

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

In the Matter of the Application of

ZAINEB SALEM, ASHLEY KIBLIN, BRIAN  
JURGENS, WENDY BRUNO, and  
MICHAEL WANGLER,

*Petitioners-Plaintiffs,*

-against-

BARBARA GUINN, in her capacity as the  
Commissioner of the New York State Office  
of Temporary and Disability Assistance,

*Respondent-Defendant.*

For a Judgment Pursuant to § 3001 and  
Articles 9 and 78 of the Civil Practice Law  
and Rules

**VERIFIED PETITION AND CLASS  
ACTION COMPLAINT**

**ORAL ARGUMENT REQUESTED**

Index No. \_\_\_\_\_

Petitioners-Plaintiffs (hereinafter "Plaintiffs") Zaineb Salem, Ashley Kiblin, Brian Jurgens, Wendy Bruno, and Michael Wangler, by and through their undersigned counsel, respectfully allege as follows:

**PRELIMINARY STATEMENT**

1. Persons in receipt of public benefits have the right to seek an administrative review of any agency decision to terminate, reduce or deny their benefits. In New York State, these reviews are called "fair hearings," and are conducted by the Defendant Office of Temporary and Disability Assistance (hereinafter "OTDA"). Because justice delayed is justice denied, principles of due process as well as state and federal regulations

guarantee the right to a prompt decision after a fair hearing is requested. Yet tens of thousands of New Yorkers are waiting months or years for decisions that will determine their eligibility for essential subsistence benefits. These delays result in hunger, hardship, and deprivation for thousands of low-income New Yorkers. Plaintiffs ask this Court to direct the Defendant to comply with the applicable regulatory time frames that mandate prompt issuance of fair hearing decisions and to provide related notice relief.

2. The benefits that are the subject of the aforementioned fair hearings include Supplemental Nutrition Assistance Program (“SNAP”) benefits, which provide food assistance for approximately 1.8 million low-income New Yorkers, and Temporary Assistance (“TA”)<sup>1</sup> which provides ongoing cash assistance and emergency aid to eligible individuals. SNAP benefits allow people to buy the food they need to survive and thrive. TA provides critical income support to help low-income New Yorkers meet their daily needs.
3. Applicants for and recipients of SNAP or TA may request a fair hearing to appeal an action by the local Department of Social Services (“LDSS”) to deny, reduce, terminate, or otherwise adversely affect their benefits.

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<sup>1</sup> Temporary Assistance encompasses five distinct programs: Family Assistance, Safety Net Assistance, Emergency Assistance to Families, Emergency Assistance to Adults, and Emergency Safety Net Assistance. These programs will be described in further detail *infra* at ¶ 28 *et seq.* For the remainder of this document, the term “Temporary Assistance” or “TA” is used to refer to the five programs identified here.

4. State and federal regulations require the Defendant to: (1) render a decision within 60 days of a hearing request concerning SNAP (7 CFR 273.15 [c] [1]; 18 NYCRR 358-6.4 [b] [1]); and (2) render a decision and conclude all related processes within 90 days of a hearing request concerning TA (18 NYCRR 358-6.4 [a]).
5. These time limits provide critical due process safeguards necessary to protect individuals who are wrongly denied or faced with the loss of life-sustaining benefits. Prompt decisions ensure that individuals whose benefits are erroneously denied, reduced, or terminated can quickly regain access to the benefits they need to feed themselves, maintain their housing, and meet other daily needs.
6. However, many New Yorkers, including Plaintiffs, have waited or are now waiting for fair hearing decisions for months beyond the required deadlines. Defendant OTDA, under the control of Respondent-Defendant Guinn (hereinafter Defendant Guinn), routinely fails to hold hearings and render fair hearing decisions within the mandatory time frames required by her own regulations.
7. As a result of OTDA's noncompliance with mandatory time frames, many eligible individuals have been deprived of essential subsistence benefits, causing them to be unable to feed their families or pay their bills while they wait for a decision. Other individuals have incurred unconscionably large debts from overpayments of benefits that would not have accrued if OTDA had held and decided their hearings in a timely manner.

8. Plaintiffs bring this class action as a hybrid proceeding under Civil Practice Law and Rules (hereinafter CPLR) Article 78, CPLR 3001 and CPLR Article 9 on behalf of themselves and all similarly situated individuals in New York State who, on or after June 12, 2021, have requested or will request a fair hearing pertaining to SNAP or TA benefits and have not received or will not receive a written resolution of the hearing within the time frames required by law.

### **PARTIES**

9. Plaintiff Ashley Kiblin resides in Erie County with her fiancé and two children and is 24 years old.
10. Plaintiff Brian Jurgens resides in Suffolk County with his wife and four of their children and stepchildren and is 48 years old.
11. Plaintiff Wendy Bruno resides in Erie County and is 55 years old.
12. Plaintiff Michael Wangler resides in Erie County and is 54 years old.
13. Plaintiff Zaineb Salem resides in Monroe County with her two children and is 39 years old.
14. Defendant Barbara Guinn is the Commissioner of the New York State Office of Temporary and Disability Assistance and is responsible for the administration of public assistance programs in New York State and for the agency's compliance with federal and state laws and regulations pursuant to Social Services Law § 34 (*see also* Social Services Law § 22).

**VENUE**

15. Venue is set properly in Albany County pursuant to CPLR 506 (b) in that it is Defendant Guinn's principal place of business.

**CLASS ACTION ALLEGATIONS**

16. Plaintiffs bring this class action pursuant to Article 9 of the CPLR on behalf of themselves and on behalf of all individuals who, on or after June 12, 2021, have requested or will request a fair hearing pertaining to Supplemental Nutrition Assistance Program ("SNAP") benefits and/or Temporary Assistance ("TA"), which encompasses Family Assistance ("FA"), Safety Net Assistance ("SNA"), Emergency Assistance to Adults ("EAA"), Emergency Assistance to Families ("EAF"), and Emergency Safety Net Assistance ("ESNA"), and who have not received or will not receive a written decision on the hearing within 60 days of making a request for hearing on a SNAP issue or 90 days of making a request for hearing on a TA issue.
17. Plaintiffs also seek to represent a sub-class of individuals who, on or after June 12, 2021, have received or will receive aid continuing while awaiting a fair hearing decision, have received or will receive an adverse decision beyond the legally mandated time frame for issuing the fair hearing decision, and are or will be subject to a claim or overpayment in an amount exceeding the amount of aid continuing the individual would have received if the fair hearing decision been rendered within 60 days of a SNAP hearing request or 90 days of a TA hearing request.

18. The proposed class and sub-class are so numerous that joinder of all members is impracticable. As of May 31, 2024, there were at least 53,425 TA and SNAP hearings overdue for a decision, including 35,125 TA hearings requested more than 3 months prior and 18,300 SNAP hearings requested more than 2 months prior that had not been decided (§ 113, *infra*). A non-exhaustive search of Defendant's archive of fair hearing decisions reveals numerous cases where appellants incurred large overpayments of aid continuing because of Defendant's delays, or experienced delays in hearings on which they had aid continuing and that resulted in adverse decisions, allowing the assessment of large overpayments (Howe Affirmation dated June 11, 2024, hereinafter "Howe Aff" §§ 16-33).
19. There are questions of law and fact common to the proposed class and sub-class that predominate over any questions affecting only individual members, to wit, whether Defendant has failed to issue fair hearing decisions within the time periods required by state and federal regulations.
20. The claims of the individually named Plaintiffs are typical of the claims of the plaintiff class and subclass. All claims arise from Defendant's failure to issue fair hearing decisions within the time periods required by state and federal regulations.
21. The individually named Plaintiffs' claims are identical to the claims that are raised by the proposed class as a whole, and to the sub-class as a whole, as well as by each member of the proposed class and proposed sub-class.

22. The individually named Plaintiffs will fairly and adequately protect the interests of the class and the sub-class.
23. In supporting their own claims, the individually named Plaintiffs will simultaneously advance the claims of the other class members and the claims of the sub-class.
24. Plaintiffs are represented by the National Center for Law and Economic Justice (“NCLEJ”) and the Empire Justice Center (“Empire Justice”). NCLEJ and Empire Justice are public interest law firms with extensive experience in public assistance and class action litigation, having litigated such matters in the courts of New York State and in the United States District Courts in New York. Counsel for the Plaintiffs will diligently and expeditiously press the claims of the class.
25. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Indeed, only a class remedy will afford relief to those who have been injured by Defendant’s failure to issue fair hearing decisions in the required time periods.
26. The members of the proposed class have little or no income and are without the resources that would be necessary to raise their claims in individual actions.
- Furthermore, due to the complexity of the issues raised by this class action and the scarcity of legal services attorneys available to take public assistance cases, it is unlikely that a substantial number of individual proceedings would be brought by the members of the proposed class. Class members also live throughout the state, and many are

remote from each other geographically. A single centralized proceeding will enable efficient use of court resources.

27. Class certification is therefore essential to ensure that all potential plaintiffs and class members will be protected and that the resources of the judicial system and all counsel will be efficiently utilized.

### **CONSTITUTIONAL, STATUTORY, AND REGULATORY FRAMEWORK**

#### **New York's Constitutional Duty to Aid the Needy**

28. Article XVII, § 1 of the New York State Constitution provides:

The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions and in such manner and by such means as the legislature may from time to time determine.

29. In fulfillment of its constitutional duty to aid the needy, New York has enacted two public assistance programs, Family Assistance ("FA") and Safety Net Assistance ("SNA"), and various emergency assistance programs, including Emergency Assistance to Adults ("EAA"), Emergency Assistance to Families ("EAF"), and Emergency Safety Net Assistance ("ESNA") (*see* Social Services Law art 5, titles 1, 3, and 10; *id.* § 300; 18 NYCRR 370.3).
30. Family Assistance provides ongoing cash assistance to certain families with children and pregnant individuals (Social Services Law § 349). FA is New York's implementation of the federal Temporary Assistance for Needy Families program (Social Services Law § 358; *see* 42 USC §§ 602, 603, 604).



31. Safety Net Assistance is a state program that provides ongoing cash assistance to low-income individuals and families without children, as well as families with children who do not qualify for Family Assistance (Social Services Law § 158).
32. The EAA, EAF, and ESNA programs provide grants to meet immediate needs while an application for ongoing public assistance is pending, as well as emergency needs that cannot be met through ongoing public assistance grants (Social Services Law §§ 133, 300, 302, 303, 350-j; 18 NYCRR 351.8 [c] [4], 370.3, 372.1).
33. The FA, SNA, EAA, EAF, and ESNA programs are all categorized as forms of Temporary Assistance (“TA”) (New York State Office of Temp. and Disability Assistance, *Temporary Assistance (TA)*, <https://otda.ny.gov/programs/temporary-assistance/> [accessed June 4, 2024]).
34. New York also fulfills its constitutional duty to aid the needy by providing food assistance benefits through the federally funded, state-supervised, and locally administered Supplemental Nutrition Assistance Program (“SNAP”), formerly known as the Food Stamp Program (Social Services Law § 95; 18 NYCRR 387.0 *et seq.*; *see* 42 USC § 2013).

### **Due Process and Timeliness Requirements**

35. Article 1, § 6 of the New York State Constitution provides that “[n]o person shall be deprived of life, liberty or property without due process of law.”

36. Section 1 of the 14th Amendment to the United States Constitution provides that “No State shall. . . deprive any person of life, liberty, or property, without due process of law.”
37. When an agency denies, reduces, or terminates public benefits, due process requires that benefits applicants and recipients receive notice of the action and an opportunity to appeal the determination at a fair hearing (*Matter of Brown v Lavine*, 37 NY2d 317, 320 [1975]; *Matter of Jones v Berman*, 37 NY2d 42, 55-56 [1975]; *Goldberg v Kelly*, 397 US 254 [1970]; *Atkins v Parker*, 472 US 115, 128 [1985]; *Kapps v Wing*, 404 F3d 105, 115-18 [2d Cir 2005]).
38. New York law provides that an applicant or recipient of SNAP or TA “may appeal to the department from decisions of social services officials or failures to make decisions upon grounds specified . . . The department shall review the case and give such person an opportunity for a fair hearing thereon.” (Social Services Law § 22; *see also* 18 NYCRR 358-1.1).
39. OTDA is responsible for administering fair hearings for all SNAP and TA benefits issues statewide and supervising the LDSSs that ultimately must implement fair hearing decisions (Social Services Law §§ 20, 22; *see also* 7 USC § 2020 [a], [d], [e]).
40. For individuals who request a fair hearing on TA benefits, “definitive and final administrative action must be taken promptly, but in no event more than 90 days from the date of the request for a fair hearing.” (18 NYCRR 358-6.4 [a]).

41. Additionally, the federal government imposes requirements on state SNAP programs, including the provision of fair hearings to aggrieved SNAP applicants and recipients (7 CFR 273.15 [a]; *see also* 7 USC § 2020 [e] [10]).
42. Federal regulations require that “[w]ithin 60 days of receipt of a request for a [SNAP] fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision.” (7 CFR 273.15 [c] [1]).
43. State regulations also dictate that, for individuals who request a fair hearing on SNAP benefits, “the decision must be issued and the parties notified of the decision within 60 days of receipt of the request for the fair hearing by the department.” (18 NYCRR 358-6.4 [b] [1]). This provision implements federal requirements for SNAP fair hearings (*see* 7 CFR 273.15 [c] [1]).
44. OTDA may issue a decision without first holding a hearing only in very limited circumstances. When there is no material issue of fact to be resolved, and upon motion of the appellant or the Commissioner of OTDA, the Commissioner may in her sole discretion issue a decision without a hearing (18 NYCRR 358-6.2). This is the only situation in which state regulations empower OTDA to issue a decision without a hearing.
45. Because a hearing is generally a prerequisite to the issuance of a decision, OTDA must schedule hearings well before the expiration of the relevant time frame to allow

sufficient time for the decision to be written and distributed to the parties before the deadline.

46. When a fair hearing is adjourned at the request of the appellant, the relevant time frame is extended by the number of days that the hearing has been postponed (18 NYCRR 358-5.3 [d]).
47. Fair hearing appellants contesting a reduction or discontinuance of benefits are entitled to continue to receive their benefits unchanged while their appeal is pending if they request their fair hearing before the effective date of their adverse action notice. This is known as aid continuing (18 NYCRR 358-3.6; 7 CFR 273.15 [k] [1]).
48. If a fair hearing appellant receives aid continuing, but the fair hearing ultimately upholds the LDSS's adverse action, benefits received during the pendency of the hearing are considered an overpayment (18 NYCRR 352.31 [d] [1]; 7 CFR 273.15 [k] [1]).
49. Appellants who continue to receive TA following an adverse hearing decision on a TA issue for which they received aid continuing face a deduction of up to 10% from their ongoing TA grant to recoup the overpaid assistance (18 NYCRR 352.31 [d] [1], [2]).
50. Appellants who continue to receive SNAP following an adverse hearing decision on a SNAP issue for which they received aid continuing face a recoupment of 10% or \$10 per month, whichever is greater, from their ongoing SNAP grant to recover the overpaid assistance (7 CFR 273.15 [k] [1], 273.18 [g] [1]; New York State Office of Temporary and Disability Assistance, 04-ADM-01, Establishing and Collecting Food

Stamp Overissuance Claims, at 5, 20 [April 2, 2004],

[https://otda.ny.gov/policy/directives/2004/ADM/04\\_ADM-01.pdf](https://otda.ny.gov/policy/directives/2004/ADM/04_ADM-01.pdf)).

51. Recoupment imposes a heavy burden on appellants who continue to experience acute need and can ill afford any reduction in aid.
52. Appellants who stop receiving benefits after an adverse hearing decision are subject to other collection methods, such as interception of federal (SNAP overpayments) and state (TA overpayments) tax refunds, and legal action, including wage garnishment (Social Services Law §§ 106-c, 158 [7] [ii]; 7 CFR 273.18 [f] [4], [g] [8], [n] [3]; 18 NYCRR 352.31 [d] [5]).
53. When decisions are timely issued, overpayments caused by aid continuing, though burdensome, are limited to the time between the hearing request and the decision, generally 60 or 90 days. However, OTDA's exorbitant delays result in appellants incurring extraordinarily large debts of aid continuing that may later be recovered from them.
54. When an overpayment is assessed against a recipient or former recipient of assistance because of aid continuing that accrued as a result of an adverse fair hearing decision, due process and the Defendant's own regulations require that a budget calculation be provided describing how the overpayment was calculated (18 NYCRR 358-2.2 [a] [14]).
55. A cursory search of Defendant's online archive of fair hearing decisions shows that Defendant's delays have caused numerous appellants to accrue large debts of aid continuing (Howe Aff ¶¶ 16-33).

**STATEMENT OF THE FACTS****Named Plaintiffs**

*Ashley Kiblin*

56. Plaintiff Ashley Kiblin resides in Erie County and is 24 years old.
57. Ms. Kiblin's fiancé lost his job on October 1, 2023. Struggling with the reduction in income, Ms. Kiblin applied for SNAP on October 5, 2023, on behalf of herself, her fiancé, and their two children (Exhibit A).
58. On or about November 14, 2023, Ms. Kiblin received notice that her SNAP application had been denied (Exhibit A). The notice stated that she was denied for failing to provide documents verifying her residence and her wages, even though she had submitted the required documents.
59. On December 12, 2023, Ms. Kiblin requested a fair hearing to appeal the denial (Exhibit B).
60. Because Ms. Kiblin's fair hearing request pertains to the denial of an initial SNAP application, she is not entitled to aid continuing (*see* 18 NYCRR 358-3.6 [c] [1] [i]).
61. Over 60 days have passed since Ms. Kiblin requested a fair hearing, but she has not received a hearing or decision.
62. Ms. Kiblin's fiancé has not yet found a new job, and Ms. Kiblin's own income has also decreased in recent months. She works as a home health aide for her fiancé's mother, who is often hospitalized. When her fiancé's mother is in the hospital, Ms. Kiblin

cannot work and receives no income. When she is able to work, Ms. Kiblin's hours and income vary, but she never earns more than \$260 per week.

63. Without SNAP benefits or other income, Ms. Kiblin and her family have suffered serious hardship. She has been forced to rely on food banks, food purchased by family members, and her \$50 per month Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)<sup>2</sup> benefit, which only allows her to buy limited types of food. Ms. Kiblin has been eating less so that her 3-year-old daughter and 1-year-old son can have enough to eat.
64. Ms. Kiblin submitted another SNAP application in April, but even if she is approved on the new application, she will not receive benefits for the period of time between her October 2023 application and the new application, during which she and her family have gone hungry. A fair hearing is the only way for Ms. Kiblin to receive all of the benefits to which she is entitled.
65. Ms. Kiblin was finally scheduled for a telephone hearing on June 3, 2024 (Exhibit C), over 6 months after the request.

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<sup>2</sup> WIC, or the Special Supplemental Nutrition Program for Women, Infants, and Children, provides supplemental nutritious foods and nutrition counseling to low-income women who are pregnant, breastfeeding, or postpartum and infants and children up to their 5<sup>th</sup> birthday (Food and Nutrition Serv., About WIC – WIC at a Glance, <https://www.fns.usda.gov/wic/about-wic-glance> [accessed June 4, 2024]; *see generally* 7 CFR 246.1 *et seq.*).

66. However, her counsel for the fair hearing had to request an adjournment<sup>3</sup> because Ms. Kiblin's cell phone was disconnected as a result of the financial difficulties she is experiencing. Without a working phone, Ms. Kiblin could not participate in a telephonic hearing or assist her counsel in preparing for the hearing.
67. Ms. Kiblin was subsequently able to restore her telephone service and is now awaiting a new date for her SNAP fair hearing. She needs this hearing to be rescheduled as soon as possible so that she and her family can get the SNAP benefits they desperately need.
68. Plaintiff Kiblin demands that the Defendant reschedule the hearing on her December 12, 2023 request for a fair hearing regarding her SNAP denial and issue a decision forthwith.

*Brian Jurgens*

69. Plaintiff Brian Jurgens is 48 years old and lives in Suffolk County with his wife and four of his children and stepchildren, who are between 14 and 20 years old.
70. Mr. Jurgens runs a landscaping business. During the winter, due to the seasonal nature of the work, he and his wife were struggling to pay the bills for themselves and their children. As a result, Mr. Jurgens applied for SNAP on January 11, 2024 (Exhibit D).
71. On or about January 27, 2024, Mr. Jurgens received notice that the Suffolk County Department of Social Services ("SCDSS") had denied his SNAP application (Exhibit D).

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<sup>3</sup> When a fair hearing is adjourned at the request of the appellant, the deadline for resolution of the hearing is extended by the number of days that the hearing has been postponed (18 NYCRR 358-5.3 [d]). Because Ms. Kiblin's hearing request was already several months overdue for decision before the adjournment request, Defendant is out of compliance with the mandated hearing time frame despite the adjournment request.



The notice stated that he was denied because his income was too high. However, SCDSS had calculated Mr. Jurgens' income improperly by including his employees' wages as part of his income.

72. On February 2, 2024, Mr. Jurgens requested a fair hearing to appeal the denial (Exhibit E).
73. Because Mr. Jurgens' fair hearing request pertains to the denial of an initial SNAP application, he is not entitled to aid continuing (*see* 18 NYCRR 358-3.6 [c] [1] [i]).
74. Over 60 days have passed since Mr. Jurgens requested a fair hearing, but he has not received a hearing or decision.
75. Mr. Jurgens' hearing has finally been scheduled to take place on June 18, more than four months after he requested the hearing (Exhibit F), but it is unknown how much longer he may be forced to wait to receive a decision after his hearing takes place.
76. Mr. Jurgens is not currently receiving any public benefits other than a Home Energy Assistance Program subsidy to buy heating oil. Without SNAP benefits, Mr. Jurgens is struggling to feed his family and pay his bills until his business picks back up. He was threatened with a utility shutoff, and at times he has been forced to choose between paying child support and buying food for his children and stepchildren who reside with him. He fell behind on child support while trying to keep up with all of his bills and had to borrow money to pay off his arrears and avoid incarceration for

nonpayment of child support. He does not know if he will be able to pay back the money he borrowed, and he is exhausting his family's ability to help.

77. Plaintiff Jurgens demands that the Defendant conduct a fair hearing regarding his SNAP denial on June 18 as scheduled and issue a decision forthwith.

*Wendy Bruno*

78. Plaintiff Wendy Bruno lives in Erie County and is 55 years old.
79. Ms. Bruno is a survivor of domestic violence and lives in an apartment funded by a rapid rehousing program for domestic violence survivors. Since 2021, Ms. Bruno has been stalked by an ex-partner who has made violent threats against her. She temporarily had to move to a safe house last year and has a confidential address. Ms. Bruno limits the time she spends in public because whenever she goes out, she is in danger of being targeted by her stalker.
80. Because of these threats to her safety, Ms. Bruno can only take jobs that she can perform from home. In the past, she has done freelance work in marketing and creative direction, but she has not been able to find freelance work in recent months.
81. Because she was struggling to support herself without income from her freelance work, Ms. Bruno applied for SNAP on January 18, 2024 (Exhibit G).
82. On or about February 8, 2024, Ms. Bruno received notice that her SNAP application had been denied (Exhibit G). The notice stated that she was denied because of her immigration status (*id.*).

83. However, Ms. Bruno should have been found to have a qualifying immigration status because she can be credited with Social Security qualifying quarters earned by her husband (from whom she is separated) (*see* 7 CFR 273.4 [a] [6] [ii]) [A]).
84. On February 27, 2024, Ms. Bruno requested a fair hearing to appeal the denial (Howe Aff ¶ 34).
85. Because Ms. Bruno's fair hearing request pertains to the denial of an initial SNAP application, she is not entitled to aid continuing (*see* 18 NYCRR 358-3.6 [c] [1] [i]).
86. Over 60 days have passed since Ms. Bruno requested a fair hearing, but she has not received an acknowledgement from the Defendant that her fair hearing request has been received, or a scheduling notice, let alone a hearing or decision.
87. Currently, Ms. Bruno's only income is a public assistance grant of \$406 per month, which is not nearly enough to meet all of her daily needs. She cannot go to food banks because she is scared for her safety whenever she leaves her apartment. Ms. Bruno used to get help from organizations that would deliver groceries to her, but she is no longer receiving this assistance. SNAP benefits would allow Ms. Bruno to pay for groceries to be delivered so that she can feed herself without risking her safety.
88. Plaintiff Bruno demands that the Defendant schedule a hearing on her February 27, 2024, request for a fair hearing regarding her SNAP denial and issue a decision forthwith.

*Michael Wangler*

89. Plaintiff Michael Wangler lives in Erie County and is 54 years old.

90. Mr. Wangler has disabilities that prevent him from working. He lives in supportive housing and receives Safety Net Assistance (SNA), a form of Temporary Assistance. He has applied for Supplemental Security Income (SSI), a federal benefit for low-income persons with disabilities.
91. On or about May 16, 2023, Mr. Wangler received notice that he was not exempt from SNA work requirements, despite his medical limitations (Exhibit H). For a single person found nonexempt from the work requirement, failure to comply with a work requirement is punishable by termination of the SNA case and a period of sanction from receiving further assistance.
92. Because Mr. Wangler is disabled and unable to work, he requested a fair hearing on May 24, 2023 to appeal Erie County's determination that he is subject to work requirements (Exhibit I).
93. Over 90 days have passed since Mr. Wangler requested a fair hearing, but he has not received a notice scheduling a hearing, nor has he received any indication that his hearing has been scheduled.
94. Although Mr. Wangler is receiving benefits while he waits, he is experiencing stress and uncertainty because his hearing is still unresolved. He does not know whether he can count on receiving the SNA benefits that he needs.
95. Plaintiff Wangler demands the Defendant schedule a hearing on his May 24, 2023, request for a fair hearing regarding his exemption from SNA work requirements and issue a decision forthwith.

*Zaineb Salem*

96. Plaintiff Zaineb Salem, age 39, resides in Monroe County with her two minor children.

For several months prior to April 2022, she received Family Assistance ("FA"), a form of Temporary Assistance, for herself and her children.

97. On or about April 27, 2022, Ms. Salem received notice that her FA benefits would be terminated on May 6, 2022 (Exhibit J).

98. In the section on fair hearing rights, the termination notice, notice #U26DRH5688, included the following statement about aid continuing:

We will restore your public assistance benefits to the same level they were before this notice if you ask for a fair hearing by May 7, 2022. However, if you lose the hearing you will have to pay back any Public Assistance you got, but should not have gotten, while you were waiting for the decision.

If you do not want your benefits to stay the same until the decision is issued, you must tell the State when you write or call for a fair hearing.

(Exhibit J, p. 5-6).

99. Ms. Salem requested a fair hearing with aid continuing on May 5, 2022 (Exhibit K).

100. Ms. Salem requested this hearing online. The interactive online form for requesting a fair hearing states: "If this issue involved a change in benefits, you may have the right to have your benefits continued unchanged until the fair hearing decision is issued. Do you want your benefits continued unchanged?" with a checkbox to select "Yes" or "No" (§ 123, *infra*). The online request form does not contain any other language related to aid continuing (*id.*).

101. Ms. Salem later received an acknowledgment of her May 5, 2022 hearing request.

Standardized language on fair hearing acknowledgements states: “If you requested a fair hearing because the local agency has changed your assistance, benefits or services, you may be entitled to receive your assistance, benefits or services unchanged until the Commissioner issues a decision” (§ 125, *infra*).

102. Ms. Salem did not receive any further notice of her rights related to aid continuing, including the right to stop her aid continuing while the hearing was pending and still go forward with the hearing and her right to reapply for a new TA case and still go forward with the hearing.

103. Ms. Salem received a scheduling notice on May 25, 2023, scheduling her hearing for June 15, 2023. Standardized language on the scheduling notice states: “If you requested a hearing because the agency has changed your benefits or services, you may be entitled to receive your assistance, benefits or services unchanged until the decision is issued. In this case, the STATE COMMISSIONER HAS directed the agency to continue your assistance, benefits or services unchanged until the fair hearing decision is issued.” (Exhibit L). Nowhere on the scheduling notice did it inform Ms. Salem of her rights related to aid continuing, including the right to stop her aid continuing while the hearing was pending and still go forward with the hearing and her right to reapply for a new TA case and still go forward with the hearing (*id.*).

104. The hearing was held on June 15, 2023 (Exhibit K).

105. On September 8, 2023, over 16 months after Ms. Salem requested the hearing, Defendant issued fair hearing #8449288Z upholding the May 2022 termination of Ms. Salem's FA benefits (Exhibit K).
106. Ms. Salem found employment as a home health aide in April 2023 and was employed until January 13, 2024, so there were multiple months when she could have been off assistance while waiting for that decision.
107. After this fair hearing decision, on or about November 29, 2023, Ms. Salem received notice #U26EQ55188 from the Monroe County Department of Human Services that she owed an overpayment of \$7,841.50 as a result of the aid continuing benefits she received while her hearing decision was pending (Exhibit M). This notice did not explain how the overpayment was calculated.
108. Paying back the \$7,841.50 overpayment would be difficult, if not impossible, for Ms. Salem. For the last four months, Ms. Salem's only sources of income were unemployment benefits and Supplemental Security Income (SSI) benefits for her disabled younger son. Ms. Salem had been out of work because her mother, for whom she had been working as a home health aide, recently passed away. Ms. Salem began a new job on May 13, 2024, but after being unemployed for months, Ms. Salem cannot afford to pay back the overpayment out of her limited income.
109. On December 7, 2023, Ms. Salem requested a fair hearing on the November 29, 2023, overpayment notice (Exhibit N).

110. At fair hearing #8712280M, which was held on January 18, 2024, Ms. Salem alleged,

*inter alia*, in a written memorandum submitted by her counsel:

- a. That the overpayment notice was void, because it failed to attach budgets or show how the overpayment notice was calculated;
- b. that the overpayment was incorrectly calculated because it failed to consider that she no longer had the income that had made her ineligible for assistance: that for many months during the period of aid continuing, Ms. Salem was unemployed and otherwise entitled to benefits, or when employed, that she would have been entitled to a work disregard;
- c. that she was never advised by Defendant OTDA of her right to stop aid continuing;
- d. that the 16-month delay in issuing a decision in FH #8449288Z violated state regulations and her right to due process, and as a result, the aid continuing overpayment should be limited to 90 days (Exhibit O).

111. By a fair hearing decision dated May 8, 2024, the Defendant affirmed the determination of MCDHS to recover \$7,841.50, without addressing any of the issues raised by Ms. Salem, including her assertions that the November 29, 2023 notice, #U26EQ55188, failed to include or attach a budget or any calculations showing how the overpayment was calculated and that the overpayment was incorrectly calculated (Exhibit P).



### Fair Hearing Backlog

112. An enormous backlog of tens of thousands of unresolved hearings forces many fair hearing appellants to wait years for a decision on their fair hearing.

113. As of May 31, 2024, there were at least<sup>4</sup> 53,425 TA and SNAP hearings overdue for a decision, including 35,125 unresolved TA hearings requested more than 90 days prior and 18,300 unresolved SNAP hearings requested more than 60 days prior (Howe Aff ¶¶ 14(e), (h), (k)).

114. Of these 53,425 overdue decisions, 26,719 —just over half—do not have aid continuing, putting these appellants at risk of going without basic necessities while they wait (*id.* at ¶ 14(m)).

115. The backlog includes tens of thousands of years-old hearing requests. As of May 31, 2024, the number of unresolved hearings included 15,797 hearings requested more than 12 months prior, 6,511 requested more than 2 years prior, and 2,084 requested more than 3 years prior (*id.* at ¶¶ 14(n), (o), (p)).

### Fair Hearing Outcomes

116. In New York State, only 32.38% of SNAP fair hearings uphold the agency decision, meaning that in over 67% of cases, the agency's underlying decision is found to be incorrect (Food and Nutrition Serv., Supplemental Nutrition Assistance Program State

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<sup>4</sup> This data only includes hearings requested in January 2020 or later.

Activity Report Fiscal Year 2020 at 19 [March 2022], <https://fns-prod.azureedge.us/sites/default/files/resource-files/FY20-state-activity-report.pdf> [accessed June 4, 2024]).

117. Reversal rates are high for all fair hearings. For all 2023 and 2024 fair hearing requests for which data is available, only 14.21% of fair hearing requests led to an affirmance of the agency's decision (Howe Aff, Exhibit C). Of those requests where an ALJ decided the issues, excluding hearings that were settled or where the agency withdrew its adverse action,<sup>5</sup> only 39.51% led to an affirmance (*id.*).

118. In New York City, only 15.2% of fair hearing decisions uphold agency determinations (Mayor's Office of Operations, Mayor's Management Report Fiscal 2023 at 219 [September 2023], [https://www.nyc.gov/assets/operations/downloads/pdf/mmr2023/2023\\_mmr.pdf](https://www.nyc.gov/assets/operations/downloads/pdf/mmr2023/2023_mmr.pdf) [accessed June 4, 2024]).

### **Inadequate Notice**

119. Faced with the deprivation that will occur if they go without benefits while waiting for a hearing decision, many appellants request aid continuing, believing that they risk having to repay no more than 2 to 3 months' worth of assistance. These appellants cannot anticipate that they may be forced to repay many months or even multiple years of benefits because of OTDA's failure to issue timely decisions.

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<sup>5</sup> 43.18% of requests were settled and 14.22% led to the LDSS withdrawing its action (Howe Aff, Exhibit C).

120. Although appellants are notified of their responsibility for repaying overpayments of aid continuing, the notices that appellants receive fail to indicate that appellants may stop their aid continuing at any time, or that they have the right to reapply for benefits and potentially avoid incurring an overpayment if their eligibility has changed during the pendency of the hearing decision.
121. Standardized language included in notices issued by Defendant's computer system when benefits are terminated states: "We will restore your benefits to the same level they were before this notice if you ask for a fair hearing by [Date]. However, if you lose the hearing you will have to pay back any [Type of Benefit] you got, but should not have gotten, while you were waiting for the decision. If you do not want your benefits to stay the same until the decision is issued, you must tell the State **when you write or call for a fair hearing.**" (Exhibit J at 5-6 (emphasis added)). Termination notices do not contain any other language related to aid continuing (*id.*).
122. Notices of a reduction in benefits contain the same language on aid continuing as do termination notices.
123. The online interactive fair hearing request form states: "If this issue involved a change in benefits, you may have the right to have your benefits continued unchanged until the fair hearing decision is issued. Do you want your benefits continued unchanged?" with a checkbox to select "Yes" or "No" (Exhibit Q (request about a notice); Exhibit R (request not about a notice)). The online request form does not contain any other language related to aid continuing (*id.*).

124. The form used to request a fair hearing by mail or fax<sup>6</sup> does not reference aid continuing (Exhibit S).
125. After an appellant requests a fair hearing, Defendant sends the appellant a fair hearing acknowledgement that states: “If you requested a fair hearing because the local agency has changed your assistance, benefits or services, you may be entitled to receive your assistance, benefits or services unchanged until the Commissioner issues a decision.” (Exhibits B, E, I, N). The fair hearing acknowledgement does not contain any other language related to aid continuing (*id.*) This language is uniform across all fair hearing acknowledgement notices.
126. OTDA does not provide any further notice of appellants’ rights during the long period when they may be waiting for a hearing decision beyond mandatory time frames. Appellants do not receive notice that their hearing is delayed, or that unconscionably large debts may be accruing, that they have the right to stop their aid continuing at any time and still proceed with the hearing, or that they can decline aid continuing and receive benefits back to the date of the adverse action if they eventually win their fair hearing.

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<sup>6</sup> In addition to using the interactive online form or mailing or faxing a request form, appellants may request a fair hearing by telephone or in person in some locations (New York State Office of Temporary and Disability Assistance, *Request a Fair Hearing*, <https://otda.ny.gov/hearings/request/> [accessed June 4, 2024]).

**FIRST CAUSE OF ACTION****Mandamus to Compel Pursuant to CPLR 7803 (1)  
On Behalf of Plaintiffs Ashley Kiblin, Brian Jurgens, Wendy Bruno,  
and Others Similarly Situated**

127. The failure of Defendant Guinn to hold fair hearings and issue fair hearing decisions within 60 days of a fair hearing request in cases related to SNAP benefits violates 7 CFR 273.15 (c) (1) and 18 NYCRR 358-6.4 (b) (1) and is made actionable by CPLR 7803 (1).

**SECOND CAUSE OF ACTION****Mandamus to Compel Pursuant to CPLR 7803 (1)  
On Behalf of Plaintiff Michael Wangler and Others Similarly Situated**

128. The failure of Defendant Guinn to hold fair hearings and issue fair hearing decisions within 90 days of a fair hearing request in cases related to Temporary Assistance violates 18 NYCRR 358-6.4 (a) and is made actionable by CPLR 7803 (1).

**THIRD CAUSE OF ACTION****On Behalf of Plaintiffs Ashley Kiblin, Brian Jurgens, Wendy Bruno, Zaineب Salem,  
and Others Similarly Situated**

129. The failure of Defendant Guinn to hold fair hearings and issue fair hearing decisions within required time frames violates the Due Process Clauses of the New York State Constitution, NY Const, art I, § 6, and the United States Constitution, US Const, amend XIV, § 1, made actionable by 42 USC § 1983.

**FOURTH CAUSE OF ACTION****On Behalf of Plaintiff Zaineب Salem and Others Similarly Situated**

130. The failure of Defendant Guinn to provide Plaintiffs with notice of hearing delays, the right to decline or stop aid continuing, and the right to reapply for assistance while a hearing decision is pending violates the Due Process Clauses of the New York State

Constitution, NY Const, art I, § 6, and the United States Constitution, US Const, amend XIV, § 1, made actionable by 42 USC § 1983.

#### **FIFTH CAUSE OF ACTION**

##### **On Behalf of Plaintiff Zaineب Salem and Others Similarly Situated**

131. Defendant Guinn's practice of imposing and then seeking to collect the massive overpayments that accrued as a direct result of Defendant Guinn's failure to hold hearings and render decisions within legally mandated time frames on Plaintiffs who relied on incomplete information from Defendant Guinn about the timing of the hearing and received aid continuing during the extended pendency of their hearings should be estopped by the Court as it is unjust. Said overpayments should be limited to only the amount that accrued within the regulatory time frames set forth in ¶ 4, *supra*.

#### **SIXTH CAUSE OF ACTION**

##### **On Behalf of Plaintiff Zaineب Salem and Others Similarly Situated**

132. Defendant Guinn issued fair hearing decision #8712280M in error of law by failing to strike a facially defective overpayment notice, #U26EQ55188, that fails to comply with 18 NYCRR 358-2.2 [a] [14] and the Due Process Clauses of the New York State Constitution, NY Const, art I, § 6, and the United States Constitution, US Const, amend XIV, § 1.

#### **SEVENTH CAUSE OF ACTION**

##### **On Behalf of Plaintiff Zaineب Salem**

133. Defendant Guinn's fair hearing decision #8712280M is arbitrary and capricious because it wholly fails to address multiple issues raised in the hearing by the appellant.

**REQUESTED RELIEF**

WHEREFORE, Plaintiffs request that this Court enter an Order:

- a) Declaring that Defendant Guinn failed to perform a duty enjoined upon her by law, to wit, to hold fair hearings and issue written fair hearing decisions within the time frames provide by applicable law and regulations;
- b) Direct that Defendant Guinn hold fair hearings and issue fair hearing decisions for Plaintiffs Brian Jurgens, Ashley Kiblin, Wendy Bruno, and Michael Wangler as soon as practicable, but no later than 30 days after the entry of an Order of this Court;
- c) Certifying this as a class action, pursuant to CPLR article 9, consisting of all individuals who, on or after June 12, 2021, have requested or will request a fair hearing pertaining to SNAP and/or TA and have not received or will not receive a written decision on the hearing within 60 days of making a request for hearing on a SNAP issue or 90 days of making a request for hearing on a TA issue;
  - i. Certifying a sub-class of individuals who, on or after June 12, 2021, have received or will receive aid continuing while awaiting a fair hearing decision, have received or will receive an adverse decision beyond the legally mandated time frame for issuing the fair hearing decision, and were or will be subject to a claim or overpayment in an amount exceeding the amount of aid continuing the individual would have received if the fair hearing decision been rendered within 60 days of a SNAP hearing request or 90 days of a TA hearing request;

- d) Appointing the National Center for Law and Economic Justice and the Empire Justice Center as class counsel;
- e) Ordering Defendant Guinn to:
  - i. Identify all class members who, on or after June 12, 2021, have not had a fair hearing held and decision issued within 60 days of a request for hearing on a SNAP issue or 90 days of a request for hearing on a TA issue and provide such information to class counsel;
  - ii. Immediately hold fair hearings for all identified class members whose hearing decisions are currently pending beyond mandated time frames;
  - iii. Issue fair hearing decisions as soon as practicable and in no event more than 30 days after the hearing is held where the hearing is held more than 60 days after a request for hearing on a SNAP issue or 90 days of a request for hearing on a TA issue;
  - iv. On behalf of Plaintiff Salem and all other similarly situated members of the sub-class defined in ¶ 17, waive or recalculate already-established recoupments and/or claims resulting from overpayments of aid continuing where the underlying fair hearings were decided beyond legally mandated time periods in order to limit collectable amounts to only the amount accruing within 60 days of a hearing request related to SNAP and/or 90 days of a request related to TA, and provide updated overpayment notices consistent with the revised overpayment calculation;



- f) Declaring that the failure of Defendant Guinn to hold SNAP fair hearings, issue SNAP fair hearing decisions, and notify the parties of those decisions within 60 days of the date the hearing request is made is unlawful and violates 7 CFR 273.15 (c) (1), 18 NYCRR 358-6.4 (b) (1), and the due process rights of Plaintiffs and all those similarly situated;
- g) Declaring that the failure of Defendant Guinn to hold and decide TA fair hearings promptly in order to allow the conclusion of all related processes within 90 days of the date the hearing request is made is unlawful and violates 18 NYCRR 358-6.4 (a) and the due process rights of Plaintiffs and all those similarly situated;
- h) Declaring that Defendant Guinn's issuance of fair hearing decision #8712280M, in which the Administrative Law Judge failed to address the adequacy of Plaintiff Salem's overpayment notice, #U26EQ55188, was affected by an error of law because the notice does not comport with the requirements of 18 NYCRR 358-2.2 [a] [14] and due process;
- i) Declaring that Defendant Guinn's issuance of fair hearing decision #8712280M was arbitrary and capricious because the Administrative Law Judge failed to address lack of notice and concerns of due process related to aid continuing and the untimeliness of fair hearing #8449288Z raised by Plaintiff Salem;
- j) Declaring that Defendant Guinn's collection of overpayments accrued while Plaintiffs and class members were waiting for fair hearing decisions beyond the required time frames violates the due process rights of Plaintiffs and all those similarly situated;

- k) Declaring that Defendant Guinn's failure to provide Plaintiffs and class members with notice of their right to decline or stop aid continuing after aid continuing has been granted and the right to reapply for assistance while a hearing is pending violates the due process rights of Plaintiffs and all those similarly situated;
- l) Permanently enjoining Defendant Guinn to hold SNAP fair hearings, issue fair hearing decisions, and notify the parties of those decisions within 60 days of the date the hearing request is made;
- m) Permanently enjoining Defendant Guinn to hold and decide TA fair hearings promptly in order to allow the conclusion of all related processes within 90 days of the date the hearing request is made;
- n) Permanently enjoining Defendant Guinn to revise all notices, handbooks, and any other documents distributed to benefits applicants and recipients that contain information about aid continuing rights to include information about the right to decline or stop aid continuing and the right to reapply for benefits while a hearing is pending;
- o) Permanently enjoining Defendant Guinn to send notice to fair hearing appellants who have a SNAP hearing or decision pending for more than 60 days or a TA hearing or decision pending for more than 90 days that their hearing is delayed and that they have the right to stop aid continuing or reapply for assistance, and to resend such notice every 90 days until the hearing is decided;
- p) Permanently enjoining Defendant Guinn to limit collection of overpayments, recoupments, or claims for aid continuing to only those amounts accruing within 60

days of a hearing request related to SNAP and/or 90 days of a request related to TA, and prohibit collection of amounts accruing as a result of aid continuing issued beyond the relevant fair hearing resolution period of 60 days for SNAP and 90 days for TA;

- q) Permanently enjoining Defendant Guinn to require that Administrative Law Judges
  - i. review all overpayment notices subject to fair hearing review for adequacy;
  - ii. assure that said overpayment notices contain budgets and calculations as required by 18 NYCRR 358-2.2 [a] [14]; and
  - iii. declare any notice that does not contain budgets or calculations as required by 18 NYCRR 358-2.2[a][14] void;
- r) Permanently enjoining Defendant Guinn to retrain Administrative Law Judges as to the requirements of paragraph (q) and to incorporate the substance of paragraph (q) into all ongoing training;
- s) Vacating fair hearing #8712280M and declaring that the overpayment notice at issue in that hearing was void;
- t) Awarding costs and disbursements pursuant to articles 81 and 83 of the CPLR and counsel fees pursuant to CPLR 909, article 86 of the CPLR, 42 USC § 1988, and any other relevant state or federal provision; and
- u) Granting such other and further relief as the Court may deem just and proper.

Dated: June 12, 2024

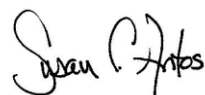
NATIONAL CENTER FOR LAW AND  
ECONOMIC JUSTICE

*/s/ Saima Akhtar*

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*Counsel for Plaintiffs and the Putative Class*

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss:

SUSANNAH HOWE, being duly sworn, deposes and says:

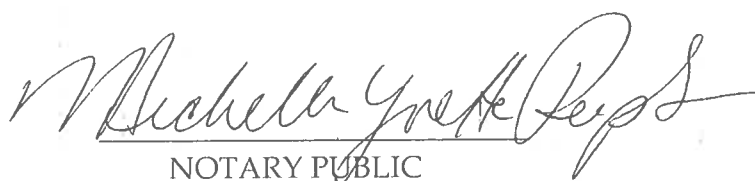
I am the attorney for WENDY BRUNO, a Petitioner-Plaintiff in this action; the foregoing Verified Petition and Complaint is true to my own knowledge except as to the matters therein stated to be upon information and belief, and as to those matters, I believe them to be true; the grounds of my belief as to all matters not stated upon my knowledge are interviews with Petitioner-Plaintiff Bruno and correspondence and other writings furnished to me by Ms. Bruno; and the reason why the verification is not made by the Petitioner-Plaintiff is that Ms. Bruno does not reside in a county where either Empire Justice Center or the National Center for Law and Economic Justice have an office.

Dated: June 10, 2024

  
\_\_\_\_\_  
Susannah Howe

Sworn to before me this

10<sup>th</sup> day of June, 2024

  
\_\_\_\_\_  
NOTARY PUBLIC

MICHELLE YVETTE PEEPLE  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01PE6342211  
Qualified in Queens County  
My Commission Expires 05-23-2028

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss:

SUSANNAH HOWE, being duly sworn, deposes and says:

I am the attorney for MICHAEL WANGLER, a Petitioner-Plaintiff in this action; the foregoing Verified Petition and Complaint is true to my own knowledge except as to the matters therein stated to be upon information and belief, and as to those matters, I believe them to be true; the grounds of my belief as to all matters not stated upon my knowledge are interviews with Petitioner-Plaintiff Wangler and correspondence and other writings furnished to me by Mr. Wangler; and the reason why the verification is not made by the Petitioner-Plaintiff is that Mr. Wangler does not reside in a county where either Empire Justice Center or the National Center for Law and Economic Justice have an office.

Dated: June 10, 2024

Sworn to before me this

10<sup>th</sup> day of June, 2024



Susannah Howe

  
NOTARY PUBLIC

MICHELLE YVETTE PEEPLES  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01PE6342211  
Qualified in Queens County  
My Commission Expires 05-23-2028

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss:

SUSANNAH HOWE, being duly sworn, deposes and says:

I am the attorney for ASHLEY KIBLIN, a Petitioner-Plaintiff in this action; the foregoing Verified Petition and Complaint is true to my own knowledge except as to the matters therein stated to be upon information and belief, and as to those matters, I believe them to be true; the grounds of my belief as to all matters not stated upon my knowledge are interviews with Petitioner-Plaintiff Kiblin and correspondence and other writings furnished to me by Ms. Kiblin; and the reason why the verification is not made by the Petitioner-Plaintiff is that Ms. Kiblin does not reside in a county where either Empire Justice Center or the National Center for Law and Economic Justice have an office.

Dated: June 10 2024

Sworn to before me this

10<sup>th</sup> day of June, 2024

  
\_\_\_\_\_  
Susannah Howe

  
\_\_\_\_\_  
NOTARY PUBLIC

MICHELLE YVETTE PEEPLES  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01PE6342211  
Qualified in Queens County  
My Commission Expires 05-23-2028

STATE OF NEW YORK )  
COUNTY OF SUFFOLK ) ss:

BRIAN JURGENS, being duly sworn, deposes and says:

I am a Petitioner-Plaintiff in this action; I have read the foregoing Verified Petition and Complaint and know the contents thereof; the same is true to my own knowledge except as to the matters therein stated to be upon information and belief, and as to those matters, I believe them to be true.

Dated: June 12 2024

Sworn to before me this

12 day of June, 2024

  
BRIAN JURGENS

  
NOTARY PUBLIC

KELLY PAGE-GORYCKI  
Notary Public - State of New York  
No. 01PA6306634  
Qualified in Suffolk County  
My Commission Exp. 06/23/20 26



STATE OF NEW YORK )  
COUNTY OF MONROE ) ss:

ZAINEB SALEM, being duly sworn, deposes and says:


I am a Petitioner-Plaintiff in this action; I have read the foregoing Verified Petition and Complaint and know the contents thereof; the same is true to my own knowledge except as to the matters therein stated to be upon information and belief, and as to those matters, I believe them to be true.

Dated: June 6, 2024

  
ZAINEB SALEM

Sworn to before me this

6 day of June, 2024

  
NOTARY PUBLIC

**LILIANA M. PATINO**  
Notary Public, State of New York  
Monroe County Reg. #01PA6341554  
Commission Expires 05/09/ 28