN E. MAGEE, being duly sworn, deposes and says that she is the President of New York State United Teachers, one of the plaintiffs-petitioners in the above proceeding, that deponent has read the foregoing Summons/Notice of Petition and Complaint/Petition and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

---

KAREN E. MAGEE

Sworn to before me this  
\_\_\_\_ day of January 2016

---

Notary Public - State of New York