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SENATOR
KEVIN S. PARKER
21ST SENATORIAL DISTRICT
STATE OF NEW YORK

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January 27, 2014

Governor Andrew Cuomo
Executive Chamber
State Capitol
Albany, NY 12224

Dear Governor Cuomo:

I write to you concerning the issue of approximately 1.5 million New Yorkers whose Senators and/or Assemblymembers have principally left their respective legislative body since the November 2013 elections. I believe that the 12% of New Yorkers represented by the eleven empty legislative districts – i.e., nine Assembly Districts and two Senate Districts, many of which are majority African-American or Latino districts – should not lack representation during the 2014 Executive Budget process, and certainly not until January of 2015. I am respectfully requesting therefore, that you call a special election without delay, so that those New Yorkers “represented” by those “empty seats” have at least the prospect of being represented in 2014 and during the budget process.

As you know, once New York’s annual state budget is completed and enacted into law, most if not all of the state’s major social programs, health initiatives, business incentives and state agency budgets and programs, and taxes and fees are “set in stone” and largely unchangeable for the year. Therefore, to be without representation in the Executive Budget process is literally to be subject to taxation without representation.

Worse, communities without state legislative representatives have no voice in how thousands of other bills are amended, debated or passed into law. Those communities also have no representative to provide them with constituent services, or to voice their community’s concerns in legislative oversight proceedings.

Compounding the challenges faced by these unrepresented legislative districts, of the nine Assembly Seats that are currently vacant, five (5) districts are “majority-minority” – principally African-American and Latino -- districts. Of the two Senate seats vacant, one is a majority African-American district, and the other has large Latino, African-American and varied New American groups that are no longer represented in the Senate. The absence of legislative representation in these eleven districts, therefore, disproportionately harms New York’s African-American, Latino and New American communities.

The question of whether or not -- like many other constitutional rights and duties -- the Governor's discretionary power to call or choose not call special elections is outweighed by New York's constitutional requirement for speedy elections has been discussed extensively in the media over the past month. The media has discussed this issue however as an academic problem that tilts the balance of power between your office and that of the legislative conference leaders, almost completely ignoring the implications of more than a million New Yorkers being without representation during the budget process and an entire legislative session. I am asking you here not to treat this enormous number of citizens bereft of legislative representation for up to one year as a purely academic issue, and to remember and honor the needs of the New Yorkers of the eleven legislative districts without representation. It is simply not right, and violates our constitution's values, that they be denied representation during such an important time due to the failure to call special elections to fill those legislative seats.

As the Court of Appeals most recently said in 1973, "when a vacancy in elective office occurs, the vacancy must be filled by election in the shortest space of time reasonably possible." *See, e.g., Roher v. Dinkins*, 32 N.Y.2d 180, 188 (1973). I respectfully request therefore, as noted above, that you hold a special election without delay, so that those New Yorkers "represented" by those "empty seats" have at least the prospect of being represented in 2014 and during the budget process.

If you have any questions, do not hesitate to contact me at (718) 629-6401.

Yours in Partnership,



KEVIN PARKER

Melvin Faulkner
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Brooklyn, New York 11207
Telephone # 1-718-272-3705

February 3, 2014

City Council Committee - 16th Fl.
250 Broadway
New York City, New York 10007
10:00 A.M.

Dear Council Members:

My name is Melvin Faulkner, who has been working with Homeowners, some who are approaching Foreclosure status and many who have been attempting to receive a budget modification to their Mortgages. I was formely a staff member of Assemblywomen Inez Barron, who has worked exclusively on helping constitutes stay in their homes. As a senior citizen, a voter in every election and a Co-ordinator for the Board of Election and a very long standing community resident.

I know that I speak for a sizeable group of people from the East New York Community who are with out proper representation at the level of the New York State Assembly. I personally have taken on the task of having petitions circulate, demanding that we have a special election for the 60th Assembly District which represent all of East New York, including all of Starett City, a little bit of Brownsville,

and a little of Carnarsie. The best way to describe the total area is by Zip Codes, All of 11207, All of 11208, All of 11239, a small part of 11236 and a small part of 11212.

If we added up all of the nine (9) assembly seats and the one senate seat as of now vacant, this does speak for over one million voters without proper representation and should call for a special election, our people need the assembly seat as soon as possible. Government that does not put forth a concerted effort for all its people show its lack of sense or responsibility to those same people. We can and will take leadership to make sure we do not lose a dime from income scheduled for this area of Brooklyn in our Budget.

We are certain that our demands for fair play will be heard by others representative in our surrounding areas because our situation of today, could be your of tomorrow.

We thank you for your time in hearing our arguments on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Melvin Faulkner". The signature is fluid and cursive, with a large initial "M" and "F".

Melvin Faulkner

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**CENTER FOR LAW
AND SOCIAL JUSTICE**

at MEDGAR EVERS COLLEGE, CUNY • Brooklyn, New York

CELEBRATING 25 YEARS OF "STAYING ON FREEDOM AND JUSTICE"



TESTIMONY OF

THE CENTER FOR LAW AND SOCIAL JUSTICE

BEFORE

THE NEW YORK CITY COUNCIL
COMMITTEE ON STATE AND FEDERAL LEGISLATION

ON

RESOLUTION T2014-0191
CALLING FOR HOLDING A SPECIAL ELECTION
TO FILL ALL VACANCIES IN THE NYS LEGISLATURE

February 4, 2014

Prepared by:

Esmeralda Simmons, Esq.

Executive Director

Joan P. Gibbs, Esq.

General Counsel

Don't Lose Your Vote Project



My name is Joan P. Gibbs and I am the General Counsel at the Center for Law and Social Justice. The Center for Law and Social Justice (CLSJ) is a unit of Medgar Evers College of The City University of New York. CLSJ seeks to accomplish its mission of promoting racial justice, and protecting civil and human rights by conducting research, public policy advocacy and litigation on behalf of community groups of people of African descent and the disenfranchised. Because of its unique combination of advocacy services from a community-based perspective, CLSJ is a focal point for progressive activity.

Today the Center urges the City Council to speak clearly in calling for prompt Special Elections to fill the numerous vacancies that exist in the State legislature.

From its initial days, CLSJ has worked to defend the voting rights of Black New Yorkers and other New Yorkers of color who are protected by the federal Voting Rights Act. To this end, CLSJ has led or co-led the following historic voting rights advocacy initiatives in New York City: the New Majority for Charter Change (1987-1989) which successfully advocated for voting rights provisions and other equitable initiatives to be included in the new NYC Charter; the Majority Coalition for Fair Redistricting (1991-1992) which worked to ensure fair redistricting for people of color in NYC. CLSJ is also a founding member of the New York Voting Rights Consortium (1993-present) a coalition of leading local and national voting rights organizations advocating for the protection of voters of color in the New York metropolitan area. The voting rights litigation that CLSJ has been involved in include: *Ashe v. Board of Elections*; *Chin v. Bd. of Election*; *Reid v. Bruno*; *Rodriguez v. Pataki*; *Hayden v. Pataki*. Recently, CLSJ successfully represented petitioners-intervenors in the *Little v. LATFOR and the NYS Dept. of Corrections* case; and,

currently, we represent petitioners-interveners in the *Favors v. Cuomo* case -- the ongoing federal litigation challenging the 2012 New York State Senate plan.

Through our current “Don’t Lose Your Vote Project,” CLSJ conducts community trainings on avoiding common voting pitfalls during the elections. During our recent “Racial Justice Redistricting Project,” CLSJ conducted community trainings on participating in the New York State redistricting process. In addition, we spearheaded a coalition, Black New Yorkers for Fair Redistricting that sought to protect the voting rights of Black New Yorkers during the New York State redistricting process. CLSJ was also a key member of the Unity Map Coalition that produced the heralded UNITY Maps during the state and City Council redistricting process. The Unity Maps clearly demonstrated how the voting rights of all protected groups under the Voting Rights Act can simultaneously be respected and protected.

The Center for Law and Social Justice strongly urges the City Council to collectively advocate and resolve that a Special Election be called promptly to fill the currently vacant state legislative seats in New York City and throughout New York State. There are currently eleven (11) vacant seats in the bodies of the State Assembly and the State Senate. Of those, the majority are located within New York City: five Assembly seats and one Senate seat. Collectively, these six seats represent 1.1 million city residents. In addition, five of the vacant Assembly seats are in “majority minority” districts with populations that are primarily Black or Latino. One of the two vacant Senate seats covers the majority Black district, where Medgar Evers College is located.

According to state law, the power to call a “Special Election” rests with the governor. To date, however, Governor Cuomo has not set the date for the Special Election

to occur. Traditionally, Special Elections to fill vacancies that occur after a general election in November have been scheduled for the March of the next year or sooner. In regard to the timing of Special Elections, the law is clear from our state's highest court, the Court of Appeals, which has stated that "when a vacancy occurs, the vacancy must be filled by election in the *shortest space of time reasonably possible.*" Rohers v. Dinkins, 32 N.Y.2d 180, 188 (1973) (emphasis added).

The need to expeditiously schedule Special Elections rests on two very real and germane premises in a representative democracy: (1) The basic voting rights of the districts' constituents to elect and have representatives in New York State's legislative bodies. In addition, (2) the equal protection rights of the districts residents to constituent services which are provided locally through the district offices of state representatives. Surely, it must be recognized that state representatives are necessary to advocate on their constituent's behalf during the crucial state executive budget process which occurs in the first quarter of the year. Having no representative clearly means that there is no one in that legislative body to "bring home the bacon" to these taxpaying New Yorkers. These constituents and their districts will suffer due to the loss of vital state tax dollars to their areas. While the vacancy exists, it also renders the constituents voiceless, mute and voteless on all the serious state policy issues that will be considered and decided during the state legislative process. For example, issues such as education, health care, development, criminal justice, and environmental concerns will be decided without their weigh-in.

Moreover, the eleven vacancies in the State Assembly and State Senate are affecting a significant number of New Yorkers. In particular, as a result of these vacancies approximately 1.5 million New Yorkers are without representation --- that's a whopping

12% of our state's population. That large number of unrepresented residents makes a sham of "representative democracy" in New York State.

Finally, we are aware that staging elections cost money. We are also aware that the Board of Elections in the City of New York is underfunded and that because of the 2009 Military and Overseas Voters Empowerment Act and a federal court order, New York State will be holding two primary elections in 2014: a congressional primary in May and another primary in September; and thereafter, a general election in November. The additional expense of holding a Special Election in March, however, does not constitute a legitimate waiver to the state's duty to its voters. The right to vote is a fundamental right. Elections, in this democracy, are not optional. Further, prompt elections are necessary to protect this right.

In conclusion, the Center for Law and Social Justice strongly urges the New York City Council to voice its objection to any further delay in calling a Special Election to fill these vacancies. Further, we request that the City Council send a message to Governor Cuomo strongly urging him to call a Special Election to fill all eleven vacancies no later than March 18, 2014.

Thank you for holding a hearing on this crucial issue. We value the opportunity to appear before the City Council today. The Center for Law and Social Justice looks forward to continuing our cooperative relationship with the City Council. I will happy to answer any questions.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Joy Simmons

Address: _____

I represent: Testifying on Behalf of Senator ^{Kevin} Parker

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: MELVIN RAULROER

Address: 935 SCHERER AVE, BIRLIND, N.Y. 11207

I represent: FORECLOSURE HOMES

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Joan P. bibbs, Con.

Address: 1150 Carroll St., Brooklyn 11225

I represent: Center for Law and Social Justice,

Address: Madgen Evers College

Please complete this card and return to the Sergeant-at-Arms