

# *Exhibit*

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STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ALBANY

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

Plaintiffs,

-against-

**DECISION/ORDER**  
**Index No. 264-10**

STATE OF NEW YORK, DAVID A. PATERSON,  
Governor of the State of New York, JAMES J.  
WRYNN, Superintendent of the New York State  
Insurance Department, 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, DAVID A. PATERSON,  
Governor of the State of New York, JAMES J.  
WRYNN, Superintendent of the New York State  
Insurance Department, and ROBERT L. MEGNA,  
as Director of Budget,

Defendants.

APPEARANCES:

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Andrew M. Cuomo  
Attorney General of the State of New York  
By Richard Lombardo, Assistant Attorney General  
The Capitol  
Albany, New York 12224  
Attorney for Defendants

**DEVINE, J.:**

The New York Health Plan Association, Inc. (hereinafter HPA) and several named members of HPA which operate as managed health care organizations in New York have made an application for leave to intervene as plaintiffs in this action. Plaintiffs' counsel has submitted a letter stating that plaintiffs consent to such intervention and counsel for defendants has submitted a letter indicating that defendants have not taken a particular position with respect to the motion.

The Court observes that plaintiff-intervenors' complaint and the papers in support of the instant motion clearly demonstrate that they share common issues of fact and law with the existing plaintiffs and "have a real and substantial interest in the outcome of the action."<sup>1</sup> Moreover, as there is no indication that the intervening plaintiffs' involvement in the matter will

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<sup>1</sup> St. Joseph's Hosp. Health Center v Department of Health of State of N.Y., 224 AD2d 1008, 1008[ 4<sup>th</sup> Dept. 1996]

cause prejudice or delay or otherwise confuse the attendant issues,<sup>2</sup> it is now

**ORDERED** that the motion for leave to intervene as plaintiffs in this action is granted.

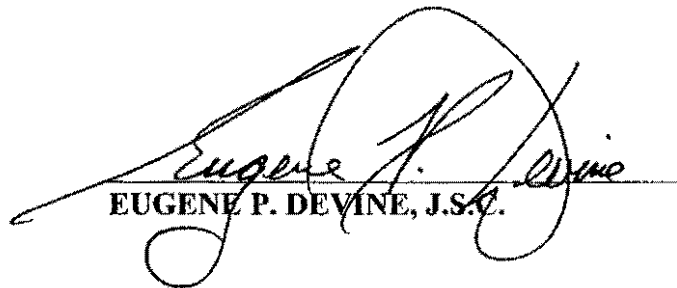
This Memorandum shall constitute both the Decision and Order of the Court. The signing of this **DECISION/ORDER** shall not constitute entry or filing under CPLR 2220. Counsel for Intervenor-Plaintiffs is not relieved from the applicable provisions of that section with respect to filing, entry and notice of entry.

**SO ORDERED**

**ENTER**

Date: 3/10, 2010

Albany, New York



**EUGENE P. DEVINE, J.S.C.**

cc: Jeffrey J. Sherrin, Esq.  
Richard Lombardo, Assistant Attorney General

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<sup>2</sup> see CPLR 1013; compare Pier v Board of Assessment Review of Town of Niskayuna, 209 AD2d 788, 789-790 [3d Dept. 1994].