STATE OF NEW YORK
SUPREME COURT – COUNTY OF ALBANY

In the Matter of the Application of ZAINEB SALEM, ASHLEY KIBLIN, BRIAN JURGENS, WENDY BRUNO, TAYLOR FLINTJER, RAWDYIE RECKLESS and HEATHER HART,

Petitioners-Plaintiffs,

-against-

DECISION AND ORDER
Index No. 905551-24

BARBARA GUINN, in her capacity as Commissioner of the New York State Office of Temporary and Disability Assistance,

Respondent-Defendant,

for a Judgment Pursuant to CPLR 3001 and Articles 9 and 78 of the Civil Practice Law and Rules

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Hon. Sara W. McGinty, Acting Supreme Court Justice

APPEARANCES:

Susannah Howe, Esq., Sara Lunden, Esq. and Saima Akhtar, Esq. (National Center for Law and Economic Justice) and Haley Kvlakowski, Esq. (Empire Justice Center), attorneys for Petitioners-Plaintiffs

Noah C. Engelhart, Esq. (Hon. Letitia A. James, Attorney General of New York State) attorney for Respondent-Defendant

S. McGinty, ASCJ.:

This is a decision on a hybrid proceeding for relief under Article 78 and 42 CFR 1983.

Respondent's answer was filed after its earlier motion to dismiss was denied in substantial part by the Court's February 7, 2025 decision ("2025 Decision"). Since respondent's answer revisits

some of the issues raised in their motion to dismiss, a review of the Court's 2025 Decision is appropriate.

New York State has a constitutional obligation to aid the neediest members of the population (NY Constitution Article 17 [1]). To satisfy this obligation, the State established its Supplemental Nutrition Program ("SNAP") and Temporary Assistance program ("TA"), which are federally- funded programs overseen by the New York State Office of Temporary and Disability Insurance ("OTDA") and carried out by local county departments of social services. New York residents who meet state and federally-mandated qualifications under provisions of its Social Services Law and the NYCRR use the SNAP benefits to pay for food and TA benefits pay for rent and other necessities of life.

When recipients of SNAP or TA benefits are notified of a cessation, reduction or denial of benefits, they are entitled to a "fair hearing." Under federal and State regulations, fair hearings are conducted by the respondent OTDA and must be held within 60 days for a SNAP hearing (7 CFR 273.15[c](l); 18 NYCRR 358-6.4 [b]) and 90 days for a TA hearing (18 NYCRR 358-6.3[d]).

Recipients are notified, when they request a fair hearing, that they can, if approved, continue to receive aid continuing ("AC") benefits while awaiting their hearing. They are also notified that if they wish to avoid or suspend AC payments pending their hearing, they must

affirmatively opt out at the time they request a fair hearing. If the decision after a fair hearing finds that SNAP, TA or AC benefits were paid in error, the amount of overpaid benefits are subject to recoupment.

Petitioners initially sought relief in the form of mandamus to compel under CPLR 7803(1), estoppel, declaratory judgment and class action certification under CPLR Article 9. Petitioners claim they are prejudiced by delays in fair hearings or decisions: delays in their hearings have ranged from six months to a one year after the request for a hearing was filed. The extended delays, petitioners argue, inflate the amount of AC benefits subject to recoupment to levels beyond the ability of the recipients to repay. Adding to the prejudice to petitioners, they argue, is the inadequacy of fair hearing scheduling notices, which (1) lack a calculation of the amount of overpaid SNAP, TA and/or AC benefits subject to recoupment which identifies with specificity the instances of excess income received by amount, source and date; and (2) do not clearly identify recipients' right to decline AC while awaiting the fair hearing, which might enable recipients to minimize the recoupment amount imposed if an adverse decision is issued.

The 2025 Decision granted respondent's motion to dismiss in part by (1) denying petitioners' application for declaratory judgment in its third and fourth causes of action; (2)

dismissing then-petitioner Wangler's claims as untimely; and (3) dismissing for failure to state a cause of action petitioners' application to estop respondent from recouping overpaid AC benefits beyond the mandated timeframes for hearings.

In denying the balance of respondents' motion to dismiss, the Court made the following findings in the 2025 Decision:

1. The causes of action by petitioners Kiblin, Jurgens, Bruno and Wangler are not moot under the principals of *Matter of Hearst Corp v Clyne*, 50 NY2d 707 [1980].

2. The availability of post-deprivation remedies in the form of Article 78 proceedings is not a bar to Petitioners' due process causes of action in their third and fourth causes of action.

3. Petitioners' fourth and sixth causes of action state a claim cognizable at law for deprivation of procedural due process under the US and NY State constitutions.

4. Petitioners were entitled to seek class action certification under CPLR Article 9.

5. Petitioners established, as a matter of law, that their application for mandamus to compel under CPLR 7803(1) was appropriately brought.

6. Petitioner Kiblin's claim is not time-barred by application of the 4-month statute of limitations applicable to Article 78 proceedings.

When respondent did not oppose petitioners' motion for class certification, the Court issued its Order on Class Certification on October 31, 2025. The class, as certified, consists of persons who, after June 12, 2021:

1. requested or will request a fair hearing pertaining to their SNAP and/or TA benefits, and have not or will not receive a written decision on the hearing within 60 days of the request for a hearing on SNAP issues or within 90 days of the request for a fair hearing on TA issues; or

2. received or will receive aid continuing, or an adverse decision beyond the legally mandated time frame, and will be or are subject to a claim for recoupment based on overpayment in an amount exceeding the amount of aid continuing which would have been received had the fair hearing decision been rendered with 60 days of a SNAP hearing request or 90 days of a TA hearing request.

Noting that respondent's answer repeats, often verbatim, many of the arguments offered in their earlier motion to dismiss, petitioners cite the law of case as barring re-examination of the determinations made in the 2025 Decision. The law of the case doctrine is a rule of practice which provides that once an issue is judicially determined, either directly or by implication, it is not to be reconsidered in the course of the same litigation (*Holloway v Cha Cha Laundry, Inc*, 97 AD2d 385, 386 [1st Dept 1983], *citing Martin v City of Cohoes*, 37 NY2d 162, 165 [1975]).

The determinations in the 2025 Decision are unquestionably the law of the case in this action (*MLB Industries, Inc v R. Freedman & Son, Inc*, 102 AD2d 928 [3d Dept 1984]). The exception to this doctrine, based on a showing of new evidence or a change of law, has not been plead here (*O'Buckley v County of Chemung*, 163 AD3d 1129, 1130 [3d Dept 2018]). Accordingly, the respondent's efforts to revisit, through its current answer, the issues of timeliness, mootness, and the propriety of mandamus relief, having been decided in the 2025 Decision, are not subject to reargument and remain the law of the case in this hybrid

proceeding.

Remaining to be decided, as respondent acknowledges, are the due process and mandamus claims arising from the pervasive extended delays in fair hearings along with the purportedly inadequate notices of SNAP and TA recipient's rights.

The facts are not in dispute. Respondent's records reflect pervasive and extensive delays in the issuance of fair hearing decisions. Petitioner's summary of respondent's records reflects that as of May 31, 2024, there were at least 35,125 TA hearings and 18,300 SNAP hearings overdue for a fair hearing decision. Recipients waiting more than one year for hearings then numbered 15,797; those awaiting hearings more than 2 years from their request numbered 6,511 and 2,084 recipients had been waiting more than 3 years for their fair hearing.

Respondent counters, by way of their counsel's memorandum of law, that they had successfully reduced the backlog of fair hearing decisions from their highest levels during the COVID-19 pandemic by implementing telephonic hearings and hiring additional hearing officers. As a result, as of May 23, 2025, there were 3,633 SNAP hearing decisions outside the "timeliness standard." After a reduction from a pandemic-era high of delayed hearing decisions, backlogs in TA hearing decisions were reduced from 56,861 in January 2025 to 36,825 in May 2025.

Upon qualifying for SNAP or TA benefits, recipients receive a 45-page informational

booklet which details the fair hearing, AC and recoupment process. Petitioners also received a series of notices issued by respondent with respect to their TA and SNAP benefit status. The notices document the process by which a TA or SNAP recipient's benefits are granted, suspended, reduced or terminated. Most critically, the notices provide recipients with the information and means to contest the suspension, reduction or termination of benefits by means of a fair hearing. Some recipients are approved for AC during the pendency of the proceedings.

Benefits paid to a recipient who is unsuccessful at their fair hearing are subject to recoupment. Recoupment captures overpayments of SNAP or TA benefits and AC and may be effected by means of reductions to future benefits, garnishment of wages or offsets against State income tax refunds.

Due Process Violations. In their third and fourth causes of action, petitioners assert procedural due process claims under the Fourteenth Amendment and 43 USC 1983. Respondent initially argues that the 2025 Decision disposed of petitioners' due process claims in its first cause of action, but they conflate the Court's denial of the petition for declaratory judgment on procedural grounds with a dismissal on the underlying merits. Petitioners' due process claims survived the 2025 Decision, and are properly brought in an Article 78 proceeding

(*see, eg, Matter of Holistic Resources, Inc v Del Valle*, 190 AD3d 525 [1st Dept 2021]); *see, also*, Vincent C. Alexander, Prac Commentaries, McKinney's Cons Laws of NY, Book 7B, CPLR (7804:5).

Petitioners argue that "exorbitant" delays in issuing fair hearing decisions and the related claims for overpayment create an unsupportable accumulation of benefits subject to recoupment. These delays, it is claimed, and the attendant aggregation of benefits subject to recoupment, work a hardship on petitioners who may have assumed when they first opted to receive AC that the benefits would not be paid out --- and thus be subject to recoupment --- beyond the 60 or 90 day deadline for hearing decisions. In practice, several of petitioners confirm that they were barred from suspending AC payments at any time other than upon their initial request for a fair hearing. Petitioners also allege that the notices of the availability of fair hearings are inadequate because they do not provide the calculations for the sum demanded in recoupment, nor, it is alleged, is adequate notice given of the right to either decline AC or to reapply for full benefits during the period preceding the fair hearing.

To determine the process due, the Court is obliged to weigh (1) the private interest affected by the official action; (2) the risk of an erroneous deprivation of that interest through the procedures used, and the probable value of additional or different procedural safeguards; and (3) the government's interest (*Evans v New York State Dep't of Health*, 1999 US App LEXIS

18151, *5 [2d Cir 1999]), *citing See Mathews v. Eldridge*, 424 US 319, 335 (1976).

As to the "private interest" factor, petitioners' claims are predicated on the principals enunciated in *Goldberg* v. *Kelly,* 397 US 254, 263-264 [1970], which established a right in recipients of financial assistance to a fair hearing prior to a termination or reduction in benefits. Since *Goldberg*, courts have recognized a constitutionally-protected property interest in a variety of social welfare benefits when the entitlement to benefits is federally-mandated (*Kapps v Wing*, 404 F 3d 105, 113 [2d Cir 2005]; *see, also Atkins v Parker*, 472 US 115 [1985], where the Court held that SNAP benefits are a form of constitutionally-protected "property").

A constitutionally-protected property interest is created to which procedural due process protections attach when state law confers an entitlement to "social welfare benefits" and a defined administrative outcome is mandated (Kapps v Wing, 404 F3d 105, 130 [2d Cir 2005]). An administrative outcome will be deemed mandated where there are no discretionary factors in eligibility determinations. In such cases --- as in the present action --- the right to receive public assistance benefits upon meeting the enumerated criteria is a protected property interest.

Petitioners do not allege that the hearings themselves fail to comport with the requirements of *Goldberg* v. *Kelly;* instead, they contend that the inadequate notice of the basis

for calculating recoupment, and the absence of opportunities to suspend AC payments, together with the extended delays in hearings and/or decisions thereon, are an unconstitutional deprivation of their procedural due process rights. In this respect, petitioners cite *Matter of Kaur v. New York State Urban Dev. Corp.,* 15 NY3d 235, 260 [2010] for the proposition that principals of procedural due mandate that a government agency provide an "opportunity to be heard in a meaningful manner at a meaningful time.") The delays in hearings --- regardless of the outcome --- is thus itself a deprivation of petitioners' due process rights. An assessment of the risk of such a delay is made redundant because "the injury is the delay" (*Shakhnes v. Eggleston*, 740 F Supp 2d 602, 614-15 [SDNY 2010], *emph added*)[1].

The Court finds that because petitioners have a protected property interest in their right to SNAP or TA benefits, they have a corresponding right to a timely fair hearing which could result in the termination or diminution of those benefits. The denial of timely hearings in this context is a violation of petitioners' rights to procedural due process (*see, Menking v Daines*, 2012 US Dist LEXIS 179567 at *16, 23 [SDNY 2012]).

The Court further finds that the inadequate notice of the amount subject to recoupment

[1] For this reason, Article 78 hearings, which may be brought only after an unfavorable fair hearing decision, do not provide a procedural safeguard against delayed hearings.

denies recipients the means to evaluate the merits of a potential challenge to the fair hearing decision and the accuracy of the calculation of recoupment amounts (*Butler v Wing*, 177 Misc 2d 779, 786-787 [NY Cty Sup Ct 1998], *rev'd on other grounds*, 275 AD2d 273 [1st Dept 2000]; *Rodriguez v. DeBuono*, 177 FRD 143 [SDNY 1997]). As the DC Circuit Court of Appeals reasoned,

> It is universally agreed that adequate notice lies at the heart of due process. Unless a person is adequately informed of the reasons for denial of a legal interest, a hearing serves no purpose and resembles more a scene from Kafka than a constitutional process. Without notice of the specific reasons for denial, a claimant is reduced to guessing what evidence can or should be submitted in response and driven to responding to every possible argument against denial at the risk of missing the critical one altogether

Gray Panthers v Schweiker, 652 F.2d 146, 168-169 [DC Cir 1980].

Petitioners who opted to accept AC payments at the time of the fair hearing demand --- when AC was first made available to them --- had no ability to subsequently suspend AC payments, even as the fair hearings and decisions are delayed. As a result, as petitioners' AC payments accrued far beyond the mandated 60 – 90 deadline for fair hearing decisions, they were denied the ability to mitigate their liability for recoupment.

The Court finds that there is a very real risk of an erroneous deprivation of petitioners' interest through the use of inadequate notices which limited petitioners' ability to assess the scope of the recoupment risk and, following a negative fair hearing decision, to contest reductions or termination of SNAP or TA benefits in which they hold a constitutionally-protected

property interest.

The government's interest --- the third and last factor in the analysis of process under the Fourteenth Amendment --- lies in preservation of the public fisc and conserving administrative resources, which it furthers when it reduces or terminates benefits to ineligible recipients. When respondent's procedures comply with federal and State law requirements, the constitutionally-protected property rights of recipients are adequately protected and the government's interests are furthered. But when, as here, extensive delays in fair hearing decisions are pervasive, the interests of the government are not promoted, as the attendant costs of enforcement are increased and the likelihood of recovery of overpaid benefits is diminished. Indeed, providing the specific dates and income amounts which are the basis for the recoupment amount may well serve the government's interests in that public finances are conserved by avoiding unnecessary administrative proceedings *(Ford v Apfel*, 2000 US Dist LEXIS 2898 *67-69 [EDNY]). Avoiding such proceedings should be a priority for respondent because, under the current practices, *only 14.2 percent of agency decisions to terminate or reduce benefits were affirmed* in 2023 and 2024. Even where an ALJ renders a decision after a fair hearing on the merits, *less than 40 percent affirmed* the agency's termination or reduction of benefits for those years. The people of the State of New York and the recipients of public

assistance deserve a level of justice beyond what a mere coin toss might provide.

The government interest in protecting against wrongful payment of public assistance benefits is not promoted by systemic delays in fair hearings, nor is there a government interest in denying recipients the information they need to contest faulty fair hearing decisions. The administrative burden of deciding fair hearings within the State-mandated timeframe is not enlarged by enabling recipients to mount an informed and effective contest. Indeed, the additional cost of adding opportunities for recipients to halt AC payments, and the additional cost to notify recipients of this option is nominal, as is providing the means for calculating the amount of recoupment.

The Court further finds that petitioner's third and fourth causes of action are actionable under 42 USC 1983. Section 1983 imposes liability on "anyone who, under color of state law, deprives a person of any rights, privileges, or immunities secured by the Constitution and laws" *Meachem v Wing*, 77 F Supp 2d 431, 438 [SDNY 1999], *quoting Blessing v Freestone*, 520 US 329, 340 [1997]).

In enacting the 7 USC § 2011 (the "Food Stamp Act"), Congress created a federal right to a fair hearing --- actionable under 42 USC 1983 ---- to protect the program's intended beneficiaries, imposing unambiguous obligations on State agencies to implement procedures for

and to conduct fair hearings (*Meachem v Wing*, 77 F Supp 2d at 440). The Court of Appeals found that federal statutes imposed the same obligations on participating States with respect to public assistance or TA (*Matter of Lumpkin v Department of Social Services*, 45 NY2d 351, 355 [1978]). A corresponding federal right to a *timely* fair hearing conducted within the federally-mandated scheduling parameters is also actionable under 42 USC 1983 (*Konstantinov v. Daines*, 101 AD3d 520 [1st Dept 2012]).

Adequacy of Notices. Petitioners focus their third and fourth cause of action on deficiencies in the notices associated with the availability of AC in anticipation of a fair hearing. If a recipient is notified that AC payments are available, they may decline AC payments, but only if they do so at the inception of the hearing process, when a fair hearing is first requested. Of the notices proffered by petitioners only one—the Notice of Decision after a fair hearing—advises recipients of the prospect of recoupment of overpaid AC, TA or SNAP benefits. The Notice of Decision may be issued many months or even years after the request for a fair hearing is made. Moreover, when the Notice of Decision affirms the reduction or termination of benefits, it provides only the sum of overpaid benefits payment subject to recoupment, without specifying the sources, amounts or dates of the disqualifying income which triggered recoupment.

An essential precept of procedural due process under the Fourteenth Amendment is that a deprivation of life, liberty, or property be preceded by notice and opportunity for hearing

appropriate to the nature of the case (*Rothenberg v Daus*, 481 Fed Appx 667, 674 [2d Cir 2012], *quotations omitted*. The method and form of such a notice must be "reasonably calculated, under all the circumstances, to apprise interested parties" of the nature of the action and afford them an opportunity to object (*Mullane v Cent Hanover Bank & Trust Co*, 339 US 306, 314 [1950]). Any such notice must therefore be "tailored, in light of the decision to be made, to the capabilities and circumstances of those who are to be heard" *RNC Indus v State of New York Pub Serv Comm*, 2017 NY Misc LEXIS 5246, *2 [Sup Ct Suffolk Cty], *citing Mathews v Eldridge*, 424 US 319 [1976]).

A Notice of Decision on a fair hearing will therefore meet the requirements of procedural due process only if it provides recipients with enough information to understand the basis for the agency's action and prepare to contest it in a fair hearing (*Brooks v. Roberts*, 251 F Supp 3d 401, 426 [NDNY 2017], *citing Kapps*, 404 F 3d at 123-24). Recipients must be enabled to assess whether the reduction or termination of benefits "rests on incorrect or misleading factual premises or on misapplication of rules or policies to the facts of the particular case" (*Ford v Shalala*, 87 F Supp 2d 163, 178 [EDNY 1999])

The Court finds that when Notices of Decision terminate or reduce benefits and establish a recoupment figure without reference to supporting facts, they do not provide recipients with the information needed to prepare for a fair hearing, denying them procedural due process. The absence of a statutory mandate for detailed budgeting requirements in recoupment calculations

does not relieve respondent from their overriding constitutional duty to provide a notice that enables benefits recipients to assess the propriety of the fair hearing decision.

The Court finds that the respondent's notification practices do not provide petitioners with an opportunity to suspend AC payments when they extend beyond the mandated timeframes for a fair hearing, depriving them of the means to limit their exposure to recoupment. In addition, the Notices of Decision affirming the administrative decision to reduce or terminate SNAP or TA benefits do not refer to the underlying data used to calculate a recipient's recoupment obligation, denying them means to meaningfully contest the calculation in a second fair hearing.

Mandamus. Mandamus to compel under CPLR 7803(1) is a judicial command to an officer or body to perform a specific ministerial act which is required by law or statute. The legal duty to perform an act, which envisions direct adherence to a governing rule or standard with a compulsory result is distinguished from a discretionary act implicates the "exercise of reasoned judgment which could typically produce different acceptable results" *(New York Civ Liberties Union v State of New York,* 4 NY3d 175 at 184 [2005], *quoting Tango v Tulevech,* 61 NY2d 34, 41 [1983]). Mandamus to compel is therefore a vehicle to mandate the performance of a ministerial duty, but not to compel a particular outcome *(Alliance to End Chickens as Kaporos v New York City Police Department,* 32 NY3d 1091, 1093 [2018]).

The provisions of 18 NYCRR 358-6.4 establish deadlines for the issuance of fair hearing decisions for both SNAP and TA recipients:

> For all [fair hearing decisions] . . . definitive and final administrative action must be taken promptly, but in no event more than 90 days from the request for a fair hearing [in the case of decisions involving food stamps and other financial assistance] . . . and [for]all cases involving food stamp issues only, the decision must be issued and the parties notified of the decision within 60 days of receipt of request for the fair hearing

Defendants argue that scheduling and conducting fair hearings are activities replete with decisions involving the exercise of judgment or discretion. This is inarguably true. What must be distinguished, however, are those acts the exercise of which is discretionary from those acts which are mandatory but are executed through means that are discretionary (*Klostermann v. Cuomo*, 61 NY2d at 539).

The Court of Appeals has determined that the clear import words like "shall" or "must" is one of duty, not discretion (*Natural Resources Defense Council v New York City Dep't of Sanitation*, 83 NY2d 215, 220 [1994]; *see, also Matter of Liu v Ruiz*, 200 AD3d 68, 74 [1st Dept 2021]). In its use of the unambiguous term "must," the requirements of 18 NYCRR 358-6.4 are clearly mandatory, not discretionary: respondent is duty-bound to provide an opportunity to be heard before reducing benefits and to render a decision within 60 or 90 days of the request for a

fair hearing *(see County of Niagara v Shaffer*, 201 AD2d 786, 787-788 [3d Dept 1994]).

Petitioner has established, as a matter of law, that there exists a ministerial duty in respondent to conduct fair hearings and issue decisions thereon in a timely manner as prescribed by statute. Petitioners' application for mandamus relief therefore falls squarely within the parameters identified in *Klostermann*: "a subordinate [tribunal] can be directed to act, but not how to act, in a manner as to which it has the right to exercise its judgment" (*Klostermann v Cuomo*, 61 NY2d at 540).

Petitioner's petition for mandamus relief under CPLR 7803(1) is hereby granted.

It is, therefore,

DECIDED and ORDERED that petitioners have made a prima facie case for causes of action arising from the violation of their procedural due process rights under 42 USC 1983; and it is further

DECIDED and ORDERED petitioners have made a prima facie case for mandamus to compel under CPLR 7801 (3); and it is further

DECIDED and ORDERED that respondent shall

i. Identify all class members who, on or after June 12, 2021, have not had a fair hearing held and decision issued within 60 days of a request for hearing on a SNAP issue or 90 days of a request for hearing on a TA issue and provide such information to class counsel;

ii. Immediately hold fair hearings for all identified class members whose hearing decisions are currently pending beyond mandated time frames; and

iii. Issue fair hearing decisions as soon as practicable and in no event more than 30 days after the hearing is held where the hearing is held more than 60 days

after a request for hearing on a SNAP issue or 90 days of a request for hearing on a TA issue;

DECIDED and ORDERED respondent Guinn shall hold SNAP fair hearings, issue fair hearing decisions, and notify the parties of those decisions within 60 days of the date the hearing request is made; and it is further

DECIDED and ORDERED respondent Guinn shall hold and decide TA fair hearings promptly in order to allow the conclusion of all related processes within 90 days of the date of the hearing request is made; and it is further

DECIDED and ORDERED respondent Guinn shall revise all notices, handbooks, and any other documents distributed to benefits applicants and recipients that contain information about aid continuing rights to include information about the right to stop aid continuing upon written notice at any time while a hearing is pending; and it is further

DECIDED and ORDERED respondent Guinn shall send notices to fair hearing applicants who have a SNAP hearing or decision pending for more than 60 days or a TA hearing or decision pending for more than 90 days that their hearing is delayed and that they have the right to stop aid continuing and to resend such notice every 90 days until the hearing is decided; and it is further

DECIDED and ORDERED respondent Guinn shall limit collection of overpayments, recoupments, or claims for aid continuing to those amounts accruing within 60 days of a hearing request related to SNAP and/or 90 days of a request related to TA, and prohibit collection of amounts accruing as a result of aid continuing issues beyond the relevant fair hearing resolution period of 60 days for SNAP and 90 days for TA.

The arguments of the parties not referred to herein have been considered and either found to be without merit or disposed of by this decision and order.

Dated: December 11, 2025
Albany, New York

ENTER:

HON. SARA W. McGINTY, ASCJ

Papers Considered:

NYSCEF Doc. No. 1: Petition
NYSCEF Doc. No. 2: Memorandum of Law in Support of Petition, with Exhibits A - S (NYSCEF Doc. Nos. 4-22)
NYSCEF Doc. No. 3: Notice of Petition
NYSCEF Doc. No. 24: Affirmation in Support of Petition, with Exhibits A - M (NYSCEF Doc. Nos. 25-37)
NYSCEF Doc. No. 96: Amended Petition, with Exhibits A - Y (NYSCEF Doc. Nos. 97 – 121)
NYSCEF Doc. No. 124: Answer
NYSCEF Doc. No. 125: Attorney's Affirmation in Support of Answer, with Exhibits A - Q (NYSCEF Doc. Nos. 126 – 142)
NYSCEF Doc. No. 143: Affirmation of Tammy Thackrah in Support of Answer, with Exhibits A – C (NYSCEF Doc. Nos. 144 – 146)
NYSCEF Doc. No. 147: Affirmation of Wendy DeMarco
NYSCEF Doc. No. 148: Affirmation of Samuel Spitzberg in Support of Answer
NYSCEF Doc. No. 149: Memorandum of Law in Support of Answer
NYSCEF Doc. No. 152: Memorandum of Law in Reply to Answer