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March 17, 2006

**BY HAND**

Honorable John Gleeson  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Lopez Torres, et al. v. New York State Board of Elections, et al.*,  
No. CV-04-1129 (JG)

Dear Judge Gleeson:

I write on behalf of plaintiffs in response to Mr. Valentine's letter of March 10, 2006. In Court on February 14, 2006, counsel for the Board of Elections promised that the defendants would provide the Court with information concerning the application of § 6-136 to the various judicial districts, taking into account not only the counties and assembly districts within each judicial district, but also the state senate districts and the federal congressional districts. See Election L. 6-136(2)(g) (congressional districts), 6-136(2)(h) (state senate districts). Counsel provided the Court with a preview of that work, stating:

Applying, for instance congressional districts to the signature requirements, Mr. Creelan's chart with 5,500 signatures for the Third Judicial District, by doing it by congressional districts, the maximum number of signatures would be 3,750.

Tr. (Feb. 14, 2006) at 10.

It is unfortunate that defendants have failed to provide the information that they promised to the Court (and that they apparently have had all along). Establishing a clear and fair petitioning requirement well in advance of the 2007 election would provide certainty to prospective candidates, whether they be challengers or incumbents.

In this regard, it is important the Court of Appeals have before it for its review this Court's full preliminary injunction decision—including the number of signatures that will be required of candidates in the absence of legislative action to reform the

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nomination system. Otherwise, defendants could attempt to delay the implementation of the Court's order with a second appeal concerning those signature requirements *after* their current appeal is resolved. Such a second appeal would, of course, unnecessarily delay the implementation of this Court's order and lead to uncertainty for all candidates in the 2007 election cycle. (Notably, the Second Circuit granted our motion to expedite the appeal. I enclose a copy of the Second Circuit's expedited scheduling order.)

We have therefore compiled the information promised by the defendants and set it forth in the attached chart. In summary, it shows that applying § 6-136(2) would result in the following petitioning requirements:

<b>District</b>	<b>Signatures</b>
1st	4,000
2nd	7,500
11th	4,000
12th	4,000
3rd	3,750
4th	3,750
5th	3,750
6th	4,500
7th	5,500
8th	5,000
9th	6,250
10th	4,000

We respectfully submit that even these reduced figures would produce anomalous, irrational, and unfair results. Defendants offer no reason why candidates in certain judicial districts should have petitioning requirements nearly double those in comparable districts and indeed nearly double those required of independent candidates in the same judicial districts.

Defendants suggest no rational basis to require a candidate for judicial office in the Second Judicial District, for example, to obtain as many signatures (7,500) as a candidate for the office of Mayor of the City of New York. Similarly, defendants suggest no rational basis for requiring a candidate in the Ninth Judicial District to obtain 6,250 signatures, more than 150% of the signatures required of a candidate in the Tenth Judicial

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District (4,000). A far more rational requirement, in line with the Legislature's expressed intent, is that found in § 6-142, as we suggested in our earlier submission

Respectfully yours,



Kent A. Yalowitz

cc: All Counsel of Record