

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
DAVID FLOYD, *et al.*,

Plaintiffs,

-against-

THE CITY OF NEW YORK,

Defendant.

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08 Civ. 1034 (AT)(HBP)

**DECLARATION OF DARIUS
CHARNEY IN SUPPORT OF
FLOYD AND LIGON PLAINTIFFS'
OPPOSITION TO POLICE UNIONS'
MOTIONS TO INTERVENE**

JAENEAN LIGON, *et al.*,

Plaintiffs,

-against-

THE CITY OF NEW YORK, *et al.*,

Defendants.

----- X

12 Civ. 2274 (AT)(HBP)

DARIUS CHARNEY, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746,
that the following is true and correct:

1. I am a senior staff attorney at the Center for Constitutional Rights, co-counsel for plaintiffs in *Floyd v. City of New York*. I am not a party to this case or to *Ligon v. City of New York*.

2. I submit this declaration in support of the *Floyd* and *Ligon* plaintiffs' opposition to the Patrolmen's Benevolent Association's, Lieutenants Benevolent Association's, Detectives Endowment Association's, Captains' Endowment Association's, and the Sergeants Benevolent Association's (collectively the "Unions" or "Police Unions") motions to intervene in the two above-captioned actions.

3. I have been counsel of record for plaintiffs in *Floyd* since January 31, 2008. In that capacity, I participated in all pretrial fact discovery in the case, which took place from April 2008 through August 2010 and again from October 2012 through February 2013. As part of this discovery, plaintiffs deposed more than four dozen individual members of the Police Unions, seven of whom were named defendants in the case until March 8, 2013, and obtained and reviewed several of these Union members' personnel and disciplinary records. However, at no point between April 2008 and March 8, 2013, did any of the Police Unions seek to intervene in the proceedings in the District Court.

4. On March 4, 2013, *Floyd* plaintiffs filed their motion for permanent injunctive relief. *See Floyd* Dkt # 268. Several stakeholders on the stop-and-frisk issue in New York City, including the Black, Latino and Asian Caucus of the New York City Council, Communities United for Police Reform (CPR), and the United States Department of Justice sought and were granted leave to file submissions in the District Court addressing one or more remedial issues raised in the *Floyd* plaintiffs' motion. *See Floyd* Dkt ## 365, 377, 378. However, at no point prior to or during trial, nor at any point between the conclusion of trial on May 20, 2013, and September 11, 2013, did the Unions seek such leave or seek to intervene as parties in *Floyd* or *Ligon*.

5. Attached hereto as Exhibit A is a true and correct copy of the stipulation of settlement in *Daniels v. City of New York*, 99 Civ. 1695 (SAS) (S.D.N.Y.).

6. Attached hereto as Exhibit B is a true and correct copy of the December 2002 protocols for the NYPD Worksheet 802 and 802-A self-inspections of stop, question, and frisk report worksheets and police-initiated enforcement, which was admitted into evidence at the trial in *Floyd* as Plaintiffs' Trial Exhibit 89.

7. Attached hereto as Exhibit C is true and correct copy the U250 Stop, Question, and Frisk form used by the New York Police Department from 2002 until 2011, which was admitted into evidence at the trial in *Floyd* as Plaintiffs' Trial Exhibit 85.

8. Attached hereto as Exhibit D is a true and correct copy of the UF250 Stop, Question, and Frisk form used by the New York Police Department prior to 2002, which was admitted into evidence at trial in *Floyd* as Plaintiffs' Trial Exhibit 449.

9. Attached hereto as Exhibit E is a true and correct copy of a 2009 revision to the Section 212-11 of the NYPD's Patrol Guide, which was admitted into evidence at trial in *Floyd* as Plaintiffs' Trial Exhibit 282.

10. Attached hereto as Exhibit F is a true and correct copy of a 2010 revision to Section 212-11 of the NYPD's Patrol Guide, which was admitted into evidence at trial in *Floyd* as Plaintiffs' Trial Exhibit 336.

11. Attached hereto as Exhibit G is a true and correct copy of the UF250 Stop, Question, and Frisk form used by the New York Police Department since 2011, which was admitted into evidence at trial in *Floyd* as Plaintiffs' Trial Exhibit 74.

12. Attached hereto as Exhibit H is a true and correct copy of a 2012 revision to Section 202-10 of the NYPD's Patrol Guide, which was admitted into evidence at trial in *Floyd* as Defendants' Trial Exhibit Z4.

13. Attached hereto as Exhibit I is a true and correct copy of a March 5, 2013 Memorandum from the NYPD's Chief of Patrol, which was admitted into evidence at trial in *Floyd* as Defendants' Trial Exhibit J13.

14. Attached hereto as Exhibit J is a true and correct copy of an August 31, 2011 article in the online version of *The New York Times* entitled "Judge Declines to Dismiss Case

Alleging Racial Profiling by City Police in Street Stops,” *available at*

http://www.nytimes.com/2011/09/01/nyregion/racial-profiling-case-against-new-york-police-is-allowed-to-proceed.html?_r=0.

15. Attached hereto as Exhibit K is a true and correct copy of an August 31, 2011 article from the WABC-TV News website entitled “Stop and Frisk Appears Headed to Trial”, *available at* <http://abclocal.go.com/wabc/story?section=news/investigators&id=8337560>.

16. Attached hereto as Exhibit L is a true and correct copy of a January 30, 2014 press release concerning the *Floyd* and *Ligon* litigations issued by the Office of New York City Mayor Bill DeBlasio.

17. Attached hereto as Exhibit M are true and correct copies of an October 14, 2012 New York Daily News article, entitled “New York City being sued over ‘Clean Halls’ program,” *available at* <http://www.nydailynews.com/new-york/new-york-clean-halls-program-facing-lawsuit-article-1.1183531>; an October 22, 2012 New York Times editorial concerning the *Ligon* lawsuit, entitled “Trespassing in Your Own Home,” *available at* www.nytimes.com/2012/10/23/opinion/trespassing-in-your-own-home.html; a January 8, 2013 New York Times article, entitled “Police Stop-and-Frisk Program in Bronx Is Ruled Unconstitutional,” *available at* www.nytimes.com/2013/01/09/nyregion/judge-limits-nypd-stop-and-frisk-program-in-bronx.html; and a January 8, 2013 Patrolmen’s Benevolent Association press release reacting to the court’s decision, entitled “PBA Reacts to Federal Judge’s Stop and Frisk Decision,” *available at* <http://www.nycpba.org/archive/releases/13/pr130108-stop.html>.

18. Attached hereto as Exhibit N is a true and correct copy of a March 5, 2014 article on the *Capital New York* website, entitled “Police Unions Link Contract Talks to Stop-Frisk

Litigation,” available at <http://www.capitalnewyork.com/article/city-hall/2014/03/8541355/police-unions-link-contract-talks-stop-frisk-litigation?top-featured-2>.

19. Attached hereto as Exhibit O is a true and correct copy of a March 7, 2014 article on the *Capital New York* website, entitled “Stop-and-Frisk Advocates Pan Unions’ Negotiating Plan,” available at <http://www.capitalnewyork.com/article/city-hall/2014/03/8541534/stop-and-frisk-advocates-pan-unions-negotiating-plan#>.

20. Attached hereto as Exhibit P is a true and correct copy of the August 31, 2012 Order and Reasons in *United States v. City of New Orleans*, Civil Action No. 12-1924, Dkt # 102 (E.D. La. Aug. 31, 2012)

21. Attached hereto as Exhibit Q is a true and correct copy of the Portland Police Association’s memorandum of law in support of their motion to intervene in *United States v. City of Portland*, 12-cv-2265, Dkt # 8 (D.Or. Dec. 18, 2012)

Dated: New York, New York
March 10, 2014

/s/Darius Charney
DARIUS CHARNEY