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NEW YORK INSURANCE ASSOCIATION, INC., AMERICAN TRANSIT INSURANCE COMPANY, EVEREADY INSURANCE COMPANY, GREATER NEW YORK MUTUAL INSURANCE COMPANY, KINGSTONE INSURANCE COMPANY, MERCHANTS INSURANCE GROUP and UTICA MUTUAL INSURANCE COMPANY,

*Plaintiffs,*

-against-

STATE OF NEW YORK, ANDREW M. CUOMO, Governor of the State of New York, BENJAMIN M. LAWSKY, Superintendent of the New York State Department of Financial Services, and ROBERT L. MEGNA, as Director of Budget,

*Defendants.*

THE NEW YORK HEALTH PLAN ASSOCIATION, INC.; AETNA HEALTH INC.; AETNA HEALTH INSURANCE COMPANY OF NEW YORK; CDPHP UNIVERSAL BENEFITS, INC.; CAPITAL DISTRICT PHYSICIANS' HEALTH PLAN, INC.; HEALTH NET OF NEW YORK, INC.; HEALTH NET INSURANCE OF NEW YORK, INC.; HEALTHNOW NEW YORK INC.; INDEPENDENT HEALTH ASSOCIATION, INC.; INDEPENDENT HEALTH BENEFITS CORPORATION; MVP HEALTH PLAN, INC.; MVP HEALTH INSURANCE COMPANY; MVP HEALTH SERVICES CORP.; PREFERRED ASSURANCE COMPANY; OXFORD HEALTH INSURANCE, INC.; OXFORD HEALTH PLANS (NY), INC.; UNITEDHEALTHCARE INSURANCE COMPANY OF NEW YORK; and UNITEDHEALTHCARE OF NEW YORK, INC.

*Intervenor-Plaintiffs,*

-against-

STATE OF NEW YORK; ANDREW M. CUOMO, in his official capacity as Governor of the State of New York; BENJAMIN M. LAWSKY, in his official capacity as Superintendent of the New York State Department of Financial Services; and ROBERT L. MEGNA, in his official capacity as Budget Director of the State of New York,

*Defendants.*

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**AFFIRMATION IN SUPPORT OF INTERVENOR-PLAINTIFFS'  
MOTION FOR SUMMARY JUDGMENT**

Stephen M. Buhr, an attorney admitted to practice before this Court, under penalty of perjury, affirms and says:

1. I am Of Counsel to the firm of Greenberg Traurig, LLP, attorneys for Intervenor-Plaintiffs in this matter.

2. I have personal knowledge of the proceedings in this matter and submit this affirmation in support of Intervenor-Plaintiffs' Motion for Summary Judgment pursuant to C.P.L.R. 3212.

3. Annexed hereto as Exhibit A is a true and correct copy of the Second Amended Complaint filed by Plaintiffs on March 15, 2013.

4. Annexed hereto as Exhibit B is a true and correct copy of the Notice of Motion to Intervene filed by Intervenor-Plaintiffs on January 26, 2010.

5. Annexed hereto as Exhibit C is a true and correct copy of this Court's September 10, 2010 Decision and Order granting Intervenor-Plaintiffs' motion for leave to intervene.

6. Annexed hereto as Exhibit D is a true and correct copy of the Second Amended Complaint filed by Intervenor-Plaintiffs on March 12, 2013.

7. Annexed hereto as Exhibit E is a true and correct copy of the Answer to Plaintiffs' Second Amended Complaint filed by Defendants on or about April 11, 2013.

8. Annexed hereto as Exhibit F is a true and correct copy of the Answer to Intervenor-Plaintiffs' Second Amended Complaint filed by Defendants on April 11, 2013.

9. Annexed hereto as Exhibit G is a true and correct copy of the Notice of Motion for Summary Judgment filed by Defendants on or about June 9, 2010.

10. Annexed hereto as Exhibit H is a true and correct copy of the June 9, 2010 Affidavit of Mary Beth LaBate in support of Defendants' Motion for Summary Judgment.

11. Annexed hereto as Exhibit I is a true and correct copy of the June 8, 2010 Affidavit of Mark E. Daigneault in support of Defendants' Motion for Summary Judgment.

12. Annexed hereto as Exhibit J is a true and correct copy of Plaintiffs' September 15, 2010 Notice of Cross-Motion for Continuance.

13. Annexed hereto as Exhibit K is a true and correct copy of a September 22, 2010 letter from Counsel for Intervenor-Plaintiffs to this Court joining Plaintiffs' Cross-Motion for Continuance.

14. Annexed hereto as Exhibit L is a true and correct copy of Defendants' December 3, 2010 Memorandum of Law in Opposition to Plaintiffs' Cross-Motion for Continuance.

15. Annexed hereto as Exhibit M is a true and correct copy of this Court's March 10, 2011 Decision/Order granting Plaintiffs' Cross-Motion for Continuance.

16. Annexed hereto as Exhibit N are true and correct copies of counsel for Defendants' correspondence to counsel for Plaintiffs and Intervenor-Plaintiffs regarding production of documents in response to Plaintiffs' Document Demand to Plaintiff, along with selected documents produced by Defendants and labeled as follows: 1636-1640; 2828-2836; 3695-3712; 3941-3942; 17303; and 30062-30102.

17. Annexed hereto as Exhibit O is a true and correct copy of Defendants' November 2, 2012 Response to Plaintiffs' Second Set of Interrogatories.

18. Annexed hereto as Exhibit P is a true and correct copy of excerpts from the October 18, 2011 Deposition Lori Fraser.

19. Annexed hereto as Exhibit Q is a true and correct copy of excerpts from the October 20, 2011 Deposition of Edward M. Cahill.

20. Annexed hereto as Exhibit R is a true and correct copy of excerpts from the September 27, 2012 Deposition Mary Beth LaBate.

21. Annexed hereto as Exhibit S is a true and correct copy of the June 3, 2013 Note of Issue.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct. Executed on November 22, 2013 at Albany, New York.



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STEPHEN M. BUHR