

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, KINGSTONE
INSURANCE COMPANY, MERCHANTS MUTUAL
INSURANCE COMPANY 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.

**NOTICE OF
MOTION FOR
SUMMARY
JUDGMENT**

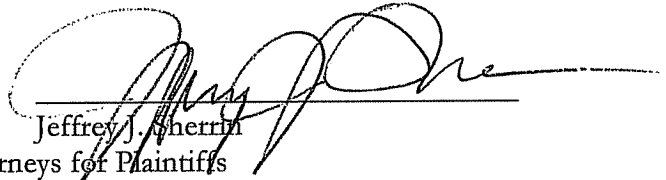
Index No. 264-10
RJI No. 01-10-
099235

PLEASE TAKE NOTICE that, upon the annexed Affirmation of Jeffrey J Sherrin, dated November 22, 2013; the annexed Affirmation of David E Nardolillo, dated November 22, 2013; the annexed Affidavit of Ellen Melchionni, sworn to on November 20, 2013; the accompanying memorandum of law; and all prior proceedings had herein, Plaintiffs, New York Insurance Association, American Transit Insurance Company, Eveready Insurance Company, Greater New York Mutual Insurance Company, Kingstone Insurance Company, Merchants Mutual Insurance Company, and Utica Mutual Insurance Company, will move this Court, before the Hon. Eugene P. Devine, J.S.C., at the Albany County Courthouse located at 16 Eagle St., Albany, NY, on January 31, 2014, at 9:30 AM, or as soon thereafter as counsel may be heard, for an order, pursuant to C.P.L.R. §3212, granting Plaintiffs summary judgment on all causes of action in their Second Amended Complaint, and for such further relief as the Court may deem just and proper.

DATED: November 22, 2013

O'CONNELL AND ARONOWITZ

By:



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