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Attorney for Defendants

State of New Jersey, State Board of Education, and
Lamont Repollet, Commissioner, Department of Education

By: Daniel F. Dryzga (NJ Bar No. 010771996)
Assistant Attorney General

LATINO ACTION NETWORK; NAACP NEW JERSEY
STATE CONFERENCE; LATINO COALITION;
URBAN LEAGUE OF ESSEX COUNTY; THE UNITED
CH OF GREA NEW JERSEY;
[REDACTED], by her
[REDACTED] CKS;
[REDACTED], by
[REDACTED] RES;
[REDACTED] b
[REDACTED],
[REDACTED], by her Guardi
ALSTON-JOHNSON; [REDACTED]
[REDACTED], by his Guardi
ALSTON-JOHNSON; [REDACTED]
[REDACTED], by her
ALSTON; [REDACTED],
[REDACTED], by
AYES; [REDACTED], [REDACTED],
[REDACTED] A
[REDACTED], by his
H WEILL-
GREENBERG,

Plaintiffs,

v.

THE STATE OF NEW JERSEY; NEW JERSEY
STATE BOARD OF EDUCATION; and LAMONT
REPOLLET, Acting Commissioner, State
Department of Education,

Defendants.

SUPERIOR COURT OF NEW
JERSEY
LAW DIVISION - MERCER
COUNTY
DOCKET NO. MER-L-001076-18

CIVIL ACTION

ANSWER TO THE
AMENDED COMPLAINT

Defendants, State of New Jersey, New Jersey State Board of Education, and Lamont Repollet, Commissioner,¹ State Department of Education, by way of Answer to Plaintiffs' Complaint state:

SECTION I

1. Defendants admit that New Jersey is an extremely diverse state. Defendants deny that the State has been complicit in the creation or persistence of school segregation and that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

2. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. Brown v. Board of Education, 347 U.S. 483 (1954), a judicial opinion of profound importance in our nation's history, speaks for itself. The cited publications speak for themselves. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the

¹ Dr. Lamont Repollet was sworn in as Commissioner of Education on June 19, 2018.

context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

3. Brown v. Board of Education, 347 U.S. 483 (1954), a judicial opinion of profound importance in our nation's history, speaks for itself and requires no response. Defendants make no answer to the remainder of this paragraph because it calls for conclusions and/or characterizations of law to which no response is required.

SECTION II

4. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

5. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

6. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

7. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

8. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

9. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

10. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

11. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

12. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

13. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

14. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

15. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

16. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

17. Defendants neither admit nor deny the allegations in this paragraph. Plaintiffs are left to their proofs.

18. Defendants admit that the State of New Jersey is a sovereign state within the United States vested with a range of powers and is seated in Trenton, New Jersey. Defendants make no answer to the remainder of this paragraph because it calls for conclusions and/or characterizations of law to which no response is required.

19. Defendants admit that the State Board of Education is located in Trenton, New Jersey. The State Board of Education's responsibilities are set forth at N.J.S.A. 18A:4-3 to -20. Those statutory provisions speak for themselves.

20. Defendants admit that Dr. Lamont Repollet is the Commissioner of the New Jersey Department of Education, and that his principal office is located at 100 River View Plaza, Trenton, New Jersey, 08625. Defendants make no answer to the remainder of this paragraph because it calls for conclusions and/or characterizations of law to which no response is required.

SECTION III

21. Defendants make no answer to the remainder of this paragraph because it calls for conclusions and/or characterizations of law to which no response is required.

SECTION IV

a. All Public Schools

22. Denied. The publications cited speak for themselves and require no response.

23. Defendants admit that during the 2016-2017 school year, New Jersey had 674 school districts. Defendants admit that the cited figures are consistent with enrollment data reported to the Department of Education by school districts. With regard to the remainder of this paragraph, the lack of specificity in the allegations leaves Defendants without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

24. Defendants admit that the cited figures are consistent with enrollment data reported to the Department of Education by

school districts. With regard to the remainder of this paragraph, the lack of specificity in the allegation leaves Defendants without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

25. Defendants admit that the cited figures are consistent with enrollment data reported to the Department of Education by school districts. With regard to the remainder of this paragraph, the lack of specificity in the allegation leaves Defendants without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

26. Defendants admit that the cited figures are consistent with enrollment data reported to the Department of Education by school districts. With regard to the remainder of this paragraph, the lack of specificity in the allegation leaves Defendants without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

27. Defendants admit that the cited figures are consistent with enrollment data reported to the Department of Education by school districts. With regard to the remainder of this paragraph, the lack of specificity in the allegations leaves Defendants without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs. The cited publication speaks for itself and requires no response.

28. To the extent this paragraph and associated table call for conclusions and/or characterizations of law, Defendants make no answer as no response is required. The cited publications in footnote 4 of this paragraph speak for themselves and require no response. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

29. Defendants admit that the cited figures are consistent with enrollment data reported to the Department of Education by school districts. With regard to the remainder of this paragraph, the lack of specificity in this paragraph, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

b. Charter Schools

30. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. The cited statutes and regulations speak for themselves.

31. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph and the associated table call for conclusions and/or characterizations of law, Defendants make no answer as no response is required. The cited publication speaks for itself and requires no response. As to any remaining

allegations in this paragraph and associated table, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

32. Defendants deny that the Commissioner of Education has failed to perform his statutory and regulatory duties regarding the operation of charter schools, and that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. The cited statutes and regulation speak for themselves. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

33. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. The cited regulations speak for themselves.

34. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. The referenced statutes and regulations speak for themselves. The cited judicial opinions speak for themselves.

c. Knowledge of State Officials

35. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. The cited judicial opinions speak for themselves. The cited publications speak for themselves. Any characterizations thereof are denied. The New Jersey Department of Education's Enrollment Data and Performance Reports speak for themselves. Any characterizations thereof are denied.

SECTION V

36. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. The cited statute speaks for itself. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

37. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or

characterizations of law, Defendants make no answer as no response is required. The cited judicial opinions and publications speak for themselves. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

38. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. The cited statute speaks for itself. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

39. Defendants deny that "intersecting State laws, policies, and practices" have a segregative impact, and that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. As to any remaining allegations, Defendants are without knowledge or information

sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

40. A. Defendants admit that the data in the table is consistent with the Department of Education's 2016-2017 enrollment data of "%Asian," "%Hispanic," "%Black," "%White," and students who qualify for a free or reduced-price lunch, as reported to the Department of Education by the respective districts. Any characterizations of the data are denied. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

B. Defendants admit that the data in the table is consistent with the Department of Education's 2016-2017 enrollment data of "%Asian," "%Hispanic," "%Black," "%White," and students who qualify for a free or reduced-price lunch, as reported to the Department of Education by the respective districts. Any characterizations of the data are denied. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

C. Defendants admit that the data in the table is consistent with the Department of Education's 2016-2017 enrollment data of "%Asian," "%Hispanic," "%Black," "%White," and students

who qualify for a free or reduced-price lunch, as reported to the Department of Education by the respective districts. Any characterizations of the data are denied. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

D. Defendants admit that the data in the table is consistent with the Department of Education's 2016-2017 enrollment data of "%Asian," "%Hispanic," "%Black," "%White," and students who qualify for a free or reduced-price lunch, as reported to the Department of Education by the respective districts. Any characterizations of the data are denied. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

E. Defendants admit that the data in the table is consistent with the Department of Education's 2016-2017 enrollment data of "%Asian," "%Hispanic," "%Black," "%White," and students who qualify for a free or reduced-price lunch, as reported to the Department of Education by the respective districts. Any characterizations of the data are denied. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

F. Defendants admit that the data in the table is consistent with the Department of Education's 2016-2017 enrollment data of "%Asian," "%Hispanic," "%Black," "%White," and students who qualify for a free or reduced-price lunch, as reported to the Department of Education by the respective districts. Any characterizations of the data are denied. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

G. Defendants admit that the data in the table is consistent with the Department of Education's 2016-2017 enrollment data of "%Asian," "%Hispanic," "%Black," "%White," and students who qualify for a free or reduced-price lunch, as reported to the Department of Education by the respective districts. Any characterizations of the data are denied. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

H. Defendants admit that the data in the table is consistent with the Department of Education's 2016-2017 enrollment data of "%Asian," "%Hispanic," "%Black," "%White," and students who qualify for a free or reduced-price lunch, as reported to the Department of Education by the respective districts. Any characterizations of the data are denied. As to any remaining

allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

41. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. The statute cited speaks for itself. The publication cited speaks for itself. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

SECTION VI

42. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. The cited judicial opinions speak for themselves.

43. Defendants acknowledge the benefits that stem from a diverse and inclusive educational environment. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. The publication cited speaks for itself and requires no response. As to any remaining allegations, Defendants are without knowledge or information

sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

44. The Connecticut Supreme Court's decision in Sheff v. O'Neill, 678 A.2d 1267 (Conn. 1996), is a judicial opinion that speaks for itself and requires no response. The publications cited speak for themselves and require no response.

45. The publications cited speak for themselves and require no response. Defendants are without knowledge or information sufficient to form a belief as to the truth of any remaining allegations in this paragraph because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

46. Defendants acknowledge the benefits that stem from a diverse and inclusive educational environment. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. The cited judicial opinions speaks for themselves. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

SECTION VII

47. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. The cited statutes and regulations speaks for themselves. The cited publication speaks for itself. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

48. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer because no response is required. The cited judicial opinion speaks for itself. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

49. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer because

no response is required. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

50. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Plaintiffs are left to their proofs.

51. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Plaintiffs are left to their proofs. The publication cited speaks for itself and requires no response.

52. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs. The publications cited speak for themselves and require no response.

53. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Plaintiffs are left to their proofs. The Sheff decision is a judicial opinion that speaks for itself and requires no response.

54. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Plaintiffs are left to their proofs.

55. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Plaintiffs are left to their proofs.

56. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

57. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer because no response is required. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

SECTION VIII

58. Defendants' response to Paragraph 35 is hereby incorporated as if fully set forth herein. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer because no response is required. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. Defendants admit

that the Department of Education supervises all of New Jersey's public schools and that the Department of Education collects student enrollment data reported by school districts and charter schools. The cited judicial opinions speak for themselves. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

59. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations. Plaintiffs are left to their proofs.

60. Defendants' responses to Paragraphs 43-46 are hereby incorporated as if fully set forth herein. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. Defendants acknowledge the benefits that stem from a diverse and inclusive educational environment. As to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the

context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

61. Defendants' responses to Paragraphs 47-57 are hereby incorporated as if fully set forth herein. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. With regard to any remaining allegations, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations because they are overly broad in the context of what must be a fact-specific inquiry. Plaintiffs are left to their proofs.

SECTION IX

62. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. New Jersey's Constitution, statutes, and case law speak for themselves.

63. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. The cited judicial opinions speak for themselves.

64. To the extent this paragraph calls for conclusions and/or characterizations of law, Defendants make no answer as no response is required. Defendants deny that any State laws, policies, or practices violate students' constitutional or statutory rights.

SECTION X

FIRST COUNT

Violation of New Jersey Constitution, Article I, ¶ 5

65. Defendants' responses to Paragraph 1 through 64 are hereby incorporated by reference as if fully set forth herein.

66. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. New Jersey's Constitution speaks for itself. To the extent a response is required, the allegations are denied.

SECOND COUNT

Violation of New Jersey Constitutional Guarantee of Equal Protection

67. Defendants' responses to Paragraph 1 through 64 are hereby incorporated by reference as if fully set forth herein.

68. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. To the extent a response is required, the allegations are denied.

THIRD COUNT

Violation of New Jersey Constitution, Art. VIII, ¶ 4

69. Defendants' responses to Paragraph 1 through 64 are hereby incorporated by reference as if fully set forth herein.

70. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. To the extent a response is required, the allegations are denied.

FOURTH COUNT

**Violation of New Jersey Constitution, Article I, ¶ 5;
Article I, ¶ 1; and Article VIII, ¶ 4**

71. Defendants' responses to Paragraph 1 through 64 are hereby incorporated by reference as if fully set forth herein.

72. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. New Jersey's Constitution speaks for itself.

FIFTH COUNT

Violation of N.J.S.A. 18A:38-5.1

73. Defendants' responses to Paragraph 1 through 64 are hereby incorporated by reference as if fully set forth herein.

74. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. The cited statute speaks for itself. To the extent a response is required, the allegations are denied.

SIXTH COUNT

Violation of Charter School Program Act, N.J.S.A. 18A:36A-7

75. Defendants' responses to Paragraph 1 through 64 are hereby incorporated by reference as if fully set forth herein.

76. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. The cited statute speaks for itself.

77. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required. The cited regulations speak for themselves.

SEVENTH COUNT

Violation of New Jersey Civil Rights Act, N.J.S.A. 10:6-2

78. Defendants' responses to Paragraph 1 through 76 are hereby incorporated by reference as if fully set forth herein.

79. Defendants make no answer to this paragraph because it calls for conclusions and/or characterizations of law to which no response is required.

WHEREFORE, Defendants deny that Plaintiffs are entitled to the relief sought and demand dismissal of the Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs failed to exhaust their administrative remedies prior to bringing this action.

SECOND AFFIRMATIVE DEFENSE

Defendants are immune from suit.

THIRD AFFIRMATIVE DEFENSE

Jurisdiction over this matter more properly lies with the Commissioner of Education.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to state a claim upon which relief can be granted against Defendants.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs have not been denied any right, privilege, or immunity secured by State or federal law.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs lack standing to bring the claims contained in the complaint.

SEVENTH AFFIRMATIVE DEFENSE

All acts of Defendants were performed pursuant to laws, statutes, and regulations and, therefore, are valid as a matter of law.

EIGHTH AFFIRMATIVE DEFENSE

Defendants' actions were not arbitrary, capricious, or unreasonable.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs have suffered no injury attributable to any conduct of Defendants.

TENTH AFFIRMATIVE DEFENSE

Any injuries suffered by Plaintiffs are due to the acts or omissions of third persons or entities over whom Defendants have no control, and/or to Plaintiffs' own actions.

ELEVENTH AFFIRMATIVE DEFENSE

Defendants acted at all times relevant hereto with good faith, without fraud and malice, and in compliance with State and federal law.

TWELTH AFFIRMATIVE DEFENSE

Defendant is not obligated to Plaintiffs in any amount or sum, whatsoever.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiffs are barred from any recovery by the applicable statute of limitations.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to name indispensable parties.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to present a justiciable case or controversy.

SIXTEENTH AFFIRMATIVE DEFENSE

Recovery is barred by the failure of Plaintiffs to give timely notice of claim or to present a claim in accordance with N.J.S.A. 59:8-1 et seq.

SEVENTEENTH AFFIRMATIVE DEFENSE

Defendants were not negligent and violated no duties to Plaintiffs.

EIGHTEENTH AFFIRMATIVE DEFENSE

All conduct of Defendants was reasonable, proper, and within the scope of their authority.

NINETEENTH AFFIRMATIVE DEFENSE

Recovery is barred in this action as there is no custom, policy, or practice that creates liability under the New Jersey Civil Rights Act.

TWENTIETH AFFIRMATIVE DEFENSE

All relevant statutes and regulations are consistent with the New Jersey Constitution.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Defendants assert all relevant statutory defenses and immunities.

RESERVATION OF RIGHTS

Defendants reserve the right to interpose such other defenses as may be warranted after further investigation and discovery.

Defendants reserve the right, at or before trial, to move to dismiss the Complaint and/or for summary judgment based on any or all of the above defenses.

Respectfully submitted,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Daniel F. Dryzga
Daniel F. Dryzga
Assistant Attorney General

Dated: August 22, 2019

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Defendants designate Assistant Attorney General Daniel F. Dryzga as trial counsel in this matter.

By: /s/ Daniel F. Dryzga
Daniel F. Dryzga
Assistant Attorney General

Dated: August 22, 2019

RULE 4:5-1 CERTIFICATION

Pursuant to Rule 4:5-1, I hereby certify that the matter now in controversy is not the subject of any other pending action. It is not known whether other parties should be joined at this time.

By: /s/ Daniel F. Dryzga
Daniel F. Dryzga
Assistant Attorney General

Dated: August 22, 2019

CERTIFICATION REGARDING SERVICE

I certify that a copy of the within pleading was served on all counsel within the time period allowed by the Court.

By: /s/ Daniel F. Dryzga
Daniel F. Dryzga
Assistant Attorney General

Dated: August 22, 2019