

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL P. KEARNS, in his official capacity as
Clerk of the County of Erie,

Plaintiff,

v.

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York; LETITIA A.
JAMES, in her official capacity as Attorney General
of the State of New York; and MARK J.F.
SCHROEDER, in his official capacity as
Commissioner of the New York State Department of
Motor Vehicles,

Defendants,

and

RURAL AND MIGRANT MINISTRY; NEW
YORK IMMIGRATION COALITION; HISPANIC
FEDERATION; INTERVENOR NO. 1;
INTERVENOR NO. 2; INTERVENOR NO. 3; and
INTERVENOR NO. 4,

Defendants-Intervenors.

Civil Action No. 1:19-CV-902-EAW

Hon. Elizabeth A. Wolford

NOTICE OF MOTION TO INTERVENE

PLEASE TAKE NOTICE that upon the accompanying Defendants-Intervenors' Memorandum of Law in Support of Their Motion to Intervene as Defendants and the materials submitted in support of the memorandum, proposed Defendants-Intervenors Rural and Migrant Ministry; New York Immigration Coalition; Hispanic Federation; and Intervenors Nos. 1-4 (collectively referred to as "Defendants-Intervenors") will move this Court pursuant to Federal Rule of Civil Procedure 24 before the Honorable Elizabeth A. Wolford at the United States Courthouse located at 100 State Street, Rochester, New York, 14614 for an Order granting their Motion to intervene in this case as defendants.

Dated: New York, New York
September 4, 2019

Respectfully Submitted,

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**DEFENDANTS-INTERVENORS'
MEMORANDUM OF LAW IN
SUPPORT OF THEIR MOTION TO
INTERVENE AS DEFENDANTS**

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Rural and Migrant Ministry; New York Immigration Coalition; and Hispanic Federation (collectively, “Organizational Intervenors”); and Individual Intervenors Nos. 1, 2, 3, and 4 (collectively, “Individual Intervenors,” and with Organizational Intervenors, “Intervenors”) submit this Memorandum of Law in Support of their Motion to Intervene as Defendants to ensure the ability to acquire a driver’s license without fear of deportation is fully and vigorously defended.¹

PRELIMINARY STATEMENT

The law challenged in this action by the Clerk of Erie Country (“Plaintiff”)—the Driver’s License Access and Privacy Act, S.B. 1747-B, 247 Legis. Sess. (N.Y.) (the “Green Light Law” or the “DLAPA”)—will permit eligible New Yorkers without a Social Security number to acquire a driver’s license, without (i) inquiry into their immigration or citizenship status—a status *wholly* irrelevant to the ability to drive—or (ii) third-party access to information supporting their age and identity submitted in connection with their application. Any outcome in Plaintiff’s favor would have grave consequences, either foreclosing more than 750,000 eligible, undocumented New Yorkers from applying for a driver’s license or removing protections designed to encourage individuals to apply for a driver’s license without fear of immigration consequences.

Intervenors, individuals who are eligible to obtain driver’s licenses under the DLAPA and organizations that support undocumented immigrants, timely seek to join the action, and present arguments in opposition to Plaintiff’s claims, as they are clearly, directly impacted by any outcome of Plaintiff’s unsupportable challenge to the constitutionality of the Green Light Law. Intervenors

¹ Given the need for swift resolution of this action, Intervenors respectfully request that, if this motion is granted, they are allowed to join in the pending motion to dismiss the Complaint and oppose preliminary injunction, *see* ECF Nos. 24 & 25, and submit a reply in support of the motion to dismiss the Complaint and against a preliminary injunction on the same date as Defendants. ECF No. 29.

would all suffer consequences and harm separate from Defendants (the “State”) should the Court issue an unfavorable ruling regarding the law. Although the State opposes Plaintiff for a myriad of reasons, the State’s arguments in support of the Green Light Law almost exclusively relate to its significant interests in safety and revenue: the welfare of individuals on the road, the documented reduction in hit-and-runs in other states, increased fee revenue, and an increase in individuals driving with insurance. *See* ECF No. 25.

But striking down or changing the law’s provisions would impact Intervenors differently. Unlike the State, Intervenors, direct beneficiaries of the Green Light Law, have an interest in undocumented immigrants obtaining a license pursuant to the law’s provisions so that they can engage in essential activities of daily living. Organizational Intervenors support undocumented New Yorkers in everyday activities, including by historically expending resources in providing those undocumented immigrants who will now benefit from the law with transportation services. These organizations have spent significant time advocating in favor of and preparing individuals for passage of the law, and have a strong interest in ensuring the law is implemented as scheduled and currently drafted. If the Green Light Law is struck down, Organizational Intervenors would suffer from the increased cost and effort to serve immigrant communities, while an adoption of Plaintiff’s constitutional arguments could put them at risk of potential prosecution for assisting these communities.

Individual Intervenors are brave, undocumented immigrants resident in New York who need to legally drive to care for their minor children, attend to their families’ medical needs, meet with their immigration attorneys, and practice their religions. Rejection of the Green Light Law would deny undocumented immigrants like Individual Intervenors the ability to acquire a license without fear. Revoking the law, or even modifying its terms, could expose them, and individuals

served by Organizational Intervenors, to potential immigration consequences, making it less likely that they would apply for a driver's license.²

Consequently, although Intervenors seek the same relief in the action as the State (denial of Plaintiff's claims), they will be impacted differently by the Court's rulings, and should be permitted to weigh in on the lack of legal merit of the Plaintiff's claims not as *amici curiae*, but as defendant-intervenors.³ They are uniquely situated to provide factual information that would significantly contribute to a full understanding of the impact an adverse determination could have on beneficiaries of the law. They are intimately familiar with the need to protect individuals who seek to engage in an everyday activity -- here, driving -- without fear of deportation. Collectively, Intervenors can describe the interests of immigrants in securing a license so that necessities of daily living, such as driving to the grocery store to shop for food or the pharmacy to pick up prescriptions, doctor's offices for examinations and treatments, the ease of which many others take for granted, can be accomplished without fear and trepidation. The State is simply ill-suited to provide that perspective.

² Individual Intervenors respectfully request to proceed anonymously in this action. *See generally* Defendants-Intervenors' Memorandum of Law in Support of Their Motion to Proceed Anonymously, *Kearns v. Cuomo*, Civil Action No. 1:19-cv-902-EAW (W.D.N.Y.).

³ An Erie County taxpayer also seeks to intervene in this action. ECF No. 17-2. The Intervenors take no position on his motion, except to note that their interests are significantly more direct than his. Additionally, prior to the State's motion to dismiss, a nonprofit law firm known for promoting restrictive immigration filed an *amicus curiae* brief supportive of Plaintiff. ECF No. 21. Following the State's motion to dismiss, eight states, plus the District of Columbia, filed an *amicus curiae* brief in support of the State's position regarding the constitutionality of the Green Light Law. ECF No. 35. They articulated the states' historic interests in setting, and their ability to set, the requirements for access to the roads without federal involvement, and the importance of ensuring that those who drive on their roads are doing so legally. *See generally id.* Intervenors, unlike these *amici curiae*, have a direct interest in the ability to acquire a license in New York without fear.

Therefore, Intervenor respectfully request that the Court allow them to participate as defendants in the action.

BACKGROUND

The Green Light Law

New York has never had a law, or Department of Motor Vehicle (“DMV”) condition, that premised the issuance of a driver’s license on immigration status or legal presence in the country, although certain documentary requirements made it near impossible for undocumented immigrants resident in the state to acquire a license. The DLAPA was designed to remedy this documentation issue.⁴ At its core, the law waives the requirement that an applicant for a driver’s license provide a Social Security number so long as the applicant submits, along with proof of identity and age, an affidavit that they have not been issued a Social Security number.⁵ Further, it mandates that the DMV accept foreign passports, consular identification documents, and foreign driver’s licenses as valid “primary forms of such proof” or identity. DLAPA § 3 (*amending* N.Y. Veh. & Traf. Law § 502(1)). The law not only benefits undocumented immigrants, but also mixed-status households that may have members who are in the country legally, but lack a Social Security number.

Importantly for Intervenor, the Green Light Law prohibits the DMV from inquiring about an applicant’s citizenship or immigration status, as well as from collecting and retaining documentation and information about such status, the individual’s Social Security eligibility, or

⁴ N.Y. Assemb. A10273, 246th Assemb. Reg. Sess. (N.Y. 2018), https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A10273&term=2017&Summary=Y&Actions=Y&Committee%26nbspVotes=Y (last visited Aug. 29, 2019); *also* S8680, 2017-2018 Sess. (N.Y. 2018), <https://www.nysenate.gov/legislation/bills/2017/S8680> (last visited Aug. 29, 2019); *see also* S8680, 2017-2018 Sess. (N.Y. 2018), <https://www.nysenate.gov/legislation/bills/2017/S8680> (last visited Aug. 29, 2019).

⁵ *See* Press Release, THE NEW YORK STATE SENATE, *Senate Passes Driver’s License Access and Privacy Act (Green Light NY)* (June 17, 2017), <https://www.nysenate.gov/newsroom/press-releases/senate-passes-drivers-license-access-and-privacy-act-green-light-ny> (last visited Aug. 29, 2019).

the documents submitted with the application to demonstrate proof of age or identity. DLAPA § 3 (*amending* N.Y. Veh. & Traf. Law § 502(1)). Additionally, because New York is permitted to issue licenses known as “standard licenses” that are not prohibited under federal REAL ID requirements, *see* REAL ID Act of 2005, Pub. L. 110-177 § 508, 121 Stat. 2543 (*codified at* 49 U.S.C. § 30301), the Green Light Law prevents access to DMV records that would reveal whether an individual’s license is a standard license or one compliant with REAL ID requirements. DLAPA § 2 (*amending* N.Y. Veh. & Traf. Law § 502(1)). The law further restricts access to the applicant’s personal information by restricting disclosure by the DMV to third parties, including the federal government, except in extremely limited circumstances. *See id.* Consequently, individuals can apply for a license without fear that others would be able to access information that could cause further inquiry into their immigration status.

The law is scheduled to take effect on December 14, 2019. Assemblyman Marcus A. Crespo explained that “[t]his legislation allows for undocumented immigrant New Yorkers, who contribute to our state economy in so many ways, to drive safely to and from school, work, and home. . . . [F]amilies of immigrants will have more peace of mind while their loved ones are on the roads.”⁶ Similarly, Senator Luis Sepúlveda stated that it was a necessary measure, as when “you look at what is currently happening at the federal level, every day we read about children’s families that are being separated because they may have -- a driver may have passed a stoplight, a red light. And the next thing you know, mothers and fathers are separated for months on end from their children. . . . you look at these families, these undocumented families -- they cannot take

⁶ News Release, ASSEMBLY SPEAKER CARL E. HEASTIE, *Assembly Passes Driver’s License Access and Privacy Act #GreenLightNY* (June 12, 2019), <https://nyassembly.gov/Press/files/20190612.php> (last visited Aug. 29, 2019).

their children to schools. Some of them have children that are so sick . . . that it's brought me to tears because they cannot take a sick child to a hospital for medical attention.”⁷

Intervenors

Intervenors are three non-profit organizations that serve and provide resources to the general community and to undocumented immigrants, as well as advocate for and educate individuals about the Green Light Law, and four individual, undocumented New Yorkers with minor children who are eligible to apply for a New York driver’s license once the Green Light Law goes into effect.

Rural and Migrant Ministry (“RMM”)

RMM is a nonprofit organization that provides programs and services to immigrant and rural communities of Suffolk, Putnam, Orange, Ulster, Dutchess, Columbia, Sullivan, Wayne, Monroe, Orleans, Cayuga, Yates, Ontario, Genessee, Livingston, Erie, and Seneca Counties. Declaration of Jorge Vasquez (Sept. 4, 2019) (“JV Decl.”), Ex. A ¶¶ 2-3. Among other things, RMM provides transportation to individuals unable to acquire a driver’s license or own a vehicle. *Id.* ¶ 7. In 2018, RMM provided programs and services to over 50,000 individuals in New York, including immigrant residents in Erie County. *Id.* ¶ 4. In support of the Green Light Law, RMM ran a grassroots campaign and met with legislative offices and local officials to help bring about the successful passage of the law. *Id.* ¶ 5. If the Green Light Law is struck down, RMM will be limited in its ability to reach additional individuals with its programming, especially because it is already financially burdened by transporting unlicensed individuals due to the dearth of public

⁷ New York State Senate, Stenographic Record (Reg. Sess. June 17, 2019) <https://www.nysenate.gov/transcripts/floor-transcript-061719txt>, at 5923:15-5923:22, 5924:11-5924:17 (last visited Aug. 29, 2019).

transportation options in rural New York. *Id.* ¶¶ 7-8. RMM seeks to intervene on behalf of itself and the individuals it serves.

New York Immigration Coalition (“NYIC”)

NYIC is an umbrella policy and advocacy organization for more than 160 immigrant community-based groups in New York State, representing the collective interests of approximately four million New Yorkers, including in Erie County. JV Decl., Ex. B ¶ 3. In 2016, NYIC launched a statewide coalition to advocate for driver’s licenses for all New Yorkers, irrespective of immigration status, because it was a top priority for its membership. *Id.* ¶ 5. As part of its advocacy efforts, NYIC has devoted substantial resources to support grassroots groups in immigrant communities to advocate for the Green Light Law. *Id.* ¶ 7. The law is important to NYIC’s members, as many eligible individuals who are served by NYIC’s community-based groups would be able to drive to their places of worship, their children’s schools, and get medical care without fear. *Id.* ¶ 2.

Since the passage of the law, NYIC has continued its advocacy, and has devoted and expects to continue to devote, considerable resources to communication, programming, and education so that individuals will have the knowledge and means to obtain a driver’s license once the law goes into effect in December. *Id.* ¶ 8. NYIC seeks to intervene on behalf of itself and the individuals it serves.

Hispanic Federation (“HF”)

HF is a nonprofit member organization that works to empower and advance the Hispanic community through public policy advocacy, leadership development, and community revitalization. JV Decl. Ex. C ¶ 3. HF seeks to intervene on behalf of those constituents it serves who could legally obtain a driver’s license under the DLAPA so they can engage in ordinary activities such as grocery shopping, attending medical appointments, and picking up their children

from school. *Id.* ¶¶ 2, 10. In support of the Green Light Law, HF has produced policy papers, including a memorandum explaining the benefits of the law. *Id.* ¶ 7. HF also deployed a public education and media campaign aimed at educating immigrant communities about the Green Light Law, particularly in rural communities where public transportation is sparse. *Id.* ¶ 9. Since the passage of the Green Light Law, over 1,000 individuals (likely beneficiaries of the law) have visited HF’s website to learn more about the Green Light Law. *Id.* HF seeks to intervene on behalf of itself and the individuals it assists.

Individual Intervenor No. 1 (“Individual 1”)

Individual 1 is an undocumented father of two young children who works and lives on a rural dairy farm in a remote agricultural region of Niagara County. JV Decl., Ex. D ¶¶ 2-5. He works six days a week, makes about \$860 weekly, and lives a 25 minute drive away from his children and their American mother. *Id.* ¶¶ 3, 5, 7. There is no public transportation where he resides, and very few private cars for hire; therefore, in order to see his children, he must either pay \$40 to \$65 each way for private transport or had driven his truck without a license. *Id.* ¶¶ 4, 7, 9. He fears an interaction with the local sheriff or immigration officials every time he drives. *Id.* ¶ 11.

Individual 1 has not applied for a license because he lacks a Social Security number and fears that an attempt to do so could result in his further identification by the federal government, but he could obtain a license once the Green Light Law goes into effect. *Id.* ¶¶ 11, 14. Obtaining a license would allow him to drive to his children’s home legally without the fear of a police interaction resulting in his deportation, and then take his children shopping or to doctor’s appointments. *Id.* ¶ 12.

Individual Intervenor No. 2 (“Individual 2”)

Individual 2, a fulltime caregiver, is an undocumented mother who lives with her husband, a warehouse worker, and their two young children, both of whom suffer from disabilities, in Westchester County. JV Decl., Ex. E ¶¶ 1, 3-5, 14. Their six-year-old son is in a wheelchair, has spina bifida and a hydrocephalic condition, and needs to be taken on a regular basis for special treatment at a children’s hospital in Philadelphia, a two-and-a-half-hour drive from their home. *Id.* ¶¶ 5-9. From March to August 2019, they needed to take their son to Philadelphia every 15 days; starting in October 2019, and continuing for the next 11 years, they will need to take him to the Philadelphia children’s hospital every three months. *Id.* ¶¶ 8-9. They also have to take him four times a week to physical therapy, which requires them to walk 35 minutes pushing his wheelchair. *Id.* ¶ 10. When their son has an emergency, they have to hire a driver with a wheelchair-accessible vehicle for at least \$50 or more to go to the local hospital. *Id.* ¶¶ 12, 13. Regular taxis and private car hires cannot accommodate the size of their son’s wheelchair. *Id.* ¶ 13. Unless a friend can drive a vehicle, Individual 2 is forced to pay for emergency transport and frequent trips to her son’s urologist or other destinations, which can cost \$20 to \$50 each way. *Id.* ¶¶ 11-13. Her husband is unavailable to drive their son owing to his demanding six-day-a-week work schedule. *Id.* ¶ 16. Although her husband does have a driver’s license, it is temporary and must be renewed each year. *Id.* ¶ 15. Their eight-year-old daughter also has learning disabilities, which also require special care and additional travel. *Id.* ¶ 14.

Individual 2 has not applied for a license because she lacks a social security number, but could obtain a license once the Green Light Law goes into effect. *Id.* ¶ 17. Her family would then have more flexibility in who could use their family car, and not need to resort to the kindness of

friends or expensive rides for local trips or the long drives to Philadelphia to see doctors or take her children to therapists. *Id.* ¶¶ 16-18.

Individual Intervenor No. 3 (“Individual 3”)

Individual 3 is an undocumented domestic violence survivor and a single mother of four children. JV Decl., Ex. F ¶¶ 3, 5. She lives in Dutchess County, where there are limited mass transit options, and often relies on cabs. *Id.* ¶¶ 8-10. Her 12-year-old son receives court-ordered psychological counseling every two weeks, due to his trauma associated with the domestic abuse his mother suffered. *Id.* ¶ 7. Without reliable transportation options, his mother has to figure out how to get him there each time. *Id.*

Individual 3 has a current U-visa application pending, but cannot apply for a license as she lacks a Social Security number, although she could obtain a license once the Green Light Law goes into effect. *Id.* ¶¶ 6, 12. This would enable her to rent or use a vehicle, and also to obtain legal assistance from her immigration lawyer in New York City related to her pending U-visa application. *Id.* ¶ 11.

Individual Intervenor No. 4 (“Individual 4”)

Individual 4 is an undocumented young mother living in Nassau County with her six-month old daughter and partner. JV Decl., Ex. G ¶ 2. Public transportation is scarce and unreliable where she lives, and hired cars are costly. *Id.* ¶ 3. While her partner has a car, he must use it six days a week to commute to his two jobs, each located over an hour away from their home. *Id.* ¶ 4. Recently, the couple’s infant daughter, who suffers from gastroesophageal reflux, had a high fever, and her partner was unavailable to drive her and their daughter to the hospital even though the baby required emergency care. *Id.* ¶¶ 5-6. Additionally, due to her lack of access to reliable transportation, Individual 4 is unable to attend weekly religious events, hosted in her language and

critical to her sense of community, at her church located approximately 45 minutes away from her home. *Id.* ¶¶ 8-9.

Individual 4 does not have a Social Security number but would be eligible to obtain a license once the Green Light Law goes into effect. *Id.* ¶ 15. Her partner would then give her primary access to the family car to drive him to work, take care of their child, and attend religious services at her church. *Id.* ¶ 12.

The Current Lawsuit

Shortly after the Green Light Law was passed in June, Plaintiff filed his Complaint, ECF No. 1,⁸ but had already stated: “I will deny providing driver’s licenses to unlawfully present aliens.”⁹ Plaintiff contends that the DLAPA requires him to issue licenses to undocumented immigrants and uphold the record-sharing restrictions or face removal as Erie County Clerk. ECF No. 41. He argues that this conflicts with and violates federal immigration laws, 8 U.S.C. §§ 1324, 1373, and 1644 even though the DLAPA specifically prohibits him from gaining knowledge as to an individual’s immigration or citizenship status. ECF No. 41 ¶¶ 43-44. Plaintiff’s demanded remedies, including any preliminary injunction, would impact all undocumented immigrants eligible to apply for a license pursuant to the Green Light Law throughout the state, not just those individuals in Erie County.

As set forth in the State’s motion to dismiss, Plaintiff’s claims lack merit. *See generally* ECF Nos. 24 & 25. Not only does he mischaracterize what he is required and not required to do

⁸ Plaintiff recently filed an amended complaint. ECF No. 41.

⁹ Press Release, THE NEW YORK STATE SENATE, *Tedisco, Walsh, Jordan, Jacobs, & Ritchie Join County Clerks Hayner, Merola & Kearns, Sheriff Zurlo to Prevent Those Here Illegally from Getting Driver’s Licenses* (May 7, 2019), <https://www.nysenate.gov/newsroom/press-releases/james-tedisco/tedisco-walsh-jordan-jacobs-ritchie-join-county-clerks-hayner> (last visited Aug. 29, 2019).

under the DLAPA, he lacks capacity and standing because he, as a local official, cannot bring an action against the State, ECF No. 25 at 10-11, and suffers no injury—not even potential prosecution—due to its enactment. *Id.* at 11-20. Moreover, there is no preemption of the Green Light Law by federal statute, especially given that the requirements for a driver’s license have historically been for New York to decide and there is no conflict with any provision of federal law. *Id.* at 20-36; *see also* ECF No. 35 at 3-5. Given this, there is certainly no basis for a preliminary injunction.

Intervenors now seek to join in defending the constitutionality of all of the Green Light Law’s provisions and intervene in this action, and respectfully request the opportunity to submit a reply in support of the State’s motion to dismiss the Complaint.

ARGUMENT

Federal Rule of Civil Procedure 24 permits a party to intervene in an action as of right or by permission of the court. Fed. R. Civ. P. 24. A party has the right to intervene if, on timely motion, he or she “claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.” Fed. R. Civ. P. 24(a)(2). The Court may also, in its discretion, “permit anyone to intervene” provided that the party (i) files a “timely motion,” and (ii) “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1).

Here, Intervenors meet the requirements of intervention as of right. In the alternative, they meet the requirements for permissive intervention given their significant interests in the outcome of the matter.

I. INTERVENORS SATISFY THE REQUIREMENTS TO INTERVENE AS OF RIGHT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 24(A)

To determine whether an applicant has met the standard for intervention of right under Rule 24(a)(2), the movant must have, “(1) timely file[d] an application, (2) show[ed] an interest in the action, (3) demonstrate[d] that the interest may be impaired by the disposition of the action, and (4) showed that the interest is not protected adequately by the parties to the action.” *Brennan v. N.Y.C. Bd. of Educ.*, 260 F.3d 123, 128-29 (2d Cir. 2001) (quotation marks and internal citation omitted). Intervenor meets each of these elements.

A. Intervenor’s Motion Is Timely

Courts “have not imposed a hard and fast rule defining timeliness under Rule 24(a), preferring instead . . . that the ruling be based on all the circumstances of the case.” *Dow Jones & Co. v. U.S. Dep’t of Justice*, 161 F.R.D. 247, 251 (S.D.N.Y. 1995). In the Second Circuit, such circumstances include: “(a) the length of time the applicant knew or should have known of its interest before making the motion; (b) prejudice to existing parties resulting from the applicant’s delay; (c) prejudice to the applicant if the motion is denied; and (d) the presence of unusual circumstances militating for or against a finding of timeliness.” *Floyd v. City of New York*, 770 F.3d 1051, 1058 (2d Cir. 2014) (citation omitted).

These factors weigh in favor of intervention in this action. Intervenor is submitting this motion shortly after the Court established an August 16, 2019 deadline for Defendants to file their responsive pleading. ECF No. 11. Intervenor’s motion is also submitted almost a month prior to the date set for completion of briefing on the pending motions, and nearly two months *before* the October 23, 2019 oral argument date on those motions. ECF No. 29.¹⁰ Further, intervention at

¹⁰ There is a pending question of whether the United States government will weigh in on the action, which may delay the action regardless of whether Intervenor participates, and any involvement of the federal government would further warrant the involvement of the Intervenor

this stage will not prejudice any party, particularly because a discovery schedule has not been set. *See Laroe Estates, Inc. v. Town of Chester*, 828 F.3d 60, 67 (2d Cir. 2016), *overruled on other grounds by Town of Chester, N.Y. v. Laroe Estates, Inc.*, 137 S. Ct. 1645 (2017) (finding that intervention was timely where “the parties ha[d] not even begun discovery”); *Pike Co. v Universal Concrete Prods.*, 284 F. Supp. 3d 376, 396 (W.D.N.Y. 2018) (motion to intervene timely in spite of five-month delay where delay was not so “protracted as to result in any real prejudice . . . especially where no discovery has taken place”) (citations omitted).

Indeed, Intervenorors do not seek any delay of the proceedings, and, in fact, request that the proceedings move as expeditiously as possible given the impact the Green Light Law will have on them if it is implemented as planned in December 2019. To ensure that the case moves swiftly, Intervenorors respectfully request that they be permitted to join in the State’s initial briefing to dismiss the Complaint and oppose a preliminary injunction, and then submit a simultaneous reply setting forth their position as to why dismissal is appropriate and an injunction unwarranted. Intervenorors will unquestionably be prejudiced if they are not permitted to intervene in this matter at this time due to their unique and direct interests as individuals and entities advocating on behalf of similarly situated individuals who are directly impacted by this litigation.

Given this, Intervenorors’ application is timely.

B. Intervenorors Have Substantial Interests That Would Be Impaired by the Disposition of the Litigation

An intervenor’s interest in an action must be “direct, substantial, and legally protectable[.]” not “remote from the subject matter of the proceeding, or . . . contingent upon the occurrence of a sequence of events[.]” *Brennan*, 260 F.3d at 128-29 (quoting *Washington Elec. Coop., Inc. v.*

in the action. ECF No 37. The Intervenorors certainly have an interest in defending the constitutionality of the Green Light Law if the federal government -- the entity most likely to allegedly prosecute them -- becomes involved.

Mass. Mun. Wholesale Elec. Co., 922 F.2d 92, 97 (2d Cir. 1990)); accord *Donaldson v. United States*, 400 U.S. 517, 531 (1971) (requiring “significantly protectable interest”). Despite this requirement, Rule 24(a)(2) “does not require that the intervenor prove a property right, whether in the constitutional or any other sense.” *Brennan*, 260 F.3d at 130 (quoting *United States v. City of Chicago*, 870 F.2d 1256, 1260 (7th Cir. 1989)). Rather, Intervenor must demonstrate “an interest relating to the property or transaction which is the subject of the action.” Fed. R. Civ. P. 24(a)(2).

The Supreme Court has recognized that “‘certain public concerns may constitute an adequate ‘interest’ within the meaning of [Rule 24(a)(2)].” *Herdman v. Town of Angelica*, 163 F.R.D. 180, 187 (W.D.N.Y. 1995) (quoting *Diamond v. Charles*, 476 U.S. 54, 68 (1986)) (alteration in original). This Court, therefore, must “take into account both the public nature” of the instant litigation “and the basis for, and strength of, [Proposed Intervenor’s] particular interest in the outcome of the litigation.” *Id.*; accord *Commack Self-Serv. Kosher Meats, Inc. v. Rubin*, 170 F.R.D. 93, 100 (E.D.N.Y. 1996); see also *Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014) (“The interest requirement may be judged by a more lenient standard if the case involves a public interest question or is brought by a public interest group. The zone of interests protected by a constitutional provision or statute of general application is arguably broader than are the protectable interests recognized in other contexts.” (citations omitted)); 7C Charles Alan Wright, et al., *Federal Practice and Procedure* § 1908.1 (3d ed. 2019) (“[I]n cases challenging various statutory schemes as unconstitutional or as improperly interpreted and applied, the courts have recognized that the interests of those who are governed by those schemes are sufficient to support intervention.”) (footnote omitted).

Here, four interests of Intervenor implicate both their own and public concerns—none of which can be adequately defended or represented by the State.

First, Organizational Intervenors have a significant interest given the resources they have dedicated and continue to dedicate in assisting immigrants unable to acquire a license, advocating for passage of the law, and educating eligible individuals in preparation for implementation in December. If the DLAPA *in toto* or in part is struck down, these organizations will have to divert funds and resources they were planning to spend elsewhere in order to continue to provide transportation and other services to those impacted by a ruling. *See generally* JV Decl., Exs. A-C. Therefore, they should be permitted to intervene as a matter of right, especially where they would otherwise have standing. *See, e.g., Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982) (finding organization had standing because if, as alleged, defendants’ practice “perceptibly impaired [organization’s] ability to provide counseling and referral services,” this is injury to organization’s activities and resources, and “constitutes far more than simply a setback to the organization’s abstract social interests”); *Centro De La Comunidad Hispana De Locust Valley v. Town of Oyster Bay*, 868 F.3d 104, 110 (2d Cir. 2017).

For example, both NYIC and HF have devoted significant resources to advocate for the Green Light Law, JV Decl., Ex. B ¶¶ 5, 7; JV Decl., Ex. C ¶¶ 6-7, and RMM has also worked to support the bill’s passage. JV Decl., Ex. A ¶ 5. Prior to the DLAPA, RMM devoted resources in rural communities as it continues to struggle as one of the only reliable methods of transportation for those individuals that it serves. JV Decl., Ex. A ¶¶ 2-4, 7. It would need to devote more resources should the statute be rewritten or struck down. *Id.* ¶¶ 7-9. Furthermore, with over 1,000 individuals who have already relied on HF to educate them on and advocate for the new law, HF has a significant interest in continuing to defend these interests before the Court. JV Decl., Ex. C ¶ 9. Therefore, Organizational Intervenors certainly have significant interests in the matter at hand.

Second, Plaintiff argues that, by providing a driver's license to an individual he believes is undocumented, he would be subject to prosecution under the federal immigration laws because he would be assisting the undocumented immigrant in remaining in the country. *See, e.g.*, ECF No. 3-16 at 9-11 (arguing that providing driver's license to individual would be assisting in "movement" of "aliens within the United States" contrary to federal law); *id.* at 11-12 (arguing that U.S.C. § 1324 requires a broad reading for conduct where defendant "substantially help[s]" alien remain in the country "such as by providing him with shelter, money, or other material comfort"); *but see* ECF No. 25 at 14-20 (explaining why Plaintiff's reading of the law is wrong, including because assistance in daily life has been found not to violate statute). If Plaintiff's reading was correct (and it is not), Organizational Intervenors, all of which provide aid, support, and services to undocumented immigrants in their daily activities and advocate in support of their interests, could be deemed to violate the federal immigration laws. Therefore, they should be permitted to intervene in order to oppose Plaintiff's reading of the requirements of the federal statutes.

Third, each Intervenor has an interest in ensuring that an applicant seeking a license under the Green Light Law can do so without risk of immigration enforcement consequences, which protections would be eliminated or severely tested if the law is struck down or modified. This fear is based on reality. When protections akin to those in the Green Light Law did not exist in California, federal immigration enforcement officials accessed applicants' information in order to take punitive action, up to and including deportation, against them and their families. *See* Tom Jones, Sergio Flores, & Gaby Rodriguez, NBC SAN DIEGO, *New Law Would Limit Access to Driver's License Records of Undocumented Immigrants* (April 12, 2019) (<https://www.nbcsandiego.com/news/local/New-Law-Would-Limit-Access-to-Undocumented->

Drivers-Information-508523051.html) (“Jones & Flores”) (last visited Aug. 29, 2019) (reporting that federal immigration officials gained access to driving records to acquire addresses of undocumented immigrants who obtained driver’s licenses under California equivalent of DLAPA). A failure to adequately protect information would impact the willingness of individuals, including those served by the Organizational Intervenors, to apply for a driver’s license.

Moreover, any argument by Plaintiff that the Green Light Law is unconstitutional implicates the privacy protections preventing applicants either from affirmatively being identified to or from becoming subject to prying inquiries by federal immigration officials. This is contrary to other daily activities where the federal government, state government, and other courts have recognized a privacy interest in an individual’s immigration status to facilitate participation in everyday activities. *See, e.g., New York by Schneiderman v. Utica City Sch. Dist.*, 177 F. Supp. 3d 739, 744 (N.D.N.Y. 2016) (state education laws “even prohibit school officials from inquiring about . . . immigration status of students . . . as well as requesting information which would tend to reveal immigration status, such as Social Security numbers”) (internal quotation marks omitted); New York Executive Order No. 170.1, *Amendment to Executive Order 170 - State Policy Concerning Immigration Access to State Services and Buildings* (Apr. 25, 2018) <https://www.governor.ny.gov/news/no-1701-amendment-executive-order-170-state-policy-concerning-immigrant-access-state-services> (“State officers or employees shall not inquire about an individual’s immigration status . . . [as] immigration enforcement in these spaces create a chilling effect, preventing immigrants from fully participating”). Recently, a court identified that the United States Census Bureau would also be required to abide by statutory privacy requirements protecting against the identification of individuals if such a citizenship status question were included on the census questionnaire. *See New York v. U.S. Dep’t of Commerce*, 351 F. Supp. 3d

502, 618-19 (S.D.N.Y. 2019) (citing to 13 U.S.C. § 9(a)(2)), *aff'd in part, rev'd in part on other grounds and remanded by* 139 S. Ct. 2551 (2019); *cf.* 20 U.S.C. § 1232g(b)(1) (denying federal funds to educational institutions with “policy or practice of permitting the release of education records” except in narrow circumstances that do not include immigration status queries).

Intervenors can provide information and arguments about these significant privacy protections elsewhere in the law, and the tangible impact on them if those protections are encroached upon, to the Court in support of the Green Light Law given their position as beneficiaries, or providers of services to beneficiaries, of these laws. Organizational Intervenors are familiar with these protections given their historical advocacy in favor of the law and undocumented immigrants. Plaintiff’s argument flies in the face of other protections offered when immigrants need everyday services, but may not have documentation, and Intervenors should be permitted to join the action as defendants in order to present these cases and statutes.

Fourth, Intervenors have an interest in undocumented immigrants acquiring driver’s licenses so that they can legally drive -- a basic, pervasive, and often necessary requirement for modern society. *See, e.g., Delaware v. Prouse*, 440 U.S. 648, 662 (1979); *Wooley v. Maynard*, 430 U.S. 705, 715 (1977) (“[D]riving an automobile [is] a virtual necessity for most Americans”); *Thomas v. Haslam*, 303 F. Supp. 3d 585, 616 (D. Tenn. 2018) (“Being unable to drive is the equivalent of a recurring tax or penalty on engaging in the wholly lawful ordinary activities of life”). There has *never* been a statutory requirement that an individual be legally in this country to acquire a New York standard license. ECF No. 25 at 3. Only within the past 20 years have undocumented immigrants been denied the ability to acquire a driver’s license in New York due to their lack of documentation (e.g., lack of a Social Security number), *not* due to their immigration status. *Compare* N.Y. Veh. & Traf. Law § 502(1) *with* Green Light Law § 2 (*amending* N.Y. Veh.

& Traf. Law § 502(1)). If the Court were to grant Plaintiff's requested relief, it would essentially deem immigration status a *per se* requirement of acquiring a driver's license, contrary to the licensure law of New York and its history, ECF No. 25 at 3, and permanently deprive Individual Intervenors, and the individuals served by Organizational Intervenors, of the ability to acquire a driver's license.

For example, many of the constituents served by Organizational Intervenors depend on the implementation of the Green Light Law to assist them in daily activities such as going to church, picking up their children from school, and attending to medical needs. JV Decl., Ex. B ¶ 2; JV Decl., Ex. C ¶ 2. Organizational Intervenors also possess a significant interest in the constitutionality of the law given the expense, effort, and time associated with serving the immigrant communities where those individuals cannot drive. *See generally* JV Decl., Exs. A-C.

Moreover, because of her son's serious medical conditions, Individual 2 must routinely take him to various medical experts and travel two-and-a-half-hours to a Philadelphia children's hospital, which would be significantly easier (and safer) with a license. JV Decl., Ex. E ¶¶ 5-9. Similarly, Individual 4 struggles to care for her infant daughter without reliable transportation due to her partner's work schedule and the unreliability of public transportation where she lives. JV Decl., Ex. G ¶¶ 4-8. Individual 3 struggles with completing normal life activities, such as meeting with her immigration attorney, buying more affordable groceries, and taking her son to his appointments, without a driver's license. JV Decl., Ex. F ¶¶ 7-11. Individual 1 needs a driver's license in order to routinely visit and participate in his children's lives due to the paucity of public transportation and the expense (almost \$130 round-trip) of hiring private transportation. JV Decl., Ex. D ¶¶ 3-7. He already risked, and was subject to criminal arrest, when he drove without a

license trying to visit his children. *Id.* ¶ 10. All are eligible to apply for a license once the Green Light Law goes into effect.

The disposition of this action by the Court would have far-reaching consequences throughout New York. Thus, Intervenor’s interest in this action, as all depend on this law being enacted, is “direct, substantial, and legally protectable” and not “remote from the subject matter of [this] proceeding.” *Brennan*, 260 F.3d at 129.¹¹

C. Intervenor’s Interests Are Not Adequately Represented by the State

Although Intervenor and the State seek the same remedy -- the institution of the Green Light Law as written -- there are different interests implicated that warrant inclusion of Intervenor.

Inadequate representation of interests does not require certainty about how the existing parties in an action will litigate the case; it is sufficient that representation of proposed intervenor’s interests “may be inadequate.” *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972) (observing “sufficient doubt about the adequacy of representation to warrant intervention”); *see also* 7C Charles Alan Wright, et al., *Federal Practice and Procedure* § 1909 (3d ed. 2019) (applicant ordinarily should be permitted to intervene as of right “unless it is clear that the party will provide adequate representation for the absentee.”) (footnote omitted). Moreover, “[i]f an absentee would be substantially affected in a practical sense by the determination made in an

¹¹ There is also an interest in advancing public health, as public transportation access, or even the ability to hire private cars, is either non-existent or severely restricted in the vast rural areas and small towns of New York. *See, e.g.*, Valerie Lefler, *Stranded: Bridging the Transportation Gap for Rural Communities*, AARP.org (Mar. 11, 2019, 8:01 AM), <https://blog.aarp.org/thinking-policy/stranded-bridging-the-transportation-gap-for-rural-communities> (“For those without access to a personal vehicle, traveling from their home to a doctor or health care facility can be time consuming, expensive, and sometimes altogether impossible—as it can require several smaller trips across multiple types of transportation and different jurisdictions (municipal, county, or state)”).

action, he should, as a general rule, be entitled to intervene.” Fed. R. Civ. P. 24 (advisory comment to 1966 amendment).

The State cannot adequately protect Intervenor’s rights on its own. While the State may have broad public interests in traffic safety, increased motorist insurance coverage, and higher revenues due to increased application fees, or in supporting its economy through improving access to employment, the State cannot vigorously defend the individualized, real-life impact that any disposition of this litigation will have on Intervenor, their constituents, and other similarly situated persons. Intervenor bears the impact of any determinations in this litigation as they are the ones, or represent the ones, who would be unable to legally transport their severely disabled or sick children to medical treatment, visit their children, drive to work, or go to church. They are also the ones who will suffer the immigration consequences or provide services to those who would suffer such consequences, should all or part of the Green Light Law be deemed unconstitutional.

Moreover, there is a distinct possibility that, at some point in this litigation, the State’s interests in defending this action will diverge from the interests of undocumented immigrants like Intervenor. Right now, Attorney General James has stated that she is prepared to vigorously defend this action, even though Governor Cuomo, at the time he signed the law, expressed some hesitancy in fully supporting its terms. *See* Karen DeWitt, WAMC, *NY Gov. Cuomo Signs Green Light Bill*, (June 17, 2019), <https://www.wamc.org/post/ny-gov-cuomo-signs-green-light-bill> (last visited Aug. 29, 2019). However, the State’s interests in having legal drivers on the road could potentially be accomplished without the protections against discovery of immigration status. But, as was evidenced in California, any modification in these protections could create dire consequences for the Individual Intervenor and the individuals served by the Organizational Intervenor. *See generally* Jones & Flores. Therefore, any compromise or concession by the State

on the terms and protections of the Green Light Law would likely adversely impact Intervenor. *See, e.g., United States v. Palermino*, 238 F.R.D. 118, 122-23 (D. Conn. 2006) (permitting intervention, where parties have same ultimate objective, as defendants’ “objectives and those of [proposed intervenors], and the individuals/consumers those groups represent, may diverge as their interests do differ—while [defendant] is a neutral state-established adjudicative body seeking to clarify the outer boundaries of its authority and to exercise such authority accordingly, [proposed intervenors] seek to protect individuals and consumers generally from any improper disclosure of their personal telecommunications activities.”). Although the legislative history of the DLAPA includes discussion of the immigration consequences, *see supra* at 7, the State does not emphasize this in its brief. Consequently, in order to protect the benefits that are afforded to them under the statute, Intervenor should be included in this action in case the State moves away from defending their interests as immigrants in the privacy protections as the case develops.

Therefore, no matter how vigorously the State defends its interests, the interests of Intervenor are concrete and distinct from, and inadequately represented by, the State.

II. IN THE ALTERNATIVE, INTERVENORS SHOULD BE PERMITTED TO INTERVENE PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 24(B)

Intervenor respectfully request that the Court permit them to intervene in the action should the Court find that they do not possess the right to intervene as a matter of course. The “principal consideration” is whether permissive intervention “will unduly delay or prejudice the adjudication of the rights of the original parties.” *U.S. Postal Serv. v. Brennan*, 579 F.2d 188, 191 (2d Cir. 1978); *see also Pike*, 284 F. Supp. 3d at 394. Courts may consider other factors, such as “the nature and extent of the intervenors’ interests . . . and whether parties seeking intervention will significantly contribute to full development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented.” *U.S. Postal Serv.*, 579 F.2d at

191-92 (quoting *Spangler v. Pasadena City Bd. of Ed.*, 552 F.2d 1326, 1329 (9th Cir. 1977)). Courts may also consider if the proposed intervenors' interests are "adequately represented by the other parties," *id.*, but it "is clearly a minor factor at most." *Pike*, 284 F. Supp. 3d at 397 (citations omitted).

Permissive intervention is appropriate here. *See supra* Section I. Moreover, although there are shared questions of fact and law that would be raised by the State and Intervenors, especially in defending the constitutionality of the Green Light Law, and both the State and Intervenors seek the same relief from the Court (enactment of the Green Light Law), the individual impact on each Intervenor warrants their participation. *See Comer v. Cisneros*, 37 F.3d 775, 801-02 (2d Cir. 1994) (granting intervention to minority residents who had applied for or were denied housing subsidies where existing plaintiffs were challenging subsidy program).

Finally, Intervenors and their counsel offer specialized expertise and familiarity with the factual and legal issues that "will significantly contribute to full development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented." *U.S. Postal Serv.*, 579 F.2d at 192 (quoting *Spangler*, 552 F.2d at 1329); *see also Ass'n of Conn. Lobbyists LLC v. Garfield*, 241 F.R.D. 100, 103 (D. Conn. 2007) (intervenors "offer a unique, personal and highly relevant factual perspective to the law, its development, and its impact[,] and "specialized expertise and substantial familiarity with the legal issues that are presented for review.""). If their application is granted, Intervenors would be the only parties to the action to represent state residents seeking to obtain a driver's license under the Green Light Law, which makes them intimately familiar with the impacts on these individuals. *See Miller v. Silbermann*, 832 F. Supp. 663, 674 (S.D.N.Y. 1993); *see Commack*, 170 F.R.D. at 106.

Therefore, should the Court find that Intervenorors do not possess the right to intervene as a matter of course, we respectfully request that the Court permit them to intervene.

CONCLUSION

For the reasons set forth above, Intervenorors respectfully request that the Court grant their Motion to Intervene as defendants pursuant to Federal Rule of Civil Procedure 24(a) or, in the alternative, Federal Rule of Civil Procedure 24(b).

Dated: New York, New York
September 4, 2019

**ARNOLD & PORTER
KAYE SCHOLER LLP**

LATINOJUSTICE PRLDEF

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL P. KEARNS, in his official capacity as
Clerk of the County of Erie,

Plaintiff,

v.

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York; LETITIA A.
JAMES, in her official capacity as Attorney General
of the State of New York; and MARK J.F.
SCHROEDER, in his official capacity as
Commissioner of the New York State Department of
Motor Vehicles,

Defendants,

and

RURAL AND MIGRANT MINISTRY; NEW
YORK IMMIGRATION COALITION; HISPANIC
FEDERATION; INTERVENOR NO. 1;
INTERVENOR NO. 2; INTERVENOR NO. 3; and
INTERVENOR NO. 4,

Defendants-Intervenors.

Civil Action No. 1:19-CV-902-EAW

Hon. Elizabeth A. Wolford

**DECLARATION OF JORGE LUIS VASQUEZ, JR. IN SUPPORT OF
DEFENDANTS-INTERVENORS' MOTION TO INTERVENE AS DEFENDANTS AND
MOTION TO PROCEED ANONYMOUSLY**

Jorge Luis Vasquez, Jr. hereby declares under penalty of perjury subject to 28 U.S.C. §
1746 as follows:

1. I am a member of the Bar of this Court and a member of the legal organization
LatinoJustice PRLDEF, counsel, along with Arnold & Porter Kaye Scholer, for the Defendants-
Intervenors Rural and Migrant Ministry; New York Immigration Coalition; Hispanic Federation;
and Intervenors Nos. 1, 2, 3, and 4 (collectively referred to as "Defendants-Intervenors").

2. I make this declaration in support of Defendants-Intervenors' Memoranda of Law in Support of Their Motion to Intervene as Defendants and Motion to Proceed Anonymously, respectively.

3. Attached hereto as Exhibit A is a true and correct copy of the declaration of Richard C. Witt, Executive Director of Rural & Migrant Ministry.

4. Attached hereto as Exhibit B is a true and correct copy of the declaration of Steven K. Choi, Executive Director of New York Immigration Coalition.

5. Attached hereto as Exhibit C is a true and correct copy of the declaration of Jose Calderon, Executive Director of Hispanic Federation.

6. Attached hereto as Exhibit D is a true and correct unsigned copy of the declaration of Individual Intervenor No. 1 ("Individual 1"). Individual 1 wishes to proceed in the above-captioned matter anonymously as set forth in Defendants-Intervenors' Motion to Proceed Anonymously and so has not signed the declaration.

7. Attached hereto as Exhibit E is a true and correct unsigned copy of the declaration of Individual Intervenor No. 2 ("Individual 2"). Individual 2 wishes to proceed in the above-captioned matter anonymously as set forth in Defendants-Intervenors' Motion to Proceed Anonymously and so has not signed the declaration.

8. Attached hereto as Exhibit F is a true and correct unsigned copy of the declaration of Individual Intervenor No. 3 ("Individual 3"). Individual 3 wishes to proceed in the above-captioned matter anonymously as set forth in Defendants-Intervenors' Motion to Proceed Anonymously and so has not signed the declaration.

9. Attached hereto as Exhibit G is a true and correct unsigned copy of the declaration of Individual Intervenor No. 4 ("Individual 4"). Individual 4 wishes to proceed in the

above-captioned matter anonymously as set forth in the Defendants-Intervenors' Motion to Proceed Anonymously and so has not signed the declaration.

10. Counsel for Defendants-Intervenors informed the parties to this action of their intention to intervene, and requested that the parties consent to their intervention. Plaintiff did not consent to Defendants-Intervenors' intervention, and Defendants have taken no position on the motion at this time.

Dated: New York, New York
September 4, 2019

/s/ Jorge Luis Vasquez, Jr.
Jorge Luis Vasquez, Jr.

EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL P. KEARNS, in his official capacity as
Clerk of the County of Erie, New York,

Plaintiff,

vs.

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York,
LETITIA A. JAMES, in her official capacity as
ATTORNEY GENERAL of the State of New York,
and MARK J.F. SCHROEDER, in his official capacity
as Commissioner of the New York State Department of
Motor Vehicles,

Defendants,

and

RURAL AND MIGRANT MINISTRY; NEW YORK
IMMIGRATION COALITION; HISPANIC
FEDERATION; INTERVENOR NO. 1;
INTERVENOR NO. 2; INTERVENOR NO. 3; and
INTERVENOR NO. 4.,

Defendants-Intervenors.

Civil Action No. 19-cv-902-EAW

Hon. Elizabeth A. Wolford

DECLARATION OF RICHARD CYRIL WITT

Richard C. Witt, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am the Executive Director of the Rural and Migrant Ministry ("RMM"), a proposed Defendant-Intervenor in the above captioned case. In that capacity, I am responsible for the programs and staff efforts for RMM's educational and outreach efforts around the *Driver's License and Privacy Act* (hereafter, the "Green Light Law"). I am responsible for the organization's budgeting, fundraising and policy priorities. The 2019 Green Light Law has been a major community issue shaping some of RMM's planning and activities in past years. I have been RMM's Executive Director for over 28 years.
2. RMM is a non-profit organization established since 1981 which has several offices located throughout New York State. Our staff reaches diverse immigrant and rural community residents in the following New York counties of Suffolk, Putnam, Orange,

Ulster, Dutchess, Columbia, Sullivan, Wayne, Monroe, Orleans, Cayuga, Yates, Ontario, Genessee, Livingston, Seneca as well as surrounding geographies.

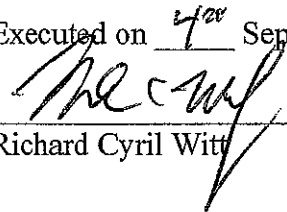
3. RMM's mission is to provide essential material and moral support, educational opportunities, and peer support for youth and adults. Through our work we have helped to unite immigrants, rural families and allies so that all New Yorkers can thrive. Since its inception, RMM expends its resources at the state and local levels to protect and advance the interests of immigrants, migrant workers and families, who are often neglected in this state's vast rural and farming communities.
4. RMM does not charge for its diverse programs and has no fee-paying members. We are committed to migrant justice, equality and civic integration. Our Board of Directors is made up of former program participants as well as a diversity of prominent religious (from a diversity of faith backgrounds) and labor leaders, as well as university and community leaders from across New York State. During 2018, RMM program services and organizing work affected over 50,000 individuals in New York, including immigrant residents in Erie County. This year we estimate reaching 12,000 individuals or 4,000 families in the state.
5. RMM staff and board members support the Green Light Law as it is a tool to advance opportunity and justice for all New Yorkers. We used a grassroots campaign to help bring change and the successful passage of this important law through coalition building and meetings with legislative offices and local officials. RMM supports the elemental right for one's access to a driver's license in order to travel safely within the roads and byways of New York State. A driver's license and permit opens opportunity, public engagement, and economic mobility. We are a society based on fairness and compassion that promotes integration and expands linkage and communications.
6. RMM helped in the passage of the Green Light Law and is monitoring what will happen in its implementation. RMM programs have always served undocumented immigrants. They show constant fear of deportation, family separation, and immigration consequences. Consequently, they often have avoided contact with governmental authorities and the risk of being reported to immigration officials. Moreover, they could not have applied for driver's licenses under the old law. Given the unexpected legal challenge to the law, we are forced to reassess our program priorities and better understand the imminent impacts of the law should it be stopped by this litigation. RMM will act on its own behalf and on behalf of the undocumented immigrants it serves, who would be otherwise underrepresented.
7. RMM spends a great deal of time providing transportation to those without driver's licenses so that they can access our programs. In turn, we also spend a great deal of time strategizing and meeting on how to raise those funds. Now, we are concerned about our ability to increase services if people are unable to participate due to any disruption to the implementation of the Green Light Law. First, people were excited about the new law. Now, we are aware of their nervousness and their reticence to drive is increasing, as they view the court challenges and public statements being made against the law. As a result,

we detect an increasing number of community and program participants who are fearful of driving. This also creates a greater burden upon RMM.

8. RMM has already diverted some of RMM staffing duties and volunteers to adjust to the current situation which threatens to take away access to driver's license. In the upcoming months, we will be facing certain hardships in our programs due to the upsetting challenges posed against the Green Light Law.
9. Finally, we would note that rural New York is already at a greater disadvantage due to a tremendous lack of public transportation. The blocking of this legislation would continue to maintain the marginalization and disenfranchisement impact on RMM's work and mission.
10. In preparation for the Green Light Law's implementation, RMM seeks to intervene as Defendant to defend the legal integrity and constitutionality of the Green Light Law. Thousands of New York residents can contribute to our local economies if provided access to a modern critical tool that removes barriers to travel and promotes easier communications and commerce.

I declare under the penalty of perjury that the foregoing is true and accurate.

Executed on 4th September 2019.



Richard Cyril Witt

EXHIBIT B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL P. KEARNS, in his official capacity as
Clerk of the County of Erie, New York,

Plaintiff,

vs.

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York,
LETITIA A. JAMES, in her official capacity as
Attorney General of the State of New York, and
MARK J. SCHROEDER, in his official capacity as
Commissioner of the New York State Department of
Motor Vehicles,

Defendants,

and

RURAL AND MIGRANT MINISTRY; NEW YORK
IMMIGRATION COALITION; HISPANIC
FEDERATION; INTERVENOR NO. 1;
INTERVENOR NO. 2; INTERVENOR NO. 3; and
INTERVENOR NO. 4.;

Defendant-Intervenors.

Civil Action No. 1:19-CV-902-EAW

Hon. Elizabeth A. Wolford

DECLARATION OF STEVEN K. CHOI

Steven K. Choi, pursuant to 28 U.S.C. § 1746, declares as follows:

- 1) I am the Executive Director of the New York Immigration Coalition (“NYIC”), a proposed Defendant-Intervenor in the above captioned case. I have been at the helm of NYIC for over six years.
- 2) Under my leadership, NYIC built a statewide infrastructure, which mobilized diverse sectors of the economy—small businesses, financial institutions, law enforcement, automobile industry and immigrant communities—to promote policy advocacy that resulted in passage of the Driver’s License and Privacy Act (hereinafter, “Green Light Law”). NYIC championed this law because of its paramount importance to thousands of constituents served by the NYIC’s member organizations, who would be afforded the chance to secure driver’s licenses that would

enable them to drive to their places of worship, drive their children to school, attend to their medical needs, and engage in other basic activities of daily living without trepidation and fear.

3) NYIC is a statewide organization representing over 160 diverse immigrant community-based organizations which collectively serve the interests of approximately four million immigrants across the state, including many in Erie County where the plaintiff has challenged the Green Light Law. Included among the constituents served by these immigrant community-based organizations are undocumented immigrants.

4) Since its founding in 1987, NYIC has worked to build a State that is stronger because all people are welcome, treated fairly and given the chance to pursue their dreams. NYIC advocates for humane policies that treat immigrants with dignity, further justice, and afford them opportunity. It also builds the power of immigrant communities to attain social and economic mobility.

5) In 2016, NYIC launched a statewide coalition to advocate for driver's licenses for all New Yorkers, irrespective of immigration status, because it was a top priority for its membership. The coalition engaged non-traditional stakeholders across the state, such as small businesses, law enforcement, district attorneys, financial institutions, and the automobile industry.

6) NYIC shared with its stakeholders research done by the Fiscal Policy Institute demonstrating that the Green Light Law would bring in an estimated \$57 million in annual state and county revenue from registration fees, sales taxes, and gas taxes. In addition, implementation of the law would produce \$26 million in one-time revenue as more people obtaining driver's licenses would buy cars and register vehicles. Having convinced many of its stakeholders of the broad economic and road safety benefits of the Green Light Law, NYIC helped to launch a business advisory group, which worked assiduously to push for passage of the law.

7) NYIC has also devoted substantial resources to mobilize and organize grassroots groups in immigrant communities to advocate for the law. NYIC provided training tools, produced policy papers, raised funds, offered small grants to members, and coordinated regular meetings of steering committees and coalition members. Further, NYIC supported and helped coordinate a group of immigrants who will be direct beneficiaries of the Green Light Law and who led decision making for the campaign.

8) Since the passage of the law, NYIC has continued to convene the Green Light Steering Committee and engage its statewide coalition to mount a public education campaign. In preparation for implementation, NYIC expects to divert considerable resources to communication, training and services coordination, including public service announcements and workshops across the state, to provide translation services, coordinate legal support and services to individuals seeking to obtain licenses. NYIC will also work with consulates to offer support to procure necessary documents. It does all of this because, among the constituents served by NYIC and its community-based organizations, there are many individuals eligible to apply for a license under the Green Light Law.

9) I am confident that the Green Light Law will help eligible immigrants feel welcome,

safe and secure in their communities and would allow them to engage in ordinary activities of daily living. NYIC seeks to intervene on its own behalf and on behalf of the community-based organizations that constitute NYIC that serve the immigrant population of New York in support of the defendants to reject the complaint that seeks to undermine the Green Light Law. It is NYIC's position that the law is constitutional and should be upheld. I support New York's decision to join 12 other states and the District of Columbia that have successfully implemented standard driver's licenses for all their residents irrespective of immigration status.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29 day of August 2019



Steven K. Choi

EXHIBIT C

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

MICHAEL P. KEARNS, in his official capacity as
Clerk of the County of Erie, New York,

Plaintiff,

vs.

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York,
LETITIA A. JAMES, in her official capacity as
Attorney General of the State of New York, and
MARK J. SCHROEDER, in his official capacity as
Commissioner of the New York State Department of
Motor Vehicles,

Defendants,

and

RURAL AND MIGRANT MINISTRY; NEW YORK
IMMIGRATION COALITION; HISPANIC
FEDERATION; INTERVENOR NO. 1;
INTERVENOR NO. 2; INTERVENOR NO 3; and
INTERVENOR NO. 4;

Defendant-Intervenors.

Civil Case No. 19-cv-902-EAW

DECLARATION OF JOSE CALDERON

Jose Calderon, pursuant to 28 U.S.C. § 1746, declares as follows:

- 1) I am the Executive Director of the Hispanic Federation (“HF”), a Proposed Defendant-Intervenor in the above captioned case. I have been HF’s Executive Director for seven years. I have worked for HF in various capacities for more than eighteen years.
- 2) I recognize, as do most Americans, that immigrants are remaking the fabric of American society. Like new Americans of yesteryears, our new immigrants have contributed greatly to our nation’s economy, culture and overall wellbeing. HF champions the rights and interests of immigrant families, including their interests in obtaining driver’s licenses to enable them to drive to their places of worship, drive their children to school, drive to the grocery store, drive to medical appointments, and meet other familial obligations.

3) Through its network of over 100 Latinx grassroots and nonprofits, HF supports Hispanic families and strengthens Latinx institutions by working in areas, such as immigration, civic engagement, education, health, economic empowerment, and the environment. Since its inception, HF has tirelessly worked at the national, state and local levels to protect and advance the interests of immigrant families. HF has extensive experience working on issues impacting immigrant communities, and is, therefore, intimately familiar with their need for driver's licenses. HF is also acutely aware of their fears, including immigration consequences, of applying for driver's licenses and state identification cards—activities that most of us take for granted.

4) In 2015, HF helped lead policy advocacy that resulted in the establishment of New York City's Municipal ID Card Program, the largest municipal identification program in the country, issuing cards to citizens and immigrants alike, which affords them the opportunity to open bank accounts, rent an apartment, fill a prescription, and gain free or reduced fee admission to public libraries and other cultural institutions. HF implemented a media campaign to raise public awareness about the program and promoted participation in immigrant communities.

5) Also, in 2015, when Connecticut's Driver License Program, which permits undocumented immigrants to obtain standard driver's licenses, became operational, HF, which maintains a regional office in Hartford, collaborated with its grassroots partners in the state to promote the law. HF engaged in media campaign, produced policy statements and provided technical support. Since the law's passage, which HF has been monitoring, more than 50,000 undocumented immigrants, who otherwise would be excluded from obtaining driver's licenses, have secured the ability to drive, funneling 7.5 million dollars into the Connecticut Department of Motor Vehicles.¹

6) With regard to the Driver's License Access and Privacy Act, known as the ("Green Light Law"), challenged here, HF was a partner in a statewide coalition that pushed for enactment of the law. Before its advocacy on the Green Light Law, HF advocated for the advancement of a 2007, short-lived, executive order which granted undocumented immigrants access to standard driver's licenses.

7) To aid enactment of the Green Light Law, HF produced policy position papers, including a memorandum explaining the benefits of the law. In the memo, HF pointed out that research demonstrated that "expanding access to driver's license would provide New York State and county governments an estimated \$57 million in annual revenue." *See* Exhibit 1 (Hispanic Federation Memorandum In Support of S.1747 and A.3675).

8) HF also asserted, in support of the Green Light Law, that licensed drivers would learn "the rules of the road and purchase insurance policies, [licensing would] decrease accidents caused by traffic law ignorance and safeguard New York residents from car accidents [by] those

¹ *See* Chris Burrell, *Licensed Undocumented Immigrants May Lead to Safer Road, Connecticut Finds*, NPR (May 24, 2019).

[driving] without insurance coverage.” *Id.* Besides policy statements, HF staff also attended legislative visits at the State House, tracked and reported on legislators’ endorsement of the bill, mobilized community partners and member organizations, attended rallies, and actively promoted the law on social media for its constituents.

9) Since the passage of the Green Light Law, HF has worked to educate immigrant communities about the law. Over 1,000 individuals—likely beneficiaries of the law—have visited HF’s website to learn about law. *See* Exhibit 2 (Hispanic Federation social media hits June 2019)

10) I believe that the Green Light Law would help eligible undocumented immigrants feel welcome, safe and secure in their communities, and would allow them to engage in wholly lawful ordinary activities of daily living. For these reasons, I seek, on behalf of the Hispanic Federation, which serves immigrant communities, including those who are undocumented, to intervene in support of the defendants to reject the complaint that seeks to undermine the Green Light Law. The law, I believe, is constitutional and should be upheld. It is the right thing to do.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of August 2019



Jose Calderon

Exhibit 1



MEMORANDUM IN SUPPORT

S.1747 (Sepúlveda)/ A.3675 (Crespo)

The Hispanic Federation strongly supports S.1747/A.3675, which allows the Department of Motor Vehicles (DMV) to issue a new “Standard Driver’s License” to all New York State residents, regardless of immigration status. The passage of this legislation would improve public safety, lower insurance premiums for all New York residents, boost the economy, and provide some of the most vulnerable New Yorkers with increased economic mobility.¹

According to a 2017 analysis by the Fiscal Policy Institute, expanding access to driver’s licenses would provide New York State and county governments an estimated increase of \$57 million in combined annual revenue, and \$26 million in one-time revenues.² These increased revenues would offset program costs for the new driver’s license as New York State would gain up to \$9.6 million in driver’s license fees, while the MTA would see an increase of \$1.3 million in revenue from these fees.³

The economic value of this legislation spans various industries within New York. Sales in the auto industry would increase by 2.7 percent, helping locally owned dealerships thrive and private citizens sell their used cars at a higher value than a trade in.⁴ In turn, the state would generate tens of millions of dollars through registration and title fees, as well as vehicle and gasoline sales taxes.⁵

Expanding access to driver’s licenses would ensure that all drivers know the rules of the road and purchase insurance policies, decrease accidents caused by traffic law ignorance, and safeguard New York residents from car accidents with those without insurance coverage. Furthermore, current policies preventing undocumented immigrants from obtaining driver’s licenses actually increases annual insurance expenditures for licensed drivers by \$17.22 per person.⁶ Providing access to driver’s licenses to every New Yorker would result in savings for all New York State drivers.

The passage of this bill would allow the DMV to issue a new “Standard Driver’s License” to anyone who lives in New York State, within the limitations of the law that every other person must adhere to. Thus, in order for an undocumented immigrant to attain a standard driver’s license, they must prove identity with

¹ Press Release, *Comptroller Stringer And Fiscal Policy Institute: Granting Driver’s Licenses To Undocumented New Yorkers Would Benefit Everyone*, New York City Comptroller (2/15/2019); <https://comptroller.nyc.gov/newsroom/comptroller-stringer-and-fiscal-policy-institute-granting-drivers-licenses-to-undocumented-new-yorkers-would-benefit-everyone/>

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*



government issued identification, meet the minimum age requirement, pass all the required tests, and pay all fees. Additionally, Standard Driver's Licenses must be renewed every two years.

The legislation also includes privacy protections, prohibiting the DMV from sharing any applicant or license holder's information to a third party. Without this information protection element, immigrants may be too afraid to obtain drivers' licenses, defeating all the benefits this bill would bring to the state and its citizens.

Most importantly, this bill would increase the economic mobility for the most vulnerable families in this state. Having the ability to go to the grocery store or buy school supplies for your children should not be a luxury. Yet, for immigrants who live in areas with limited or no public transportation, simply buying eggs and milk for your household can be a laboring endeavor. They may also miss opportunities to attain higher paying jobs because they cannot find consistent and reliable transportation or have a way to get their children to daycare or school.

For these reasons, we strongly urge the Legislature to pass this bill and allow the Department of Motor Vehicles to issue the new "Standard Driver's License," as proposed by S.1747/A.3675. For more information about this bill, please contact: Maria Morrissey, Policy Analyst, Hispanic Federation at mmorrissey@hispanicfederation.org (518) 802-7178; or Jessica Orozco Guttlein, Assistant Vice President for Policy, Hispanic Federation at jorozco@hispanicfederation.org (212) 233-8955.

Hispanic Federation is the nation's premier Latino nonprofit membership organization. Founded in 1990, HF seeks to support Hispanic families and strengthen Latino institutions through work in the areas of education, health, immigration, civic engagement, economic empowerment, & the environment. The Hispanic Federation uses its deep bond with its network of 100 Latino grassroots nonprofits, close relationships with grass tops and grassroots stakeholders, and strong collaborations with foundations, media, elected officials, government and private sector partners to work deeply in communities, pursue systemic change and achieve large scale impact in its issue areas.

Exhibit 2

HISPANIC FEDERATION SOCIAL MEDIA HITS

6. [6/18/2019](#)—1,789 people reached, 57 Reactions, Comments, Shares, 47 post clicks

Like
Comment
Share
⋮

Hispanic Federation
Published by David Castillo III · June 18 ·

We applaud the New York State Legislature for passing this important piece of legislation, which will not only empower and protect the immigrant community, but which will also increase public safety.

NYDAILYNEWS.COM

Cuomo signs bill granting undocumented immigrants access to New York driver's licenses despite 11th-hour concerns

✔ **Get More Likes, Comments and Shares**
Boost this post for \$200 to reach up to 32,000 people.

1,789
People Reached

104
Engagements

Boost Post

Rodrigo Delgado, Elen Garcia and 43 others

Like
Comment
Share
⋮

Performance for Your Post

1,789 People Reached

57 Reactions, Comments & Shares

44 Like	38 On Post	6 On Shares
8 Love	7 On Post	1 On Shares
1 Comments	0 On Post	1 On Shares
4 Shares	4 On Post	0 On Shares

47 Post Clicks

0 Photo Views	25 Link Clicks	22 Other Clicks
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NEGATIVE FEEDBACK:

0 Hide Post
0 Hide All Posts

0 Report as Spam
0 Unlink Page

Reported stats may be delayed from what appears on posts

EXHIBIT D

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL P. KEARNS, in his official capacity as
Clerk of the County of Erie, New York,

Plaintiff,

vs.

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York,
LETITIA A. JAMES, in her official capacity as
Attorney General of the State of New York, and
MARK J.F. SCHROEDER, in his official capacity
as Commissioner of the New York State Department
of Motor Vehicles,

Defendants,

and

RURAL AND MIGRANT MINISTRY;
NEW YORK IMMIGRATION COALITION;
HISPANIC FEDERATION; INTERVENOR NO. 1;
INTERVENOR NO. 2; INTERVENOR NO. 3; and
INTERVENOR NO. 4.

Defendant-Intervenors.

Civil Action No. 1:19-CV-902-EAW

Hon. Elizabeth A. Wolford

DECLARATION OF INDIVIDUAL INTERVENOR # 1

1. I am over the age of 18.
2. I have been living in Niagara County, New York for over 7 years. I first came to this area to live with a cousin.
3. I am a full-time farm worker, working six days a week. I work and live on a private dairy farm located in the northeastern corner of Niagara County. I earn about \$860 a week.
4. This county is rural, remote and agricultural. No public transportation exists.
5. My family consists of two minor age U.S. born children, ages 6 months old and 3 years old. They live in Lockport, New York, a small town in the central part of the county.
6. On my one day off, I go visit my children, who live with their American citizen mother. I try to create a family life.

7. From the farm to Lockport is 25 minutes by car. As I am afraid to drive a car without a proper New York license, I am unfortunately forced to find rides or spend \$40 to \$65 to hire drivers in order to go see my children. At times, I hire a car by Uber, but it only serves one direction from the farm to Lockport. That costs me \$40 one way. Car hires can cost \$60 from co-workers. This is a significant amount of money from my budget.
8. When I visit my family, we may go shopping at the Walmart supermarket located in Lockport. Sometimes, we may drive over to Erie County to visit shops.
9. In the past, I drove a small truck that I own. It was registered under my ex-girlfriend's license. I do not have a driver's license.
10. In 2018 and 2019, after seeing my children and driving back to the farm, I was stopped by a county sheriff who would turn me over to the U.S. Customs and Border Protection (CBP) office. U.S. Homeland Security created a case file on me and I was released.
11. I am afraid of getting stopped and arrested again by the local sheriffs or any other authorities.
12. If I obtain a state driver's license, I would be free to drive a vehicle to perform my family duties as a father, take my children to get healthcare, take them shopping at stores located far from my workplace or home in Lockport, and also perform my duties on the dairy farm.
13. I have a valid foreign passport, a valid unexpired consular photo identification card, and have proof of my local residency.
14. I am eligible to apply for a non-commercial driver's license under the new New York law, Driver's License Access and Data Privacy Act.
15. This declaration was read to me in Spanish and I understand its content.

I declare under the penalty of perjury that the foregoing is true and accurate.

Executed on ____ September 2019 in New York.

_____/ **firma** / signature

EXHIBIT E

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL P. KEARNS, in his official capacity as
Clerk of the County of Erie, New York,

Plaintiff,

vs.

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York,
LETITIA A. JAMES, in her official capacity as
Attorney General of the State of New York, and
MARK J.F. SCHROEDER, in his official capacity as
Commissioner of the New York State Department of
Motor Vehicles,

Defendants,

and

RURAL AND MIGRANT MINISTRY; NEW YORK
IMMIGRATION COALITION; HISPANIC
FEDERATION; INTERVENOR NO. 1;
INTERVENOR NO. 2; INTERVENOR NO. 3; and
INTERVENOR NO. 4.

Defendant-Intervenors.

Civil Case No. 1:19-CV-902-EAW

Hon. Elizabeth A. Wolford

DECLARATION OF INDIVIDUAL INTERVENOR # 2

1. I am a resident of Westchester County, New York.
2. I am over the age of 18.
3. I reside with my husband and two U.S. born children – a 6 year old son and 8 year old daughter – in the small town of Port Chester, New York. My husband currently has a pending visa application.
4. My husband works full-time in a warehouse for the past 20 years. It is located 15 to 20 minutes on foot near our rental apartment. He works from Tuesdays to Fridays, 10:00 AM to 9:00 PM, and on Saturdays and Sundays, 10:00 AM to 6:00 PM. His only day off is on Mondays. I am a full-time caregiver for my children. I do not work outside the home.

5. My son was born with a hydrocephalic condition and he has a severe spina bifida condition which affected his spine. He is deprived of physical locomotion and has no ability to walk. He uses a wheelchair for all of his daily needs, such as going to public school, getting healthcare, attending school activities, moving around at home, and being moved from place to place.
6. My son's health condition requires frequent visits to medical experts for physical treatment and examinations. My son received special surgery and care from a Philadelphia children's hospital. The car drive from my home to this hospital takes about 2.5 hours each way. We depart early mornings and return late evenings.
7. He had surgical operations in early 2019 and was admitted for 3 weeks. Magnetic tubes are inserted into his spine. This resulted in other related health complications.
8. For the period of mid-March to mid-August 2019, the physicians required that my son return to Philadelphia every 15 days for post-operative check-ups and medical care.
9. Starting in October 2019, my son will be required to get examined in Philadelphia every 3 months for the next eleven years until he reaches the age of 17.
10. My son receives 30 minute physical therapy sessions, 4 times weekly at the Children Rehabilitation Center in White Plains. In good weather, it takes over 35 minutes to walk there with my son in his wheelchair. We walk to his local pediatrician in Port Chester.
11. As my son wears a catheter to relieve his fluids, I must change and release his urine four times a day. Every three months, I take him to the urologist in Tarrytown, New York, to change his catheter. We may need to go there on other occasions if an infection or other problems arise. Because many appointments are already set up in advance, his Medicaid insurance pays for his health and transportation services.
12. My son has occasional emergencies at night. He also has health related problems in public school. I would get calls and need to find a way to get him to the local hospital in Port Chester. The taxi can cost about \$20 each way if I have no way to transport him. Medicaid does not cover these unplanned car services. I am fortunate that a friend finds assistance to drive us. I depend on the kindness of an individual who runs a local community non-profit group.

13. Most for-hire cars and taxicabs are not able to transport my son because they do not have accommodations for a wheelchair. Therefore, we must drive him by hiring a friend or someone. I am forced to pay for food and car ride expenses of \$50 or more.
14. My 8 year old daughter attends a public school where she receives speech therapy. She has learning disabilities. I take her to see a psychologist in Port Chester. If we walk there, it takes half an hour. A taxi ride would cost about \$5 each way.
15. Recently, my husband bought a minivan to help in my son's transport needs. His pending visa provided him with a temporary renewable one-year employment authorization document (EAD) and he obtained a limited New York State driver's license. However, he must pay fees and renew both documents annually because his EAD has a one-year expiration date.
16. I want to learn how to drive my husband's vehicle since he works long days and works six days a week. He cannot provide reliable daily transportation support for my children and me.
17. I am eligible to apply for a non-commercial driver's license under the new law, Driver's License Access and Data Privacy Act. I possess a valid foreign passport and have proof of our local residency.
18. My family would face hardship if this law were obstructed or struck down.

Under the penalty of perjury the foregoing is true and accurate.

Executed on ____ September 2019 in New York.

_____/ **firma** / signature

EXHIBIT F

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL P. KEARNS, in his official capacity as
Clerk of the County of Erie, New York,

Plaintiff,

vs.

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York,
LETITIA A. JAMES, in her official capacity as
Attorney General of the State of New York, and
MARK J.F. SCHROEDER, in his official capacity
as Commissioner of the New York State Department
of Motor Vehicles,

Defendants,

and

RURAL AND MIGRANT MINISTRY;
NEW YORK IMMIGRATION COALITION;
HISPANIC FEDERATION; INTERVENOR NO. 1;
INTERVENOR NO. 2; INTERVENOR NO. 3; and
INTERVENOR NO. 4;

Defendant-Intervenors.

Civil Action No. 1:19-CV-902-EAW

Hon. Elizabeth A. Wolford

DECLARATION OF INDIVIDUAL INTERVENOR #3

1. I am over the age of 18. I have lived in the U.S. for 14 years.
2. I am a resident of Poughkeepsie, Dutchess County, New York, located in the lower Hudson Valley.
3. I reside with four U.S. born children – two daughters, ages 6 months old and 5 years old and two sons, ages 9 years old and 12 years old. As a single parent, I am the sole support for my children. My children receive SNAP (Food Stamp) benefits and Medicaid health coverage.

4. I am a full-time (9 am to 3 pm) kitchen dishwasher in a restaurant on a 5 day a week schedule. I must take a bus ride for up to 25 minutes to arrive at work.
5. My husband was deported for violating an order of protection related to my domestic violence complaints and family custody conflict.
6. I have a pending U visa based on the household physical violence and emotional abuse I had long endured from my husband. My children were badly affected and traumatized.
7. For the past 2 years, my 12 year old son has been receiving psychological counseling every 2 weeks because he exhibited violent outbursts towards his siblings. This behavior was also expressed in the school classroom. His condition is related to the violence and cruelty caused at home by his father. This regular treatment was required by court order.
8. The counselor-therapist is not located near our home. By car or taxi, it is 15 minutes away. The cost is \$9 cash each way.
9. Public transit hardly exists where we live. My son can walk to his public school, but my daughter takes a school bus. On occasions, our using of a taxi to school costs \$7 each way.
10. I do food shopping locally but it is expensive. To make bulk purchases for savings, a 40-minute ride to the Walmart store costs me money or I will need to get a ride.
11. Having a driver's license would enable me to rent or use a vehicle in order to do shopping, take my children to enjoy family and extracurricular activities, get to medical appointments, and obtain legal assistance from my immigration lawyer in New York City.
12. I am eligible to apply for a non-commercial driver's license under the new law, Driver's License Access and Data Privacy Act.
13. My family and I would face hardship if this law were obstructed or struck down.
14. This declaration was read to me in Spanish and I understand its content.

Under the penalty of perjury the foregoing is true and accurate.

Executed on ____ September 2019 in New York.

_____/ **firma** / signature

EXHIBIT G

UNITED STATES DISTRICT COURT
WESTERN DISTRICT COURT

MICHAEL P. KEARNS, in his official capacity as
Clerk of the County of Erie, New York,

Plaintiff,

vs.

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York,
LETITIA A. JAMES, in her official capacity as
ATTORNEY GENERAL of the State of New York,
and MARK J.F. SCHROEDER, in his official capacity
as Commissioner of the New York State Department of
Motor Vehicles,

Defendants,

and

RURAL AND MIGRANT MINISTRY; NEW YORK
IMMIGRATION COALITION; HISPANIC
FEDERATION; INTERVENOR NO. 1;
INTERVENOR NO. 2; INTERVENOR NO. 3; and
INTERVENOR NO. 4.

Defendant-Intervenors.

Civil Action No. 1:19-CV-902-EAW

Hon. Elizabeth A. Wolford

DECLARATION OF INDIVIDUAL INTERVENOR #4

1. I am over the age of 18.
2. I reside in Glenn Cove, Long Island with my partner and our six-month-old child, and I have been a resident of Nassau County, New York for over 2 years.
3. Public transportation in Glenn Cove and the greater Nassau County is scarce and unreliable. Although there are taxi companies and for-hire vehicle services such as Uber and Lyft available, I cannot afford to use them on a regular basis, especially as a method of everyday transportation. As a result, I have often depended on my partner, when he is not at work, to drive me to church, appointments, and to run errands.

4. My partner works six days a week in Suffolk County, New York which is over an hour from our home. When my transportation needs conflict with his work schedule it causes a substantial hardship for me and our daughter. In fact, there have been several times in the last six months when I needed to take our daughter to the hospital or the emergency room, and my partner was too far away to drive us there because he was at work.
5. For example, recently, our daughter had a high fever and needed prompt medical attention. Because my partner was in Suffolk County, Long Island for work, however, he was unable to take us. Instead, I had to rely on a friend driving us to the hospital. If I had a driver's license, I would have been able to drive my daughter to the hospital myself.
6. A few months ago, my infant daughter was diagnosed with gastroesophageal reflux. Since receiving this diagnosis, I have had to rush her to the hospital several times.
7. My daughter's primary care physician and the hospital that treats her is located in New Hyde Park, Long Island. Even though the doctor's office and hospital is 15 miles from my home it can take more than 90 minutes to get to via public transportation.
8. I am a practicing Christian, and I routinely attend weekly Sunday worship with my partner and our infant daughter. The church we attend is in Westchester County, New York. It not near any viable public transportation.
9. The church where I worship at has midweek Bible study classes and other religious events during the week that I am unable to attend because I do not have a driver's license or a practical method of getting there.
10. We attend this church because, after trying to attend other churches in the area, this is the church and community where we feel the presence of God.
11. Because I do not want to drive a car without a proper New York driver's license I am forced to find rides or hire drivers to get around when my partner is at work.
12. If I were to obtain a state driver's license, I would be free to drive my partner's car or rent a vehicle to perform my family duties as a mother, perform my duties as a Christian, including attending weekly Bible study, and to do shopping at stores located far from home in Glen Cove.
13. I am excited that the Governor of New York signed a law making it possible for individuals such as myself to qualify for a driver's license. My partner is assisting me in

studying for the written learner permit exam, and I have a driving manual at home to assist me with the written exam.

14. I am a foreign national and possess a valid foreign passport, a valid unexpired consular photo identification card, and proof of my local residency.

15. I am eligible to apply for a non-commercial driver's license under the new law Driver's License Access and Data Privacy Act.

I declare under the penalty of perjury that the foregoing is true and accurate.

Executed on _____ September 2019.

_____/ **firma** / signature

NOTICE OF SERVICE

I hereby certify that a true and correct copy of Defendants-Intervenors' Notice of Motion to Intervene as Defendants, Memorandum of Law in Support of Their Motion to Intervene as Defendants, and the Declaration of Jose Luis Vasquez, Jr. in Support of Defendants-Intervenors' Motion to Intervene as Defendants and Motion to Proceed Anonymously was served on the following parties via CM/ECF system and by email and by regular mail to *Pro Se Movant*.

Dated: New York, New York
September 4, 2019

/s/ Jorge Luis Vasquez, Jr.
Jorge Luis Vasquez, Jr.

TO: ERIE COUNTY DEPARTMENT OF LAW

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