

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 PROCEED ANONYMOUSLY**

PLEASE TAKE NOTICE that upon the accompanying Defendants-Intervenors' Memorandum of Law in Support of Their Motion to Proceed Anonymously and the supporting materials submitted with this motion, 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 10(a) 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.

Dated: New York, New York  
September 4, 2019

Respectfully Submitted,

/s/ Kathleen A. Reilly  
Kathleen A. Reilly (*pro hac vice* pending)  
Maurice W. Sayeh (*pro hac vice* pending)  
ARNOLD & PORTER KAYE SCHOLER LLP  
250 West 55<sup>th</sup> Street  
New York, NY 10019  
Telephone: +1 212.836.8000  
Fax: +1 212.715.1399  
kathleen.reilly@arnoldporter.com  
maurice.sayeh@arnoldporter.com

Jorge Luis Vasquez, Jr.  
Jackson Chin  
Francisca Fajana  
LATINOJUSTICE PRLDEF  
475 Riverside Drive, Suite 1901  
New York, NY 10115  
Telephone: +1 212.219.3360  
jvasquez@latinojustice.com  
jchin@latinojustice.com  
ffajana@latinojustice.com

*Attorneys for Defendants- Intervenors*

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

**DEFENDANTS-INTERVENORS'  
MEMORANDUM OF LAW IN  
SUPPORT OF THEIR MOTION TO  
PROCEED ANONYMOUSLY**

**ARNOLD & PORTER KAYE SCHOLER LLP**

Kathleen Reilly (*pro hac vice* pending)  
Maurice W. Sayeh (*pro hac vice* pending)  
250 West 55th Street  
New York, NY 10019-9710  
Telephone: +1 212.836.8000  
Fax: +1 212.836.8689  
kathleen.reilly@arnoldporter.com  
maurice.sayeh@arnoldporter.com

**LATINOJUSTICE PRLDEF**

Jorge Luis Vasquez, Jr.  
Jackson Chin  
Francisca Fajana (admission pending)  
475 Riverside Drive, Suite 1901  
New York, NY 10115  
Telephone: +1 212.219.3360  
jvasquez@latinojustice.org  
jchin@latinojustice.org  
ffajana@latinojustice.org

*Attorneys for Defendants-Intervenors*

**TABLE OF CONTENTS**

PRELIMINARY STATEMENT .....	1
BACKGROUND .....	2
ARGUMENT .....	11
I. THE INDIVIDUAL INTERVENORS' INTEREST IN ANONYMITY OUTWEIGHS THE PUBLIC'S INTEREST IN DISCLOSURE.....	12
II. THERE IS MINIMAL PREJUDICE TO ANY PARTY TO THE ACTION AND THE PUBLIC'S AND INDIVIDUAL INTERVENORS' INTERESTS IN ANONYMITY OUTWEIGH ANY INTEREST OF THOSE PARTIES.....	18
CONCLUSION.....	20

**TABLE OF AUTHORITIES****Page(s)****Cases**

<i>Doe v. Cuomo</i> , No. 10-CV-1534, 2013 WL 1213174 (N.D.N.Y. Feb. 25, 2013) .....	17
<i>Doe v. Greiner</i> , 662 F. Supp. 2d 355 (S.D.N.Y. 2009) .....	12
<i>Doe v. Smith</i> , 189 F.R.D. 239 (E.D.N.Y. 1998), <i>vacated on other grounds</i> , 105 F. Supp. 2d 40 (E.D.N.Y. 1999) .....	16
<i>Doe v. Univ. of Conn.</i> , No. 3:09 CV 1071, 2013 WL 4504299 (D. Conn. Aug. 22, 2013) .....	11
<i>Does I thru XXIII v. Advanced Textile Corp.</i> , 214 F.3d 1058 (9th Cir. 2000) .....	13
<i>EW v. New York Blood Center</i> , 213 F.R.D. 108 (E.D.N.Y. 2003) .....	12, 16, 18
<i>Gastelum-Quinones v. Kennedy</i> , 374 U.S. 469 (1963) .....	15
<i>Guerrilla Girls v. Kaz</i> , 224 F.R.D. 571 (S.D.N.Y. 2004) .....	12
<i>Hispanic Interest Coalition of Alabama v. Governor of Alabama</i> , 691 F.3d 1236 (11th Cir. 2012) .....	13
<i>James v. Jacobson</i> , 6 F.3d 233 (4th Cir. 1993) .....	18
<i>Kearns v. Cuomo</i> , No. 1:19-cv-00902 (W.D.N.Y. July 8, 2019) .....	1
<i>Lozano v. City of Hazelton</i> , 496 F. Supp. 2d 477 (M.D. Penn. 2007), <i>aff'd in part, rev'd in part on other</i> <i>grounds by</i> 724 F.3d 297 (3d Cir. 2013) .....	12
<i>P.M. v. Evans-Brant Cent. Sch. Dist.</i> , No. 09-CV-686S, 2012 WL 42248 (W.D.N.Y. Jan. 9, 2012) .....	11
<i>Rivera v. NIBCO</i> , 364 F.3d 1057 (9th Cir. 2004), <i>cert. denied</i> , 544 U.S. 905 (2005) .....	17

<i>Sealed Plaintiff v. Sealed Defendant</i> , 537 F.3d 185 (2d Cir. 2008).....	11, 12, 15, 17
<i>Zeng Liu v. Donna Karan Int'l</i> , 207 F. Supp. 2d 191 (S.D.N.Y. 2002).....	17

### **Statutes**

Driver's License Access and Privacy Act, S.B. 1747-B, 247 Legis. Sess. (N.Y.) .....	<i>passim</i>
2019 N.Y. Laws § 8 Ch. 37 .....	5
N.Y. Veh. & Traf. Law § 502(1) .....	4
REAL ID Act of 2005, Pub. L. 110-177 § 508, 121 Stat. 2543 (codified at 49 U.S.C. § 30301 <i>et seq.</i> ) .....	4

### **Other Authorities**

Caitlin Dickerson & Zolan Kanno-Youngs, <i>Thousands Are Targeted as ICE Prepares to Raid Undocumented Migrant Families</i> , The New York Times (July 11, 2019) (last visited Aug. 28, 2019) .....	6
Dave McKinley, <i>Kearns doubles down on defiance of 'Green Light' Law</i> (June 18, 2019), <a href="https://www.wgrz.com/article/news/kearns-doubles-down-on-defiance-of-green-light-law/71-60c3f75c-6d66-4bfa-9b68-c3fd73640215">https://www.wgrz.com/article/news/kearns-doubles-down-on- defiance-of-green-light-law/71-60c3f75c-6d66-4bfa-9b68-c3fd73640215</a> (last visited Aug. 28, 2019).....	7
David Dyssegaard Kallick & Cyierra Roldan, FISCAL POLICY INSTITUTE, <i>Expanding Access to Driver's Licenses</i> (Jan. 2017), <a href="http://fiscalpolicy.org/wp-content/uploads/2017/01/FINAL-Drivers-licenses-report-2017.pdf">http://fiscalpolicy.org/wp-content/uploads/2017/01/FINAL-Drivers-licenses- report-2017.pdf</a> (last visited Aug. 29, 2019).....	3
Documenting Hate, ProPublica, <a href="https://projects.propublica.org/graphics/hatecrimes">https://projects.propublica.org/graphics/hatecrimes</a> (last visited Aug. 28, 2019) .....	14
Ewan Palmer, <i>Hindu Priest Brutally Attacked Outside Temple, Faith Groups Blame Trump's Attack on Immigrants: 'This Results in Real Harm Inflicted on our Communities</i> , Newsweek (July 22, 2019), <a href="https://www.newsweek.com/hindu-priest-attck-new-york-trump-1450462">https://www.newsweek.com/hindu-priest-attck-new-york-trump-1450462</a> (last visited Aug. 28, 2019).....	14
Fed. R. Civ. P. 10(a) .....	11

Green Light New York, <i>GREEN LIGHT NY: Driving Together</i> (2019), <a href="https://greenlightny.files.wordpress.com/2019/02/green-light-ny-factsheet-for-legislators-3.pdf">https://greenlightny.files.wordpress.com/2019/02/green-light-ny-factsheet-for-legislators-3.pdf</a> (last visited Aug. 29, 2019).....	3
Guillermo Cantor, Emily Ryo, & Reed Humphrey, <i>Changing Patterns of Interior Immigration Enforcement in the United States, 2016-2018</i> , American Immigration Council (June 2019), <a href="http://americanimmigrationcouncil.org/sites/default/files/research/changing_patterns_of_interior_immigration_enforcement_in_the_united_states.pdf">http://americanimmigrationcouncil.org/sites/default/files/research/changing_patterns_of_interior_immigration_enforcement_in_the_united_states.pdf</a> (“AIC 2019 Report”), at 2 (last visited Aug. 28, 2019).....	6
Ibrahim Hooper, <i>CAIR-NY Urges State Prosecutor to Seek Hate Crime Charges Against Lockport Man for Brandishing Gun at Muslim Woman</i> , Council on American-Islamic Relations (July 18, 2019), <a href="https://www.cair.com/cair_ny_urges_state_prosecutor_to_seek_hate_crime_charge_against_lockport_man_for_brandishing_gun_at_muslim_woman">https://www.cair.com/cair_ny_urges_state_prosecutor_to_seek_hate_crime_charge_against_lockport_man_for_brandishing_gun_at_muslim_woman</a> (last visited Aug. 28, 2019).....	14
New York Immigration Coalition, <i>Green Light NY: 2019 State Budget &amp; Policy Priorities</i> (2019), <a href="https://d1jikt90t87hr.cloudfront.net/323/wp-content/uploads/sites/2/2019/01/GreenlightOnePager2019v2.pdf">https://d1jikt90t87hr.cloudfront.net/323/wp-content/uploads/sites/2/2019/01/GreenlightOnePager2019v2.pdf</a> (last visited Aug. 29, 2019) .....	2
New York State Senate, Stenographic Record (Reg. Sess. June 17, 2019) <a href="https://www.nysenate.gov/transcripts/floor-transcript-061719txt">https://www.nysenate.gov/transcripts/floor-transcript-061719txt</a> (last visited Aug. 29, 2019) .....	5
Nicolas Hernandez Castaneda, <i>Hate on the train: Racial aggressions increase on New York City subway, including towards Latinos</i> , Univision News (Apr. 5, 2017), <a href="https://www.univision.com/univision-news/united-states/hate-on-the-train-racial-aggressions-increase-on-new-york-city-subway-including-towards-latinos">https://www.univision.com/univision-news/united-states/hate-on-the-train-racial-aggressions-increase-on-new-york-city-subway-including-towards-latinos</a> (last visited Aug. 28, 2019) .....	14
Press Release, Assembly Speaker Carl E. Heastie, <i>Assembly Passes Driver’s License Access and Privacy Act #GreenLightNY</i> (June 12, 2019), <a href="https://nyassembly.gov/Press/files/20190612.php">https://nyassembly.gov/Press/files/20190612.php</a> (last visited Aug. 28, 2019) .....	5
Press Release, THE NEW YORK STATE SENATE, <i>Tedisco, Walsh, Jordan, Jacobs, &amp; Ritchie Join County Clerks Hayner, Merola &amp; Kearns, Sheriff Zurlo to Prevent Those Here Illegally from Getting Driver’s Licenses</i> (May 7, 2019), <a href="https://www.nysenate.gov/newsroom/press-releases/james-tedisco/tedisco-walsh-jordan-jacobs-ritchie-join-county-clerks-hayner">https://www.nysenate.gov/newsroom/press-releases/james-tedisco/tedisco-walsh-jordan-jacobs-ritchie-join-county-clerks-hayner</a> (last visited Aug. 28, 2019) .....	7
Press Release, THE NEW YORK STATE SENATE, <i>Senate Passes Driver’s License Access &amp; Privacy Act (Green Light NY)</i> (June 17, 2017), <a href="https://www.nysenate.gov/newsroom/press-releases/senate-passes-drivers-license-access-and-privacy-act-green-light-ny">https://www.nysenate.gov/newsroom/press-releases/senate-passes-drivers-license-access-and-privacy-act-green-light-ny</a> (last visited Aug. 29, 2019) .....	3

Sandra Tan, <i>Mychajliw to NY Clerks: Send me names of undocumented immigrants seeking licenses</i> , The Buffalo News (June 21, 2019) (last visited Aug. 28, 2019) .....	7, 8
TRAC Immigration, <i>Outcomes of Deportation Proceedings in Immigration Court</i> (2019), <a href="https://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php">https://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php</a> (last visited Aug. 28, 2019) .....	6



Individual Intervenors Nos. 1, 2, 3, and 4 (collectively, “Individual Intervenors”) seek to intervene as interested parties directly affected by this proceeding. *See generally* Defendants-Intervenors’ Memorandum of Law in Support of Their Motion to Intervene (“Mot. To Intervene”), *Kearns v. Cuomo*, Civil Action No. 1:19-cv-902-EAW (W.D.N.Y.). They respectfully request that they, and any similarly situated individuals, be permitted to proceed anonymously in this matter should this Court grant their motion to intervene.<sup>1</sup>

### **PRELIMINARY STATEMENT**

Individual Intervenors are New Yorkers who are undocumented or have a pending immigration application, and seek to join this action to defend their interests in constitutionality of the Driver’s License Access and Privacy Act, S.B. 1747-B, 247 Legis. Sess. (N.Y.), commonly referred to as the “Green Light Law” or “DLAPA.” This recently enacted state law ensures that Individual Intervenors, and those similarly situated to them, will be able to apply for driver’s licenses in New York irrespective of their citizenship status. These individuals contribute to their communities, have pending immigration applications, and/or are raising their minor children, all of whom are U.S. citizens, and may have medical or psychological needs. This requires access to a car.

Despite these individuals’ desire to simply apply for a license to legally drive to the store, care for their children, meet with their attorneys, or practice their religion – all without an enhanced fear of deportation, Plaintiff, the Clerk of Erie County, would prevent them from being able to legally engage in these everyday activities based on his (incorrect) belief that the Green Light Law

---

<sup>1</sup> There are also three organizational intervenors seeking to join the action (the “Organizational Intervenors”). *See generally* Mot. to Intervene. They are not seeking to proceed anonymously in this action; however, they respectfully join in the Individual Intervenors’ request that any individuals who are similarly situated to the Individual Intervenors be permitted to proceed anonymously.

is unconstitutional. As set forth in their Motion to Intervene, Individual Intervenors, as well as Organizational Intervenors joining in that motion, have significant, direct, and personal interests in the outcome of this litigation that necessitate their participation. However, Individual Intervenors understandably fear that disclosure of their personal identities in this matter could and would lead to harassment by members of the public and/or retaliation, including, but not limited to, possible action by the federal government (notably, apprehension and removal/deportation) or individuals like Plaintiff in the state or their community given the current political environment. The recent and pervasive history of animus towards immigrants and non-citizens in the country, as well as increased immigration-related arrests in New York, coupled with Plaintiff's intended defiance of the duly passed and enacted laws of New York and expressed intent to report individuals to United States Immigration and Customs Enforcement ("ICE"), all are in favor of permitting Individual Intervenors to proceed anonymously in this matter.

### **BACKGROUND**

More than 750,000 undocumented immigrant New Yorkers over the age of 16 are currently barred from obtaining driver's licenses because of their immigration status.<sup>2</sup> Without a driver's license, especially in areas of New York without adequate public transportation networks, participation in daily life becomes difficult, and their lack of transportation hinders community and cultural integration.

Necessity leads many immigrants to drive without licenses, putting them at odds with law enforcement, and increasing the risk that a routine traffic stop will result in arrest, detention, or even deportation. These undocumented individuals often risk driving because they lack reasonable

---

<sup>2</sup> New York Immigration Coalition, *Green Light NY: 2019 State Budget & Policy Priorities* (2019), <https://d1jikt90t87hr.cloudfront.net/323/wp-content/uploads/sites/2/2019/01/GreenlightOnePager2019v2.pdf> (last visited Aug. 29, 2019).

public transportation alternatives and must travel to attend school, worship, and work.<sup>3</sup> Immigrants without valid identification or permission to drive fear simple interactions with police, such as a traffic violation, will put them at risk of arrest and deportation. This leads to undocumented immigrants avoiding and not reporting criminal incidents to the police, even when they are a victim of or witness to a crime.

Currently, 16 states and territories allow residents to apply for driver's licenses, regardless of immigration status, which, among other things, recognizes that expanding access to driver's licenses helps prevent simple traffic infractions from resulting in arrest and deportation, keeps the roads safe, benefits other drivers through access to insurance, and reduces the rate of hit-and-runs.<sup>4</sup>

In New York, prior to 2002, *any* resident could obtain a driver's license.<sup>5</sup> In 2002, then-Governor Pataki signed an executive order requiring all driver's license applicants to provide a valid Social Security number or federally issued documents establishing legal presence.<sup>6</sup> This executive order effectively banned non-citizen New Yorkers from obtaining driver's licenses based on their lack of documentation, *not* based on their immigration status.

### ***The Green Light Law***

The Green Light Law waives the requirement for applicants to provide their Social Security number if the applicants submit additional proofs of identity and age, along with an affidavit stating

---

<sup>3</sup> Green Light New York, *GREEN LIGHT NY: Driving Together* (2019), <https://greenlightny.files.wordpress.com/2019/02/green-light-ny-factsheet-for-legislators-3.pdf> (last visited Aug. 29, 2019).

<sup>4</sup> See Press Release, THE NEW YORK STATE SENATE, *Senate Passes Driver's License Access & 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) ("Green Light Law Press Release"); see also ECF No. 35.

<sup>5</sup> David Dyssegaard Kallick & Cyierra Roldan, FISCAL POLICY INSTITUTE, *Expanding Access to Driver's Licenses* (Jan. 2017), <http://fiscalpolicy.org/wp-content/uploads/2017/01/FINAL-Drivers-licenses-report-2017.pdf> (last visited Aug. 29, 2019).

<sup>6</sup> *Id.*

that they have not been issued a Social Security number.<sup>7</sup> In support of this application, an individual can now submit foreign passports, consular identification documents, and foreign driver's licenses as valid "primary forms of such proof." DLAPA § 3, *amending* N.Y. Veh. & Traf. Law § 502(1). Consequently, it is not just non-citizen immigrants who benefit from the Green Light Law, but also other individuals who may be in the country legally but lack a Social Security number, and previously had to go through an unnecessary and burdensome process to get a waiver for this requirement. This includes individuals in mixed-status households.

Importantly for Intervenors, 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 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 exempt from 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 *et seq.*), 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 readily access information that could cause further inquiry into their immigration status.

---

<sup>7</sup> *See* Green Light Law Press Release.

The law is set to go into effect on December 14, 2019.<sup>8</sup> When the Green Light Law was originally introduced, Assemblyman Marcos A. Crespo emphasized that the law “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. Not only will our roads throughout New York State be safer, but families of immigrants will have more peace of mind while their loved ones are on the roads.”<sup>9</sup> Moreover, it was a necessary measure, as its other sponsor stated, because 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 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.”<sup>10</sup>

The passage of the DLAPA is a major step forward for all New Yorkers. For thousands of undocumented immigrant New Yorkers, they will soon be able to drive to and from work, take their children to doctors’ appointments and school, open bank accounts, sign up for car insurance, and generally be less afraid should they report a traffic or other violation.

### ***Increase in Immigration Enforcement***

The everyday threat of deportation and family separation are real for all undocumented immigrant New Yorkers. Since 2016, there has been an extraordinary increase in ICE arrests, and

---

<sup>8</sup> See Green Light Law Press Release; also Ch. 37, 2019 N.Y. Laws. § 8, pg. 6.

<sup>9</sup> Press 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. 28, 2019).

<sup>10</sup> 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).

resulting detentions and deportation orders, throughout the country and in New York. In the first six months of 2019 alone, 11,490 undocumented New Yorkers were ordered to be deported.<sup>11</sup>

Moreover, according to ICE's publicly released statistics, from 2016 to 2018, the total number of at-large arrests across the country, which are those arrests conducted in the community as opposed to in a prison or jail, grew from 30,348 to 40,066—a 32 percent increase.<sup>12</sup> Over 85 percent of all removals across the country between January 2016 and September 2018 involved individuals who had never been convicted of a crime or who were not convicted of a crime classified as violent or serious.<sup>13</sup>

According to a report from the American Immigration Council, the “Area of Responsibility” (“AOR”) for New York City had the third largest increase of custodial ICE arrests between 2016 and 2018.<sup>14</sup> In the Buffalo AOR, the at-large arrest rate grew about 123 percent, the second highest jump in the country after Philadelphia.<sup>15</sup> There has also been an uptick in “collateral” deportations, where ICE agents opportunistically arrest other undocumented immigrants on the scene, even if they are not on the ICE agent's target list.<sup>16</sup>

---

<sup>11</sup> TRAC Immigration, *Outcomes of Deportation Proceedings in Immigration Court* (2019), [https://trac.syr.edu/phptools/immigration/court\\_backlog/deport\\_outcome\\_charge.php](https://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php) (last visited Aug. 28, 2019).

<sup>12</sup> Guillermo Cantor, Emily Ryo, & Reed Humphrey, *Changing Patterns of Interior Immigration Enforcement in the United States, 2016-2018*, American Immigration Council (June 2019), [http://americanimmigrationcouncil.org/sites/default/files/research/changing\\_patterns\\_of\\_interior\\_immigration\\_enforcement\\_in\\_the\\_united\\_states.pdf](http://americanimmigrationcouncil.org/sites/default/files/research/changing_patterns_of_interior_immigration_enforcement_in_the_united_states.pdf) (“AIC 2019 Report”), at 2 (last visited Aug. 28, 2019).

<sup>13</sup> AIC 2019 Report at 19.

<sup>14</sup> AIC 2019 Report at 24-25.

<sup>15</sup> *Id.* at 25.

<sup>16</sup> Caitlin Dickerson & Zolan Kanno-Youngs, *Thousands Are Targeted as ICE Prepares to Raid Undocumented Migrant Families*, *The New York Times* (July 11, 2019), <https://www.nytimes.com/2019/07/11/us/politics/ice-families-deport.html> (last visited Aug. 28, 2019).

Notably, while the Green Light Law was working its way through the New York legislature, certain county clerks, including Plaintiff, sought passage of the “County Clerks Protection Act” aimed at “stop[ping] those here [in New York] illegally from obtaining driver’s licenses.”<sup>17</sup> Plaintiff committed to his refusal to abide by the law even before it was passed: “As the Erie County Clerk, I will deny providing driver’s licenses to unlawfully present aliens. As a result of this important decision to protect our communities, County Clerks statewide may have to defend against civil actions and possible removal by the Governor.”<sup>18</sup> Furthermore, Plaintiff has made it clear that he will “be cooperative with [federal] law enforcement,” i.e., ICE.<sup>19</sup>

Following the law’s passage, in June 2019, Stefan Mychajliw, Erie County Comptroller, created a “whistleblower hotline” to report undocumented New Yorkers applying for driver’s licenses pursuant to the Green Light Law.<sup>20</sup> The Erie County Comptroller then emailed letters to county clerks across New York State encouraging them to contact his office’s whistleblower hotline to anonymously report “illegal” immigrants who apply for driver’s licenses.<sup>21</sup> He stated that these actions were taken because “[t]here needs to be a mechanism for members of the county clerks offices *to report* illegal immigrants applying for driver’s licenses without getting into

---

<sup>17</sup> 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. 28, 2019).

<sup>18</sup> *Id.*

<sup>19</sup> Dave McKinley, *Kearns doubles down on defiance of ‘Green Light’ Law* (June 18, 2019), <https://www.wgrz.com/article/news/kearns-doubles-down-on-defiance-of-green-light-law/71-60c3f75c-6d66-4bfa-9b68-c3fd73640215> (last visited Aug. 28, 2019).

<sup>20</sup> Sandra Tan, *Mychajliw to NY Clerks: Send me names of undocumented immigrants seeking licenses*, The Buffalo News (June 21, 2019), <https://buffalonews.com/2019/06/21/mychajliw-to-nys-county-clerks-send-me-names-of-undocumented-immigrants-applying-for-drivers-licenses/> (last visited Aug. 28, 2019).

<sup>21</sup> *Id.*

trouble.”<sup>22</sup> Plaintiff has also indicated that he “appreciates what [the Erie County Comptroller] is doing,” and “remain[s] committed to . . . not provid[ing] driver’s licenses to undocumented immigrants,” essentially flouting the law.<sup>23</sup>

### ***Individual Intervenors***

Individual Intervenors are four New Yorkers who will be significantly impacted and harmed should they lose the right to obtain a license under the Green Light Law. They seek to join in this action as they have a significant interest in the implementation of the law due to the daily impact on their lives and the harms they would suffer should Plaintiff be granted his remedy. *See Mot. to Intervene*, at 17-20.

#### **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 mostly remote, agricultural region of Niagara County. Declaration of Jorge Vasquez (Sept. 4, 2019) (“JV Decl.”), Ex. D ¶¶ 2-5. He works six days a week, makes about \$860 a week, 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; therefore, in order to see his children, he must either pay \$40 to \$65 each way for private transport or drive his truck without a license. *Id.* ¶¶ 4, 7, 9. He fears an interaction with the local sheriff and immigration officials every time he drives. *Id.* ¶ 11.

Individual 1 could obtain a license once the Green Light Law goes into effect. *Id.* ¶ 14. Obtaining a license would allow him to drive to his children’s home legally without the fear of a

---

<sup>22</sup> *Id.* (emphasis added).

<sup>23</sup> *Id.*



police interaction resulting in his deportation, and then take them 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, with 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 local doctors, and, for special treatment at a children's hospital in Philadelphia, a two-and-a-half-hour car drive from their home. *Id.* ¶¶ 5-9. From March to August 2019, they had to make arrangements 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 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 his wheelchair. *Id.* ¶ 13. Unless a friend can drive a vehicle, Individual 2 is forced to pay expenses for emergency situations and for 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 transport their wheelchair-bound son owing to his demanding six-days-a-week work schedule, plus his New York driver's license is temporary and must be renewed each year. *Id.* ¶ 16. Their eight-year-old daughter also has learning disabilities, which require special care. *Id.* ¶ 14.

Individual 2 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 the 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 could obtain a license once the Green Light Law goes into effect. *Id.* ¶ 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 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.

Each Individual Intervenor fears identification by immigration officials or other individuals who would seek to harm, report, or deport them, and so seeks to remain anonymous in this action. Given the animus towards undocumented New Yorkers, the increase in ICE-related arrests in the State, and threats from Erie County representatives to turn over to ICE any information received from undocumented New Yorkers seeking a driver's license pursuant to the Green Light Law, Individual Intervenors' fears of retaliation are well-founded.

### **ARGUMENT**

The Federal Rules of Civil Procedure allow for the “anonymity of the parties [to] be preserved in certain circumstances.” *P.M. v. Evans-Brant Cent. Sch. Dist.*, No. 09-CV-686S, 2012 WL 42248, at \*3 (W.D.N.Y. Jan. 9, 2012) (citing *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 189-90 (2d Cir. 2008)); *cf.* Fed. R. Civ. P. 10(a). When deciding whether a party should be permitted to proceed anonymously, courts must balance a party's interest in anonymity against “both the public interest in disclosure and any prejudice to the [opposing party].” *Sealed Plaintiff*, 537 F.3d at 189; *see also Doe v. Univ. of Conn.*, No. 3:09 CV 1071, 2013 WL 4504299, at \*28-30 (D. Conn. Aug. 22, 2013) (permitting both plaintiff and defendant to proceed anonymously due to the sensitive nature of the charges).

The Second Circuit has set forth a non-exhaustive list of factors to be considered when making a determination as to whether to permit a party to proceed anonymously:

(1) whether the litigation involves matters that are “highly sensitive and [of a] personal nature”; (2) “whether identification poses a risk of retaliatory physical or mental harm to the . . . party [seeking to proceed anonymously]” . . . ; (3) whether identification presents other harms and the likely severity of those harms . . . ; (4) whether the plaintiff is

particularly vulnerable to the possible harms of disclosure . . . ; (5) whether the suit is challenging the actions of the government or that of private parties; (6) whether the defendant is prejudiced by allowing the plaintiff to press his claims anonymously . . . ; (7) whether the plaintiff's identity has thus far been kept confidential; (8) whether the public's interest in the litigation is furthered by requiring the plaintiff to disclose his identity; (9) “whether, because of the purely legal nature of the issues presented or otherwise, there is an atypically weak public interest in knowing the litigants’ identities;” and (10) whether there are any alternative mechanisms for protecting the confidentiality of the plaintiff.

*Sealed Plaintiff*, 537 F.3d at 190 (internal citations omitted); *see also Guerrilla Girls v. Kaz*, 224 F.R.D. 571, 573 (S.D.N.Y. 2004); *EW v. New York Blood Center*, 213 F.R.D. 108, 111 (E.D.N.Y. 2003); *Doe v. Greiner*, 662 F. Supp. 2d 355, 362 n.7 (S.D.N.Y. 2009).

This action does not require specific knowledge of any individual’s identity as it relates to the implementation of a law that would benefit thousands of New Yorkers, and Individual Intervenors are exemplars of the New Yorkers who would be beneficially impacted by enactment of the DLAPA. Moreover, anonymity will not prejudice the other parties in this case. Consequently, the overwhelming balance of the factors set forth by the Second Circuit weighs in favor of allowing Individual Intervenors to proceed anonymously in this action.

#### **I. INDIVIDUAL INTERVENORS’ INTEREST IN ANONYMITY OUTWEIGHS THE PUBLIC’S INTEREST IN DISCLOSURE**

As discussed *infra*, Individual Intervenors have a well-founded fear of retaliation, including physical harm, arrest and deportation, if they come forward and identify themselves as undocumented immigrants. This interest defeats any public interest in the disclosure of their names.

*First*, courts have granted anonymity in similar circumstances to this action, rightly recognizing that plaintiffs “with a more tenuous legal stature have an exponentially greater concern over the dangers of participating in a lawsuit that has generated such intense sentiment.” *Lozano v. City of Hazleton*, 496 F. Supp. 2d 477, 510 (M.D. Penn. 2007) *aff’d in part, rev’d in part on other grounds* by 724 F.3d 297 (3d Cir. 2013) (permitting undocumented immigrants to proceed

anonymously where they feared retaliatory physical or mental harm, including deportation, as a consequence of asserting a substantive legal right); *Hispanic Interest Coalition of Alabama* (“HICA”) v. *Governor of Alabama*, 691 F.3d 1236, 1247 (11th Cir. 2012) (noting that revealing the illegal status of undocumented individuals could lead to “prosecution, harassment, and intimidation”) (citing *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1069 & n.11 (9th Cir. 2000)).

Individual Intervenors are undocumented immigrants, all of whom are raising young children in small towns and all of whose identities have remained confidential to date. Their immigration status and names are highly vulnerable to public disclosure and personal retaliation. The sensitive nature of this information is further emphasized by the protections the Green Light Law set forth against the DMV’s disclosure of such information to immigration law enforcement agencies and/or to any individual other than the undocumented New Yorker applying for a driver’s license. *See supra* at 8.

Given the tenuous stature of the Individual Intervenors in this country as well as the realities of ICE’s increased enforcement presence in New York and the uptick in actions championing efforts to drive undocumented immigrants out of the country, Individual Intervenors reasonably fear that disclosure of their names will lead to their arrests and deportation. *See supra* at 11. Given these harms, without permission to proceed anonymously, Individual Intervenors may be dissuaded from joining this action to protect their rights. As such, this factor militates in favor of allowing Individual Intervenors to proceed anonymously in this action.

*Second*, there is a serious risk of physical violence and mental harm towards Individual Intervenors if they are not permitted to proceed anonymously. Anti-immigrant rhetoric has incited animus and violence towards immigrants since the 2016 presidential election. Documenting Hate,

a project run by New York based non-profit ProPublica, has tracked bias incidents and hate crimes around the country since 2016.<sup>24</sup> In New York, there has been a resurgence of violence against immigrants following widespread anti-immigrant rhetoric.<sup>25</sup>

For example, in Erie County, a Muslim woman wearing a hijab was assaulted when trying to get her car insurance information following a minor traffic accident.<sup>26</sup> The attacker reached into the woman's car and took her keys before throwing her out of her car, biting her, drawing his gun and pointing it at the Muslim woman and those who had come to her aid.<sup>27</sup> The Muslim woman and the Buffalo Civil Rights Initiative filed suit, and alleged that the white male attacker's actions were motivated by his assumption that the Muslim woman was not a U.S. citizen.<sup>28</sup> That same day, a Hindu priest was attacked outside of his temple in Queens, New York.<sup>29</sup> The suspect allegedly shouted "this is my neighborhood" at the Hindu priest during the attack.

These two examples are not isolated incidents. Additional examples include a 2017 subway attack, during which a Deferred Action for Childhood Arrivals ("DACA") beneficiary of Mexican descent was violently beaten. During the attack, the perpetrator screamed "[w]e will kill all of them and remove them from our country."<sup>30</sup> If Individual Intervenors are named or identified

---

<sup>24</sup> Documenting Hate, ProPublica, <https://projects.propublica.org/graphics/hatecrimes> (last visited Aug. 28, 2019).

<sup>25</sup> Ibrahim Hooper, *CAIR-NY Urges State Prosecutor to Seek Hate Crime Charges Against Lockport Man for Brandishing Gun at Muslim Woman*, Council on American-Islamic Relations (July 18, 2019), [https://www.cair.com/cair\\_ny\\_urges\\_state\\_prosecutor\\_to\\_seek\\_hate\\_crime\\_charge\\_against\\_lockport\\_man\\_for\\_brandishing\\_gun\\_at\\_muslim\\_woman](https://www.cair.com/cair_ny_urges_state_prosecutor_to_seek_hate_crime_charge_against_lockport_man_for_brandishing_gun_at_muslim_woman) (last visited Aug. 28, 2019).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Ewan Palmer, *Hindu Priest Brutally Attacked Outside Temple, Faith Groups Blame Trump's Attack on Immigrants: 'This Results in Real Harm Inflicted on our Communities*, Newsweek (July 22, 2019), <https://www.newsweek.com/hindu-priest-attck-new-york-trump-1450462> (last visited Aug. 28, 2019).

<sup>30</sup> Nicolas Hernandez Castaneda, *Hate on the train: Racial aggressions increase on New York City subway, including towards Latinos*, Univision News (Apr. 5, 2017),

in this action, they will be undoubtedly risking similar violence as retaliation or simply the mental stress of potential violence against them given these documented incidents.

*Third*, another significant harm that could befall each of Individual Intervenors given their vulnerable status is collateral immigration consequences, especially deportation. In fact, if the Court does not let them proceed anonymously, Individual Intervenors may need to withdraw their application to intervene despite their tangible personal interest in this litigation given the potential consequences. New York has experienced a rapid increase in deportations under the Trump administration. *See supra* at 11. That the two most populous metropolitan areas in New York State -- New York City and the Buffalo area -- experienced such stark increases, the latter having the second highest jump of immigration-related arrests in the country certainly makes reasonable Individual Intervenors' fear of suffering extraordinary retaliation. Plaintiff's open promises to defy the data privacy provision add fire to the culture of fear. Any immigration consequence, but assuredly deportation, would cause great emotional and economic harm not only to Plaintiffs, but to their families, which include underage children who are U.S. citizens. *See, e.g., Gastelum-Quinones v. Kennedy*, 374 U.S. 469, 479 (1963) (“[D]eportation is a drastic sanction, one which can destroy lives and disrupt families . . .”).

Recognizing the significance of this fact, the Second Circuit's balancing test for anonymity acknowledges that the “retaliatory physical or mental harm” that could befall innocent non- parties is even “more critical” than perhaps the harm to the parties themselves, thereby according such dangers more weight in requests for anonymity. *Sealed Plaintiff*, 537 F.3d at 190. Identifying Individual Intervenors would also identify their children who would also be, in each instance,

---

<https://www.univision.com/univision-news/united-states/hate-on-the-train-racial-aggressions-increase-on-new-york-city-subway-including-towards-latinos> (last visited Aug. 28, 2019).

beneficiaries of Individual Intervenors' application for a driver's license once the DLAPA goes into effect.

*Fourth*, Individual Intervenors are seeking to defend their interest in a signed, but not yet fully enacted, law. Although Plaintiff lacks standing to challenge this law, he is one of the public official individuals charged with complying with the requirements of the Green Light Law and his statements that he intends to flout its requirements and refer individuals to ICE pose a danger to Individual Intervenors warranting their anonymity. Moreover, there is a possibility that the United States government will become involved in this action to defend the constitutionality of its immigration laws, which would further expose Individual Intervenors to either animosity or potential immigration consequences should they be identified. ECF No. 37. “[W]here a [party] attacks governmental activity, for example a governmental policy or statute, the [party’s] interest in proceeding anonymously is considered particularly strong” given that “[i]n such circumstances the [party] presumably represents a minority interest (and may be subject to stigmatization) . . . .” *EW*, 213 F.R.D. at 111 (internal citations omitted) (discussing plaintiff’s right to proceed anonymously); *see also Doe v. Smith*, 189 F.R.D. 239, 242-43 (E.D.N.Y. 1998), *vacated on other grounds*, 105 F. Supp. 2d 40 (E.D.N.Y. 1999). Granting anonymity to Individual Intervenors would help balance the disparate authority held by Plaintiff and, should it get involved, the United States federal government, in this case.

The animosity towards undocumented New Yorkers, such as Individual Intervenors, has manifested itself in many ways since 2016. *See supra* at 24. These initiatives include efforts by government officials such as the Plaintiff and the Comptroller of Erie County to corral resources to silence undocumented New Yorkers, which demonstrates just how essential an assured



anonymity is for Individual Intervenors. The alternative, allowing disclosure of Individual Intervenors' names and identities, would gravely undermine their ability to be heard on this issue.

*Fifth*, disclosure of Individual Intervenors' identities would also undermine their ability to effectuate their rights due to the justifiably feared backlash. The risk from Individual Intervenors' participation in an action where their identities are not protected would strongly outweigh the potential benefits to be garnered through pursuit of this action under any other circumstances. *Rivera v. NIBCO*, 364 F.3d 1057, 1064 (9th Cir. 2004) (“[T]he chilling effect that the disclosure of plaintiffs’ immigration status could have upon their ability to effectuate their rights outweighed [Defendants’] interests in obtaining the information . . . .”) (footnote omitted), *cert. denied*, 544 U.S. 905 (2005); *see also Zeng Liu v. Donna Karan Int’l*, 207 F. Supp. 2d 191, 193 (S.D.N.Y. 2002) (denying discovery of Plaintiffs’ immigration status due to risk of injury to Plaintiff). Individual Intervenors’ anonymity remains an essential condition to ensuring all interests that may be impaired by the disposition of this action be taken into account. Without anonymity, they may refuse to participate.

*Finally*, this case concerns the constitutionality of the Green Light Law. Given the legal nature of the claims presented, to which Individual Intervenors seek to respond, there is a less than compelling public interest in learning the identities of these specific Individual Intervenors. *See Sealed Plaintiff*, 537 F.3d at 190 (“there is an atypically weak public interest in knowing the litigants’ identities” when the issues presented by the case are “purely legal”); *Doe v. Cuomo*, No. 10-CV-1534, 2013 WL 1213174, at \*7 (N.D.N.Y. Feb. 25, 2013) (internal citations omitted) (“Because of the purely legal nature of the claims presented, there is weak public interest in learning Doe’s identity and the public’s interest in this litigation would not be furthered by disclosing Doe’s identity . . . . [T]he public interest is muted by the fact that [Doe] is challenging

a pure issue of law and he represents a larger class.”). Individual Intervenors simply seek to be heard on these issues because they have interests that may be impaired should the Green Light Law be struck down, but the public does not need to know their names for Individual Intervenors to present their legal interests in the DLAPA.

**II. THERE IS MINIMAL PREJUDICE TO ANY PARTY TO THE ACTION AND THE PUBLIC’S AND INDIVIDUAL INTERVENORS’ INTERESTS IN ANONYMITY OUTWEIGH ANY INTEREST OF THOSE PARTIES**

There is little prejudice to any of the existing parties in this action if Individual Intervenors are allowed to proceed anonymously. Even if maintaining the anonymity of Individual Intervenors would create some imaginary difficulties for the other parties, any such hardship faced in this case would be greatly outweighed by the benefits to Individual Intervenors. *See supra* Section I; *see James v. Jacobson*, 6 F.3d 233, 240-42 (4th Cir. 1993) (rejecting notion that plaintiffs’ anonymity would limit ability of defendant to impeach plaintiffs’ credibility or that it would create assumption of guilt for defendant).

Further, because a governmental entity is being challenged in this action, the public interest is advanced, not deterred, by allowing Individual Intervenors to proceed anonymously. Courts have recognized that cases involving government entities are ones in which “personal anonymity is more readily granted because of the existence of a public interest in the action and a lesser interest in personal reputation.” *EW*, 213 F.R.D. at 112. Requiring disclosure of Individual Intervenors’ names in this case would not only potentially discourage them from intervening in this action, or any future challenge of government action, it would also effectively allow adjudication of the Green Light Law to occur without fully accounting for the rights and interests of those who would be affected by the outcome. Therefore, any interest in publishing Individual Intervenors’ names is far outweighed by an interest in seeing Individual Intervenors proceed without the fear of physical violence, deportation, or other retaliation as set forth *supra*.

Moreover, Individual Intervenors and the public-at-large have a shared interest in preserving Individual Intervenors' anonymity in this action given that, without the security provided by anonymity, some or all of the Individual Intervenors may decide that the potential harm of intervening in this action far outweighs its benefit. This would result in a loss to Individual Intervenors and other undocumented immigrants whose lives will be changed by the opportunity to obtain a driver's license, but also harm to the general public who benefit from the increased safety on the roads that will result from granting undocumented immigrants driver's licenses. *See* ECF No.25 at 23 ("State's economic and public safety interests are furthered if 'all residents of New York, including undocumented immigrants,' are able to secure driving privileges") (citation omitted).

Finally, no other viable alternatives to protecting the confidentiality of Individual Intervenors. It is impossible for a protective order to keep these individuals anonymous from the general public, Plaintiff, or ICE. The Plaintiff's suit is premised on his belief that he has an *affirmative* obligation to report individuals he believes are in this country illegally to the federal government. The Comptroller of his county has instituted a hotline to report undocumented immigrants applying for licenses and promised to forward such tips to ICE. And Plaintiff clearly believes that even judges who passively assist individuals who are in this country illegally could be charged with a crime, which makes a protective order particularly difficult here as there is no guarantee that Plaintiff would abide by it. *See* ECF No. 3-16 at 22; ECF No. 3-3.

Individual Intervenors face the same, if not worse, threat of retaliation and deportation if they were to be identified only to the parties in this action. Even the possibility of disclosing the names to the parties in this litigation puts Individual Intervenors at risk.

Therefore, all of the factors set forth by the Second Circuit require that Individual Intervenors be permitted to proceed anonymously in this action.

### **CONCLUSION**

For the reasons set forth above, Individual Intervenors respectfully request that their motion to proceed anonymously be granted and that they be permitted to use pseudonyms Individual Intervenors Nos. 1-4 or simply their initials should the Motion to Intervene be granted.<sup>31</sup> Furthermore, Individual Intervenors request that the Court take all necessary and appropriate measures to protect their identities, and the identities of any similarly situated individuals who may become involved in the action, from public disclosure. Individual Intervenors reserve the right to seek additional relief to maintain their anonymity as this matter proceeds, should that be necessary.

---

<sup>31</sup> Alternatively, should the Court deem it necessary that Individual Intervenors' identities be made known to the Court, Individual Intervenors ask that a protective order be entered, which they will draft and submit to the Court for its consideration, that would ensure that (i) Individual Intervenors' identities are filed under seal; (ii) Individual Intervenors' names, addresses, and other identifying information are withheld from all parties to the action and the public; and (iii) any future supporting declarations made by Individual Intervenors with the potential to identify them be maintained under seal with this Court and not be revealed or disclosed to the parties or the public without sufficient redaction of any personal information.

Dated: New York, New York  
September 4, 2019

**ARNOLD & PORTER  
KAYE SCHOLER LLP**

By: /s/Kathleen A. Reilly  
Kathleen A. Reilly (*pro hac vice* pending)  
Maurice W. Sayeh (*pro hac vice* pending)  
250 West 55th Street  
New York, NY 10019-9710  
Telephone: +1 212.836.8000  
Fax: +1 212.836.8689  
kathleen.reilly@arnoldporter.com  
maurice.sayeh@arnoldporter.com

**LATINOJUSTICE PRLDEF**

By: /s/Jorge Luis Vasquez, Jr.  
Jorge Luis Vasquez, Jr.  
Jackson Chin  
Francisca Fajana (admission pending)  
475 Riverside Drive, Suite 1901  
New York, NY 10115  
Telephone: +1 212.219.3360  
jvasquez@latinojustice.org  
jchin@latinojustice.org  
ffajana@latinojustice.org

*Attorneys for Defendants-Intervenors*

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.

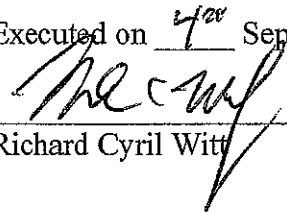
3. RMM's mission is to provide essential material and moral support, educational opportunities, and peer support for youth and adults. Through our work we have helped to unite immigrants, rural families and allies so that all New Yorkers can thrive. Since its inception, RMM expends its resources at the 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 4<sup>th</sup> 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.<sup>1</sup>

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

---

<sup>1</sup> *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.<sup>1</sup>

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.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup> In turn, the state would generate tens of millions of dollars through registration and title fees, as well as vehicle and gasoline sales taxes.<sup>5</sup>

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.<sup>6</sup> 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

---

<sup>1</sup> 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/>

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *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](mailto:mmorrissey@hispanicfederation.org) (518) 802-7178; or Jessica Orozco Guttlein, Assistant Vice President for Policy, Hispanic Federation at [jorozco@hispanicfederation.org](mailto: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**





# 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 Proceed Anonymously, Memorandum of Law in Support of Their Motion to Proceed Anonymously, 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

*Counsel for Plaintiff*

Thomas J. Navarro, Esq.

95 Franklin Street

16th Floor

Buffalo, New York 14202

Telephone: 716-858-2243

Email: thomas.navarro@erie.gov

Kenneth R. Kirby, Esq.

95 Franklin Street

Suite 1634

Buffalo, New York 14202

Telephone: 716-858-2226

Email: kenneth.kirby@erie.gov

OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL

*Counsel for Defendants*

George Michael Zimmermann, Esq.

Main Place Tower

Suite 300A

350 Main Street

Buffalo, New York 14202

Telephone: 716-853-8400

Email: george.zimmermann@ag.ny.gov



Linda Fang, Esq.  
28 Liberty Street  
23rd Floor  
New York, New York 10005  
Telephone: 212-416-8656  
Email: linda.fang.@ag.ny.gov

Joel J. Terragnoli, Esq.  
Main Place Tower  
Suite 300A  
350 Main Street  
Buffalo, New York 14202  
Telephone: 716-853-8419  
Email: joel.terragnoli@ag.ny.gov

IMMIGRATION REFORM LAW INSTITUTE  
*Counsel for Amicus Immigration Reform Law Institute*  
Christopher J. Hagec, Esq.  
25 Massachusetts Ave. NW  
Suite 335  
Washington, DC 20001  
Telephone: 202-232-5590

OFFICE OF THE CONNECTICUT STATE ATTORNEY GENERAL  
*Counsel for Amici States of Connecticut, California, Delaware, Hawaii,  
Illinois, Maryland, Nevada, and Washington, and the District of Columbia*  
Joshua Perry, Esq.  
55 Elm Street  
Hartford, CT 06106-0120  
Telephone: 860-808-5318

DANIEL T. WARREN  
*Pro Se Movant*  
836 Indian Church Road  
West Seneca, NY 14224