

**Eric Sanders**

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U.S. District Court

Eastern District of New York

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**Case Name:** Bronstein v. City of New York et al  
**Case Number:** 1:10-cv-04659-JG -ALC  
**Filer:** City of New York  
Michael Osgood  
Ronald Lynch  
Patrick Rodrigo  
Christopher Mirro

**Document Number:** 28

**Docket Text:**

**Defendants' ANSWER to [27] Amended Complaint Second by City of New York, Ronald Lynch, Christopher Mirro, Michael Osgood, Patrick Rodrigo. (Huntone, Jeremy)**

**1:10-cv-04659-JG -ALC Notice has been electronically mailed to:**

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879948e9e82c5ff16ab9c2c308303d4d48850efd9d7bec8e721b20bad6]]

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X

TABATHA J. BRONSTEIN,

Plaintiff,

-against-

THE CITY OF NEW YORK; MICHAEL OSGOOD, as  
Inspector, Hate Crimes Task Force; RONALD LYNCH, as  
Sergeant, Hate Crimes Task Force; PATRICK RODRIGO, as  
Sergeant, Hate Crimes Task Force; and CHRISTOPHER  
MIRRO, as Sergeant, Hate Crimes Task Force, each being  
sued individually and in their official capacities as employees  
of Defendant CITY OF NEW YORK,

Defendants.

----- X

**DEFENDANTS' ANSWER  
TO THE SECOND  
AMENDED COMPLAINT**

10 CV 4659 (JG)(ALC)

Defendants City of New York, Michael Osgood, Ronald Lynch, Patrick Rodrigo,  
and Christopher Miro, by their attorney, Michael A. Cardozo, Corporation Counsel of the City of  
New York, as and for their Answer to the Second Amended Complaint, allege as follows:

1. Deny the allegations set forth in the "Introduction" paragraph of the Second Amended Complaint, except admit that plaintiff purports to proceed as stated therein.
- 1(b). Deny the allegations set forth in paragraph "1" of the Second Amended Complaint, along with all of its sub-parts, except admit that plaintiff purports to invoke the jurisdiction of this Court as set forth therein.
2. Deny the allegations set forth in paragraph "2" of the Second Amended Complaint.

3. Deny the allegations set forth in paragraph “3” of the Second Amended Complaint, except admit that plaintiff purports to invoke the jurisdiction of this Court as set forth therein.

4. Deny the allegations set forth in paragraph “4” of the Second Amended Complaint.

5. Deny the allegations set forth in paragraph “5” of the Second Amended Complaint, and respectfully refer the Court to the statutory authority cited therein for a complete and accurate description of its contents.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the Second Amended Complaint.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the Second Amended Complaint.

8. Deny the allegations set forth in paragraph “8” of the Second Amended Complaint, except admit that plaintiff is an employee of the New York City Police Department (“NYPD”), and that NYPD records indicate that plaintiff is female and over twenty-one years of age.

9. Deny the allegations set forth in paragraph “9” of the Second Amended Complaint, except admit that the NYPD maintains offices both in and outside of the County of New York, that the City of New York is a municipal corporation, and respectfully refer the Court to the New York City Charter and Administrative Code, generally, for a complete and accurate description of the powers and obligations of the City of New York.

10. Deny the allegations set forth in paragraph “10” of the Second Amended Complaint, except admit that Michael Osgood is Deputy Chief of the NYPD’s Special Victims

Division (“SVD”), that Ronald Lynch is a Lieutenant in SVD, that Patrick Rodrigo is a Sergeant in SVD, and that Christopher Miro is a Police Officer in SVD.

11. Deny the allegations set forth in the first paragraph “11” of the Second Amended Complaint, except admit that NYPD records indicate that plaintiff is female, and that plaintiff is an employee of the NYPD.

12. Deny the allegations set forth in paragraph “12” of the Second Amended Complaint.

13. Deny the allegations set forth in paragraph “13” of the Second Amended Complaint.

14. Deny the allegations set forth in paragraph “14” of the Second Amended Complaint.

15. Deny the allegations set forth in paragraph “15” of the Second Amended Complaint.

16. Deny the allegations set forth in paragraph “16” of the Second Amended Complaint.

17. Deny the allegations set forth in paragraph “17” of the Second Amended Complaint.

18. Deny the allegations set forth in paragraph “18” of the Second Amended Complaint.

19. Deny the allegations set forth in paragraph “19” of the Second Amended Complaint.

20. Deny the allegations set forth in paragraph “20” of the Second Amended Complaint, except admit that NYPD records indicate that plaintiff was assigned to the NYPD’s Hate Crimes Task Force (“HCTF”) in or about October 2007.

21. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “21” of the Second Amended Complaint, except admit that prior to joining HCTF plaintiff worked in the NYPD’s Brooklyn Special Victims Squad and 46<sup>th</sup> Squad, which is located in Bronx, New York.

22. Deny the allegations set forth in paragraph “22” of the Second Amended Complaint.

23. Deny the allegations set forth in paragraph “23” of the Second Amended Complaint.

24. Deny the allegations set forth in paragraph “24” of the Second Amended Complaint.

25. Deny the allegations set forth in paragraph “25” of the Second Amended Complaint, except admit that on or about April 1, 2008, defendant Michael Osgood met with plaintiff in his office and referred plaintiff to the NYPD’s Psychological Services Department (“PSD”).

26. Deny the allegations set forth in paragraph “26” of the Second Amended Complaint, except admit that defendant Patrick Rodrigo was present during the April 1, 2008 meeting between defendant Michael Osgood and plaintiff regarding plaintiff’s referral to PSD.

27. Deny the allegations set forth in paragraph “27” of the Second Amended Complaint.

28. Deny the allegations set forth in paragraph “28” of the Second Amended Complaint.

29. Deny the allegations set forth in paragraph “29” of the Second Amended Complaint.

30. Deny the allegations set forth in paragraph “30” of the Second Amended Complaint.

31. Deny the allegations set forth in paragraph “31” of the Second Amended Complaint, except admit that upon plaintiff’s referral to PSD, defendant Michael Osgood directed plaintiff to surrender her firearm, shield, and police identification card.

32. Deny the allegations set forth in paragraph “32” of the Second Amended Complaint.

33. Deny the allegations set forth in paragraph “33” of the Second Amended Complaint, except admit that defendant Patrick Rodrigo helped transport plaintiff to PSD on April 1, 2008.

34. Admit the allegations set forth in paragraph “34” of the Second Amended Complaint.

35. Deny the allegations in paragraph “35” of the Second Amended Complaint.

36. Deny the allegations set forth in paragraph “36” of the Second Amended Complaint.

37. Deny knowledge or information sufficient to form a belief as to the truth of what allegations “seemed” like to the plaintiff as set forth in paragraph “37” of the Second Amended Complaint.

38. Deny the allegations set forth in paragraph "38" of the Second Amended Complaint.

39. Deny the allegations set forth in paragraph "39" of the Second Amended Complaint, except admit that on April 1, 2008, defendant Patrick Rodrigo spoke to PSD staff regarding plaintiff.

40. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "40" of the Second Amended Complaint.

41. Deny the allegations set forth in paragraph "41" of the Second Amended Complaint.

42. Deny the allegations set forth in paragraph "42" of the Second Amended Complaint.

43. Deny the allegations set forth in paragraph "43" of the Second Amended Complaint..

44. Deny the allegations set forth in paragraph "44" of the Second Amended Complaint.

45. Deny the allegations set forth in paragraph "45" of the Second Amended Complaint, except admit that on April 1, 2008, defendant Patrick Rodrigo helped transport plaintiff back from PSD to HCTF.

46. Deny the allegations set forth in paragraph "46" of the Second Amended Complaint.

47. Deny the allegations set forth in paragraph "47" of the Second Amended Complaint.



48. Admit the allegations set forth in paragraph "48" of the Second Amended Complaint.

49. Deny the allegations set forth in paragraph "49" of the Second Amended Complaint, except admit that Anthony Caban was not referred to PSD.

50. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "50" of the Second Amended Complaint, except admit that plaintiff had surrendered her police identification card on April 1, 2008.

51. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "51" of the Second Amended Complaint.

52. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "52" of the Second Amended Complaint concerning what plaintiff noticed.

53. Deny the allegations set forth in paragraph "53" of the Second Amended Complaint, except admit that when plaintiff first arrived at work on April 2, 2008, defendants Michael Osgood, Patrick Rodrigo, and Christopher Miro did not speak with her regarding her work status.

54. Deny the allegations set forth in paragraph "54" of the Second Amended Complaint.

55. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "55" of the Second Amended Complaint.

56. Deny the allegations set forth in paragraph "56" of the Second Amended Complaint, except admit that after speaking with a mental health professional at PSD regarding

plaintiff's referral, defendant Michael Osgood returned plaintiff's firearm, shield, and police identification card to her.

57. Deny the allegations set forth in paragraph "57" of the Second Amended Complaint.

58. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "58" of the Second Amended Complaint concerning what plaintiff noticed.

59. Deny the allegations set forth in paragraph "59" of the Second Amended Complaint.

60. Deny the allegations set forth in paragraph "60" of the Second Amended Complaint.

61. Deny the allegations set forth in paragraph "61" of the Second Amended Complaint.

62. Deny the allegations set forth in paragraph "62" of the Second Amended Complaint.

63. Deny the allegations set forth in paragraph "63" of the Second Amended Complaint.

64. Deny the allegations set forth in paragraph "64" of the Second Amended Complaint.

65. Deny the allegations set forth in paragraph "65" of the Second Amended Complaint.

66. Deny the allegations set forth in paragraph "66" of the Second Amended Complaint.

67. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “67” of the Second Amended Complaint.

68. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “68” of the Second Amended Complaint.

69. Deny the allegations set forth in paragraph “69” of the Second Amended Complaint.

70. Deny the allegations set forth in paragraph “70” of the Second Amended Complaint.

71. Deny the allegations set forth in paragraph “71” of the Second Amended Complaint, except admit that on or about May 21, 2008, defendant Christopher Miro asked plaintiff to try to improve her relations with her fellow detectives in HCTF because many did not want to work with her.

72. Deny the allegations set forth in paragraph “72” of the Second Amended Complaint.

73. Admit the allegations set forth in paragraph “73” of the Second Amended Complaint.

74. Deny the allegations set forth in paragraph “74” of the Second Amended Complaint, except deny knowledge and information sufficient to form a belief about plaintiff’s subjective views.

75. Deny the allegations set forth in paragraph “75” of the Second Amended Complaint, except admit that on or about June 4, 2008, plaintiff was transferred from HCTF to 123<sup>rd</sup> Precinct.

76. Deny the allegations set forth in paragraph “76” of the Second Amended Complaint, except admit that on or about June 4, 2008, plaintiff was transferred from HCTF to 123<sup>rd</sup> Precinct.

77. Deny the allegations set forth in paragraph “77” of the Second Amended Complaint.

78. Deny the allegations set forth in paragraph “78” of the Second Amended Complaint.

79. Deny the allegations set forth in paragraph “79” of the Second Amended Complaint.

80. Deny the allegations set forth in paragraph “80” of the Second Amended Complaint, except admit that on or about June 1, 2008, defendant Michael Osgood reported to NYPD’s Internal Affairs Bureau (“IAB”) that there were statements from other detectives in HCTF that plaintiff lived in New Jersey.

81. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “81” of the Second Amended Complaint concerning what plaintiff believes.

82. Deny the allegations set forth in paragraph “82” of the Second Amended Complaint.

83. Deny the allegations set forth in paragraph “83” of the Second Amended Complaint.

84. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “84” of the Second Amended Complaint, except deny that

defendant Michael Osgood wrote comments on plaintiff's 2008 Yearly Performance Evaluation.

85. Deny the allegations set forth in paragraph "85" of the Second Amended Complaint.

86. Admit the allegations set forth in paragraph "86" of the Second Amended Complaint.

87. Admit the allegations set forth in paragraph "87" of the Second Amended Complaint.

88. Deny the allegations set forth in paragraph "88" of the Second Amended Complaint.

89. Deny the allegations set forth in paragraph "89" of the Second Amended Complaint, except admit that on or about March 4, 2010, a performance evaluation appeal hearing took place regarding plaintiff's 2008 Yearly Performance Evaluation at which plaintiff and defendants Michael Osgood, Patrick Rodrigo, and Christopher Miro were present.

90. Deny the allegations set forth in paragraph "90" of the Second Amended Complaint.

91. Deny the allegations set forth in paragraph "91" of the Second Amended Complaint.

92. In response to the allegations set forth in paragraph "92" of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs "1" through "91" of the Second Amended Complaint as if fully set forth herein.

93. Deny the allegations set forth in paragraph "93" of the Second Amended Complaint.

94. Deny the allegations set forth in paragraph “94” of the Second Amended Complaint.

95. Deny the allegations set forth in paragraph “95” of the Second Amended Complaint.

96. Deny the allegations set forth in paragraph “96” of the Second Amended Complaint.

97. Deny the allegations set forth in paragraph “97” of the Second Amended Complaint.

98. Deny the allegations set forth in paragraph “98” of the Second Amended Complaint.

99. Deny the allegations set forth in paragraph “99” of the Second Amended Complaint.

100. In response to the allegations set forth in paragraph “100” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “99” of the Second Amended Complaint as if fully set forth herein.

101. Deny the allegations set forth in paragraph “101” of the Second Amended Complaint.

102. Deny the allegations set forth in paragraph “102” of the Second Amended Complaint.

103. In response to the allegations set forth in paragraph “103” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “102” of the Second Amended Complaint as if fully set forth herein.

104. Deny the allegations set forth in paragraph “104” of the Second Amended Complaint.

105. Deny the allegations set forth in paragraph “105” of the Second Amended Complaint.

106. In response to the allegations set forth in paragraph “106” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “105” of the Second Amended Complaint as if fully set forth herein.

107. Deny the allegations set forth in paragraph “107” of the Second Amended Complaint.

108. Deny the allegations set forth in paragraph “108” of the Second Amended Complaint.

109. Deny the allegations set forth in paragraph “109” of the Second Amended Complaint.

110. Deny the allegations set forth in paragraph “110” of the Second Amended Complaint.

111. Deny the allegations set forth in paragraph “111” of the Second Amended Complaint.

112. In response to the allegations set forth in paragraph “112” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “111” of the Second Amended Complaint as if fully set forth herein.

113. Deny the allegations set forth in paragraph “113” of the Second Amended Complaint.

114. Deny the allegations set forth in paragraph “114” of the Second Amended Complaint.

115. Deny the allegations set forth in paragraph “115” of the Second Amended Complaint.

116. Deny the allegations set forth in paragraph “116” of the Second Amended Complaint.

117. Deny the allegations set forth in paragraph “117” of the Second Amended Complaint.

118. Deny the allegations set forth in paragraph “118” of the Second Amended Complaint.

119. In response to the allegations set forth in paragraph “119” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “118” of the Second Amended Complaint as if fully set forth herein.

120. Deny the allegations set forth in paragraph “120” of the Second Amended Complaint.

121. Deny the allegations set forth in paragraph “121” of the Second Amended Complaint.

122. Deny the allegations set forth in paragraph “122” of the Second Amended Complaint.

123. Deny the allegations set forth in paragraph “123” of the Second Amended Complaint.

124. Deny the allegations set forth in paragraph “124” of the Second Amended Complaint.



125. Deny the allegations set forth in paragraph “125” of the Second Amended Complaint.

126. In response to the allegations set forth in paragraph “126” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “125” of the Second Amended Complaint as if fully set forth herein.

127. Deny the allegations set forth in paragraph “127” of the Second Amended Complaint.

128. Deny the allegations set forth in paragraph “128” of the Second Amended Complaint.

129. Deny the allegations set forth in paragraph “129” of the Second Amended Complaint.

130. Deny the allegations set forth in paragraph “130” of the Second Amended Complaint.

131. Deny the allegations set forth in paragraph “131” of the Second Amended Complaint.

132. In response to the allegations set forth in paragraph “132” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “131” of the Second Amended Complaint as if fully set forth herein.

133. Deny the allegations set forth in paragraph “133” of the Second Amended Complaint, and respectfully refer the Court to New York Executive Law § 296 for a complete and accurate statement of its contents.

134. Deny the allegations set forth in paragraph “134” of the Second Amended Complaint.

135. Deny the allegations set forth in paragraph “135” of the Second Amended Complaint.

136. Deny the allegations set forth in paragraph “136” of the Second Amended Complaint.

137. In response to the allegations set forth in paragraph “137” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “136” of the Second Amended Complaint as if fully set forth herein.

138. Deny the allegations set forth in paragraph “138” of the Second Amended Complaint, and respectfully refer the Court to New York Executive Law § 296 for a complete and accurate statement of its contents.

139. Deny the allegations set forth in paragraph “139” of the Second Amended Complaint, and respectfully refer the Court to New York Executive Law § 296 for a complete and accurate statement of its contents.

140. Deny the allegations set forth in paragraph “140” of the Second Amended Complaint.

141. Deny the allegations set forth in paragraph “141” of the Second Amended Complaint.

142. Deny the allegations set forth in paragraph “142” of the Second Amended Complaint.

143. In response to the allegations set forth in paragraph “143” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “142” of the Second Amended Complaint as if fully set forth herein.

144. Deny the allegations set forth in paragraph “144” of the Second Amended Complaint, and respectfully refer the Court to New York Executive Law § 296 for a complete and accurate statement of its contents.

145. Deny the allegations set forth in paragraph “145” of the Second Amended Complaint, and respectfully refer the Court to New York Executive Law § 296 for a complete and accurate statement of its contents.

146. Deny the allegations set forth in paragraph “146” of the Second Amended Complaint.

147. Deny the allegations set forth in paragraph “147” of the Second Amended Complaint.

148. Deny the allegations set forth in paragraph “148” of the Second Amended Complaint.

149. In response to the allegations set forth in paragraph “149” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “148” of the Second Amended Complaint as if fully set forth herein.

150. Deny the allegations set forth in paragraph “150” of the Second Amended Complaint, and respectfully refer the Court to New York City Administrative Code § 8-107 for a complete and accurate statement of its contents.

151. Deny the allegations set forth in paragraph “151” of the Second Amended Complaint.

152. Deny the allegations set forth in paragraph “152” of the Second Amended Complaint.

153. Deny the allegations set forth in paragraph “153” of the Second Amended Complaint.

154. In response to the allegations set forth in paragraph “154” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “153” of the Second Amended Complaint as if fully set forth herein.

155. Deny the allegations set forth in paragraph “155” of the Second Amended Complaint, and respectfully refer the Court to New York City Administrative Code § 8-107 for a complete and accurate statement of its contents.

156. Deny the allegations set forth in paragraph “156” of the Second Amended Complaint, and respectfully refer the Court to New York City Administrative Code § 8-107 for a complete and accurate statement of its contents.

157. Deny the allegations set forth in paragraph “157” of the Second Amended Complaint.

158. Deny the allegations set forth in paragraph “158” of the Second Amended Complaint.

159. Deny the allegations set forth in paragraph “159” of the Second Amended Complaint.

160. In response to the allegations set forth in paragraph “160” of the Second Amended Complaint, defendants repeat and reallege their responses to the allegations set forth in paragraphs “1” through “159” of the Second Amended Complaint as if fully set forth herein.

161. Deny the allegations set forth in paragraph “161” of the Second Amended Complaint, and respectfully refer the Court to New York City Administrative Code § 8-107 for a complete and accurate statement of its contents.

162. Deny the allegations set forth in paragraph “162” of the Second Amended Complaint, and respectfully refer the Court to New York City Administrative Code § 8-107 for a complete and accurate statement of its contents.

163. Deny the allegations set forth in paragraph “163” of the Second Amended Complaint.

164. Deny the allegations set forth in paragraph “164” of the Second Amended Complaint.

165. Deny the allegations set forth in paragraph “165” of the Second Amended Complaint.

166. Deny the allegations set forth in paragraph “166” of the Second Amended Complaint, except admit that plaintiff demands a jury trial as stated therein.

**AS AND FOR A FIRST DEFENSE**

167. The Second Amended Complaint fails to state a claim upon which relief may be granted.

**AS AND FOR A SECOND DEFENSE**

168. Any Title VII claims contained in the Second Amended Complaint which were not also contained in plaintiff’s charge of discrimination filed with the EEOC must be dismissed for failure to exhaust administrative remedies.

**AS AND FOR A THIRD DEFENSE**

169. Plaintiff’s claims are barred, in whole or in part, by applicable statutes of limitations.

**AS AND FOR A FOURTH DEFENSE**

170. The damage claims contained in the Second Amended Complaint are barred, in whole or in part, by plaintiff’s failure to mitigate damages.

**AS AND FOR A FIFTH DEFENSE**

171. The individual defendants cannot be held liable under Title VII.

**AS AND FOR A SIXTH DEFENSE**

172. The individual defendants are entitled to absolute and/or qualified immunity.

**AS AND FOR A SEVENTH DEFENSE**

173. Plaintiff's request for punitive damages is barred, in whole or in part, because punitive damages are not available against a government or governmental subdivision.

**AS AND FOR AN EIGHTH DEFENSE**

174. The conduct complained of may consist of nothing more than what a reasonable victim of discrimination would consider petty slights and trivial inconveniences, and thus plaintiff's claims under the New York City Human Rights Law must be dismissed.



10 CV 4659 (JG)(ALC)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TABATHA J. BRONSTEIN,

Plaintiff,

-against-

THE CITY OF NEW YORK; MICHAEL OSGOOD, as  
Inspector, Hate Crimes Task Force; RONALD LYNCH, as  
Sergeant, Hate Crimes Task Force; PATRICK RODRIGO, as  
Sergeant, Hate Crimes Task Force; and CHRISTOPHER  
MIRRO, as Sergeant, Hate Crimes Task Force, each being sued  
individually and in their official capacities as employees of  
Defendant CITY OF NEW YORK,

Defendants.

**DEFENDANTS' ANSWER TO THE SECOND AMENDED  
COMPLAINT**

**MICHAEL A. CARDOZO**

*Corporation Counsel of the City of New York  
Attorney for Defendants  
100 Church Street, Room 2-103  
New York, New York 10007*

*Of Counsel: Jeremy I. Huntone  
Tel: (212) 788-0922  
Matter No. 2011-002036*

*Due and timely service is hereby admitted.*

*Dated: New York, N.Y. ...., 201\_\_*

*Signed: .....*

*Attorney for .....*