

EXHIBIT 1



centerforconstitutionalrights

on the front lines for social justice

October 11, 2011

Via Electronic Mail

Heidi Grossman
Linda Donahue
Assistant Corporation Counsel
New York City Law Department
100 Church Street, Room 3-158
New York, NY 10007

Re: *Floyd v. City of New York*, 08 Civ. 1034

Dear Counsel:

Pursuant to the Court's suggestion at the September 23, 2011 conference that the parties confer about the possibility of avoiding a class certification motion, Plaintiffs write to request that Defendants advise whether or not they will stipulate to each of the following in the absence of a certified plaintiff class in this case:

- (a) Defendants shall fully implement in every precinct, patrol borough, transit district, police service area, bureau, division, office, task force, squad, unit, and other subdivision of the New York City Police Department any and all injunctive relief awarded by the Court to any plaintiff as result of a liability ruling against Defendant the City of New York in this case;
- (b) Defendants shall not use the absence of a certified plaintiff class as a defense to liability on Plaintiffs' claims against Defendant the City of New York, or as a basis to argue against the imposition of any and all forms of injunctive and/or declaratory relief against Defendant the City of New York in this case;
- (c) Defendants shall not use the absence of a certified plaintiff class as a basis to deny discovery to Plaintiffs with regard to Defendants' implementation of any injunctive relief awarded by the Court;
- (d) Defendants shall produce to Plaintiffs the suspect names, addresses, and phone numbers contained in the UF250 database for all stops-and-frisks recorded by NYPD officers between July 1, 2009 and June 30, 2010. Such information shall be produced pursuant to the protocols established by the Court in *Daniels v. City of New York*, 99 Civ. 1695 (SAS), 2001 WL 228091 (S.D.N.Y. Mar. 8, 2001), and shall be subject to the terms and conditions of the Stipulation and Protective Order, dated October 29, 2008 (Dkt # 52);
- (e) Defendants shall treat all communications (1) between Plaintiffs' counsel and persons contacted by Plaintiffs' counsel using the information described in



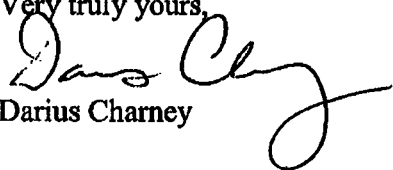
paragraph (d) above, and (2) between Plaintiffs' counsel and persons listed in Plaintiffs' Rule 26(a)(1) disclosures who will provide affidavits and/or testimony concerning their experiences being stopped-and-frisked by NYPD officers as privileged attorney-client communications and privileged attorney work product;

- (f) Defendants shall treat the persons described in paragraph (e) above as clients of Plaintiffs' counsel for all purposes related to this litigation.

We request that Defendants advise Plaintiffs in writing by no later than Friday, October 21, 2011, whether Defendants are willing to stipulate to each of the terms listed in paragraphs (a)-(f) above. If you would like to discuss these matters by telephone, please feel free to call me prior to October 21.

Finally, Plaintiffs note this letter is for negotiation purposes only and is not binding on them in any way.

Very truly yours,


Darius Charney

Cc: All counsel (*via Electronic Mail*)

EXHIBIT 2

4. I am a member of the Malcolm X Grass Roots Movement, which helps educate individuals on their rights during interactions with police officers. I participated in "Know Your Rights" training, and through the organization I help individuals file complaints with the New York City Civilian Complaint Review Board if they feel their rights have been violated.

5. I decided to become a named plaintiff in this lawsuit after having been stopped and detained by New York City Police Department (NYPD) officers despite the absence of any reason to believe that I had committed, was committing, or was about to commit a crime.

6. I was stopped by NYPD officers on a weekday in January 2006 at approximately 1:00 in the afternoon. At that time, I was on my lunch break from my job as a teaching assistant at Grand Concourse Academy Charter School in the Bronx. I left the school and walked to a Subway sandwich shop on 167th Street and Walton Avenue, which is roughly two blocks from the school. I was wearing my usual work attire: a dress shirt, tie, and dress pants.

7. At the Subway sandwich shop, I bought a sandwich, which I then carried out of the shop with me in a clear plastic bag with the Subway logo on it. I did not carry anything else in my hands.

8. I then walked back toward the school and stopped at a bodega across the street from the school, on the corner of 169th Street and Walton Avenue. I did not stop at any point between the Subway sandwich shop and the bodega.

9. When I entered the bodega I saw two officers dressed in plainclothes standing inside. I purchased a bag of chips and exited the bodega.

10. The officers followed me outside and called out to me.

11. As I turned around, the officers flashed their badges, identified themselves as "NYPD," and told me, with words and gestures, to come over to them.

12. I walked over to the officers. The officers subsequently moved so that I was positioned with my back to the window of the bodega. The officers were standing between me and the street, and stood less than two feet away from me. I felt like I was not free to go.

13. The officers asked where I was going. I pointed to the school across the street and told them that I worked there. I explained to the officers that I was getting a sandwich because I was on my lunch break. The officers said that they saw me coming down from 168th Street and that there is a known drug building on that block. The officers did not provide any other details about the building. I did not know what building they were referring to, nor did I know of any buildings known for drug activity on the street.

14. One of the officers asked if I had any contraband on me. I responded that I did not have any contraband, and told the officers that I did not consent to a search. The officer asked me again if I had anything on me. Again, I responded no and that I did not consent to a search. Next, the officers moved closer to me. The same officer raised his voice and asked a third time, "so if I go into your pockets, you're telling me you don't have anything?" By this time, people from a nearby restaurant had come outside. After I answered a third time that I did not have anything on me and did not consent to a search, the officers walked away. I did not see either officer fill out any paperwork.

15. I strongly believe that the NYPD officers stopped and detained me without any basis for believing that I had committed, was committing, or was about to commit a crime, and that I was stopped because of my race. I was not doing anything suspicious surrounding the time of the stop. I was on my lunch break, carrying a sandwich in a clear plastic Subway sandwich bag and wearing a dress shirt and tie. Furthermore, the officers neither provided any details about the drug building they mentioned, nor asked me any questions about the building.

16. This incident was a very upsetting and humiliating experience for me.

17. Through my volunteer work with the Malcolm X Grass Roots Movement I have heard many stories similar to my own. In addition, many of my African-American and Latino friends who live in New York City have shared with me one or more similar encounters which they have had with NYPD officers. Because of these experiences and my knowledge of the NYPD's stop-and-frisk statistics and by reading stories in the local media, I strongly believe that the NYPD has a department-wide policy and practice of illegal and racially-discriminatory stops and frisks. For this reason, I constantly fear being harassed and having my constitutional rights violated by NYPD officers whenever I walk the streets of New York City.

18. My goal in joining this lawsuit, much more than any monetary damages for myself, is to change the NYPD's stop-and-frisk practices to stop the NYPD from ever stopping-and-frisking me, my friends, or other New Yorkers without reasonable suspicion or based on their race.

19. I have actively participated in this lawsuit since I became a plaintiff, including sitting for two all-day depositions and responding to two separate sets of document requests and interrogatories from the Defendants.

20. I understand that if I am certified as a class representative, it will only be for purposes of injunctive and declaratory relief. As I described above, I share a common interest with all victims of the NYPD's unconstitutional and racially-discriminatory stop-and-frisk policies and practices: to put an end to such policies and practices. Therefore, I do not have any claims for injunctive and declaratory relief that are unique to me, and there is no reason why I would not be able to adequately protect the interests of absent class members with respect to injunctive relief.

21. I understand that, if I am certified as a class representative, I may be called upon to formulate settlement offers and evaluate offers from the City of New York that have to do with reforming the NYPD's policies and practices related to stop-and-frisk. I understand that a settlement would involve some degree of compromise. I am prepared to discuss the options with my attorneys and represent the interests of the class to the best of my ability.

22. I am represented in this litigation by attorneys from the Center for Constitutional Rights, Beldock, Levine, and Hoffman LLP, and Covington & Burling LLP. I am in regular contact with my attorneys and I have been very satisfied with their legal representation. I am confident that if appointed as class counsel, they will vigorously and competently represent the interests of the class members.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury this 4th day of November, 2011, that the foregoing is true and correct.

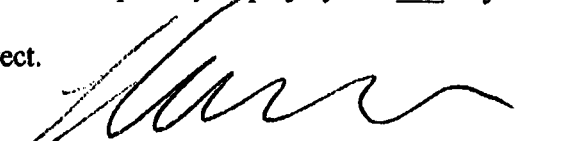

LALIT CLARKSON

EXHIBIT 3

the absence of any reason to believe that I had committed, was committing, or was about to commit a crime.

5. On the night of Saturday, January 12, 2008, I was at my then-girlfriend Kendra Edward's apartment for her birthday party. Her apartment was located at 2034 7th Avenue, between 122nd and 121st Streets. I was also living at the apartment at the time.

6. At approximately 11:00 p.m., Kendra and I went outside. Kendra went to the store, and I stood on the sidewalk in front of the apartment building waiting for her and smoking a cigarette. I was not holding anything except the cigarette in my hands or drinking anything while I was waiting for Kendra.

7. Two NYPD officers, driving a blue and white NYPD van, pulled up next to me. They got out of the van, and approached me. One of the officers was female and the other was male. I now know that the female officer was Officer Salmeron and the male officer was Officer Pichardo. The officers stood on either side of me, and I felt like I was not free to leave.

8. Officer Salmeron asked me if I had been drinking. She also asked me if a white styrofoam cup that was on the ground five feet to my right belonged to me. I told her that it wasn't my cup.

9. The officers did not touch the cup or examine it in any way.

10. The officers asked for my identification and I handed Officer Salmeron my New York driver's license.

11. At that point, Kendra returned from the store and asked me what had happened. She was upset that I had been detained, and asked the officers why they were doing this to me. The officers did not respond.

12. Officer Salmeron took my license and went back inside the van and Officer Pichardo searched my jacket and pants pockets. He did not find anything in my pockets other than my wallet.

13. After about five or ten minutes, Officer Salmeron came back to the sidewalk where Officer Pichardo and I were still standing. She told me that there was a bench warrant for me and that they were going to have to take me in. I asked what the warrant was for and she said that it was a warrant from last year (2007) for hopping the train, which is taking the subway without paying for it. I explained to her that I do not ride the subway and that I drive for a living. I said that the warrant could not be for me.

14. The officers handcuffed me and took me to the 28th Precinct. During the ride in the van, I told the officers it was a mistake. Officer Salmeron said if it was a mistake they would let me go.

15. When I arrived at the precinct the officers took me to the desk sergeant. Officer Pichardo told me he was going to find Officer Hayes to see if there was actually a warrant for me. Approximately five minutes later, Officer Pichardo returned and told me that he did not think there was a warrant for me.

16. Officer Pichardo left again and returned a few minutes later with Officer Hayes. Officer Hayes said that I had a warrant for disorderly conduct from 1994.

17. I told him that I was not even living in New York City in 1994. In 1994, I was living in South Carolina, so I knew that there could not have been a warrant. I was then taken to a holding cell by Officer Hayes.

18. At some point, Kendra arrived at the precinct. While I was in the cell I could hear Kendra asking Officer Hayes if she could get my wallet. Officer Hayes told her no.

19. I was held at the precinct for approximately seven hours and then was taken to Central Booking.

20. At Central Booking I was searched and taken to another cell where I was held for approximately four more hours.

21. Finally, an officer told me that I was free to go. I asked him if I had to see the judge, and he said, "No, you never had a warrant. I don't know why they arrested you."

22. I was then taken to the warrant division. The officer in the warrant division ran the warrant again and told me that I did not have any warrants and that I was free to go. The officer at the warrant division also said that the police officers had messed up and that he didn't know why they brought me to Central Booking. He said that if the officers were unsure about a warrant, the warrant division is open twenty-four hours and they could have checked.

23. I was detained for a total of approximately twelve to thirteen hours. When I finally returned home, the cup outside the apartment that the officers had asked me about was still in the same place.

24. I strongly believe that the NYPD stopped, searched, arrested, and imprisoned me without any reason to believe that I had committed, was committing, or was about to commit a crime, and that I was stopped because I am black. I was not doing anything wrong while I was standing outside of the apartment building, and there was no reason for the police to stop me. Other than a cigarette, I had nothing in my hands. I was not drinking anything, I was not inebriated or acting inebriated, and the cup that the officers asked about was five feet away from me.

25. My experience that night is typical of what I have often seen in the neighborhood -- black people are stopped by the police, but white people are not.

26. In addition to the stop in January 2008, I have also been stopped twice by the NYPD while walking down the street in Harlem, once in 1986 and once in 1987. During the first incident, the officers pulled up next to me in an NYPD police car, asked me to come over to the car, pointed a gun at me, and asked where I was going. I told them I was going home, showed them my high school ID and they let me go. The second stop occurred while I was walking on the sidewalk with three of my friends. Three officers stopped and searched us without ever saying anything more to us than, "don't move." After they did not find anything on me or my friends, we were free to go. I believe that both times, the officers stopped me because I was black.

27. Although the other stops occurred some time ago, those encounters, in addition to the incident in January 2008 and what I have observed, have made me no longer feel comfortable standing on a New York City street. I do not trust the NYPD not to stop me without reasonable suspicion or arrest me without probable cause. The incident in January 2008 was so upsetting and frustrating to me that I missed two days of work and spent many sleepless nights.

28. Many of my African-American friends who live in New York City have shared with me similar encounters they have had with NYPD officers. Because of those stories coupled with my own experiences, I strongly believe that the NYPD has a department-wide policy and practice of illegal and racially-discriminatory stops and frisks. I constantly fear being harassed and having my constitutional rights violated by NYPD officers whenever I walk the streets of New York City.

29. By becoming a plaintiff in this lawsuit, I hope to change the NYPD's policy, practice, and/or custom of stopping and frisking people without reasonable suspicion, or because of their race. More than monetary damages, I want to stop the NYPD from ever harassing me or


others just because of our race. I understand that, if I am certified as a class representative, it will only be for purposes of injunctive and declaratory relief. As I described above, I share a common interest with all victims of the NYPD's unconstitutional and racially-discriminatory stop-and-frisk policies and practices: to put an end to such policies and practices. Therefore, I do not have any claims for injunctive and declaratory relief that are different from the claims of the other class members, and there is no reason why I would not be able to adequately protect the interests of absent class members with respect to injunctive relief.

30. Since joining this lawsuit as a plaintiff, I have participated in extensive discovery. I was deposed for one full day and responded to two separate set of document requests and interrogatories from the Defendants.

31. I understand that, if I am certified as a class representative, I may be called upon to formulate settlement offers and evaluate offers from the City of New York that have to do with reforming the NYPD's policies and practices related to stop-and-frisk. I understand that a settlement would involve some degree of compromise. I am prepared to discuss the options with my attorneys and represent the interests of the class to the best of my ability.

32. I am represented in this litigation by attorneys from the Center for Constitutional Rights, Beldock, Levine, and Hoffman LLP, and Covington & Burling LLP. I am in regular contact with my attorneys and I have been very satisfied with their legal representation. I am confident that if appointed as class counsel, that they will vigorously and competently represent the interests of the class members.

I declare under penalty of perjury this 4 day of November, 2011, that the foregoing is true and correct.



DEON DENNIS

EXHIBIT 4

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DAVID FLOYD, et al.,

08 Civ. 01034 (SAS)

Plaintiffs,

-against-

THE CITY OF NEW YORK, et al.,

**DECLARATION OF
DAVID FLOYD**

Defendants.

DAVID FLOYD declares as follows pursuant to 28 U.S.C. § 1746:

1. I am a named plaintiff in the above-captioned case. I submit this declaration in support of Plaintiffs' motion for class certification.
2. I am a 32 year-old African-American man. In 2001, after graduating from college, I moved to New York City, where I continued to live full time (with the exception of a three-month stay in New Orleans in 2007) until the fall of 2010.
3. Since the fall of 2010, I have been enrolled as a medical student at La Escuela Latinoamericana de Medicina in Havana, Cuba. While I have been studying in Cuba for the past year, I continue to maintain ties to New York City, where I still have a lot of close friends. After finishing my medical school exams next July, I intend to visit New York City during my month-long summer break from school. I still consider New York City my home and intend to move back after I finish school.
4. I have never been convicted of any crimes.
5. From 2004 to 2007, I was an active member of the Malcolm X Grassroots Movement (MXGM), a community-based human rights organization which, among other things, helps educate members of the Black and Latino communities on their rights during interactions

with police officers. Through the organization, I participated in "Know Your Rights" trainings, as well as Copwatch, a program in which MXGM members videotape NYPD officers' street encounters with civilians in order to document police misconduct and abuse of citizens' rights.

6. I decided to become a named plaintiff in this lawsuit after having been illegally stopped, frisked, and searched by New York City Police Department (NYPD) officers on or around April 20, 2007. Then, one month after joining the lawsuit in January 2008, I was illegally stopped, frisked, and searched a second time.

The April 2007 Stop-and-Frisk

7. The April 2007 incident took place a little before 3 o'clock in the afternoon on a Saturday, approximately a block and a half from my home on Beach Avenue in the Bronx, while I was walking home from the subway. As I was walking on the sidewalk on Beach Avenue, a dark van with three uniformed NYPD officers inside pulled up next to me, and the driver, a Latino male officer, asked if he could speak to me, at which point I slowed down to look at him.

8. The Latino Officer, a White male officer in the front passenger seat, and a White female officer in the backseat all exited the van, and the Latino and White male officers walked towards me quickly and aggressively, causing me to stop walking altogether. The white female officer stood near the van. The Latino officer asked to see my identification. In response, I immediately took my wallet with my driver's license in it out of the back right pocket of my jeans and handed it to the Latino officer.

9. At this time, the Latino officer was standing between me and the street, while the White male officer stood to my left, between me and my home. As a result, I did not feel that I was free to leave.

10. As the Latino officer examined my driver's license, the White male officer moved closer and began to frisk me. While the white male officer was frisking me, he asked if I had any weapons or contraband on me, and I told him I did not and that I did not consent to a search. All I had in my pockets at that time was my Blackberry cell phone and a small key chain with two or three keys on it, neither of which was shaped or felt like a weapon. Nevertheless, the White male officer searched the insides of my right and left front jean pockets. He did not find any weapons or contraband.

11. While I was being frisked and searched, I asked the two officers why they had stopped me, but neither of them responded. The Latino officer asked me how long I had lived in New York, and I told him five years.

12. The Latino officer then gave me my wallet and driver's license back, and all three officers got back in the van and drove off.

The February 2008 Stop-and-Frisk

13. The second incident occurred at 2:45 in the afternoon on February 27, 2008, right in front of my home at 1359 Beach Avenue Bronx, New York. That afternoon, as I was leaving my home to go to class at City College, my neighbor who lived in the basement apartment of my godmother Marta Vega's three-story home, stopped me to ask if I could help him get into his apartment because he was locked out. Since I had a key to my godmother's apartment, I went into her apartment and retrieved a set of about 7-10 keys to try to open my neighbor's basement apartment door with.

14. The neighbor and I went to the front door of the basement apartment, which was visible from the street, and began trying the keys in the lock. We tried about 5-6 keys over the course of about a minute, before finding the right key.

15. However, before we could open the apartment door, three plainclothes NYPD officers came up behind us, told us to stop what we were doing, and ordered us to put our hands against the wall, which we did. The officers, who I later learned were Defendants Cormac Joyce, Eric Hernandez, and James Kelly, then frisked us, and the officer who was frisking me then reached inside of my front pants pockets without my permission. However, all I had in my pockets at that time was my cell phone, a small set of two or three keys, and some coins, none of which resembled a weapon. The officers did not find any weapons or contraband on either myself or my neighbor.

16. After they finished frisking and searching us, the officers turned my neighbor and me around to face them and asked whether we lived there and that we produce identification. I gave them my driver's license, which at the time was from Louisiana (I had obtained it during my three-month stay in New Orleans in 2007). I also provided the officers a copy of a utility bill for my Beach Avenue address, which I happened to have had with me at the time.

17. I then asked the officers why they had stopped and frisked us, and one of them responded that there had been several robberies in the neighborhood recently. However, I was not aware of any crime problems in the neighborhood at that time, and I understand that the NYPD's crime data indicates that there were virtually no burglaries or robberies reported in my neighborhood in the two months preceding this stop-and-frisk incident.

18. The two incidents described above were very upsetting and humiliating for me. I strongly believe that the NYPD officers who stopped, frisked, and searched me did so without any basis to suspect I had committed, was committing, or was about to commit a crime or to believe that I was armed and/or dangerous. I was not doing anything suspicious at the time of either stop, nor was I carrying anything that resembled a weapon or contraband. While I cannot

be sure of the exact reasons why the officers stopped me on either occasion, I believe that both times the officers stopped and frisked me because I am Black.

19. Through my work with the Malcolm X Grass Roots Movement, I have heard many stories similar to my own, primarily from Black and Latino residents of New York City. Because of these experiences and my knowledge of the NYPD's stop-and-frisk statistics, which I learned about through stories in the local New York City media and in connection with this lawsuit, I strongly believe that the NYPD has a department-wide policy and practice of illegal and racial discriminatory stops-and-frisks. For these reasons, I constantly fear being stopped and frisks in violation of my constitutional rights by NYPD officers whenever I am on the streets of New York City.

20. My goal in joining this lawsuit, much more than recovering money damages for myself, is to change the NYPD's stop-and-frisk practices to stop the NYPD from ever stopping-and-frisking me or other New Yorkers without reasonable suspicion or based on their race.

21. Since joining this lawsuit as a plaintiff, I have participated in extensive discovery, including sitting for two all-day depositions and responding to two separate sets of document requests and interrogatories from the Defendants.

22. I understand that if I am certified as a class representative, it will be only for purposes of injunctive and declaratory relief. As I described above, I share a common interest with all victims of the NYPD's unconstitutional and racially-discriminatory stop-and-frisk policies and practices: to put an end to such policies and practices. Therefore, I do not have any claims for injunctive and declaratory relief that are unique to me, and there is no reason why I would not be able to adequately protect the interests of absent class members with respect to injunctive relief.

23. I understand that, if I am certified as a class representative, I may be called upon to formulate settlement offers and evaluate offers from the City of New York that have to do with reforming the NYPD's policies and practices related to stop-and-frisk. I understand that a settlement would involve some degree of compromise. I am prepared to discuss the options with my attorneys and represent the interests of the class to the best of my ability.

24. I am represented in this litigation by attorneys from the Center for Constitutional Rights, Beldock, Levine, and Hoffman LLP, and Covington & Burling LLP. I am in regular contact with my attorneys and I have been very satisfied with their legal representation. I am confident that if appointed as class counsel, that they will vigorously and competently represent the interests of the class members.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: Havana, Cuba
November 2, 2011



DAVID FLOYD

EXHIBIT 5

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DAVID FLOYD, et al.,

08 Civ. 01034 (SAS)

Plaintiffs,

-against-

**AFFIDAVIT OF DAVID
OURLICHT**

THE CITY OF NEW YORK, et al.,

Defendants.

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

DAVID OURLICHT, having been duly sworn, deposes and says:

1. I am a named plaintiff in the above-captioned case. I submit this affidavit in support of Plaintiffs' motion for class certification.
2. I am a 23 year-old bi-racial (half African-American, half Italian-American) man who was raised in New York, New York. Until August of 2009, I was a full-time resident of New York City.
3. Since August of 2009, I have been enrolled as an undergraduate student at the State University of New York (SUNY) at Albany. While I have been living primarily in Albany since August 2009, I still spend several weekends each semester and all of my school breaks at my parent's residence in New York City, which I still consider to be my permanent home. I am very close with my parents and my younger sister, and thus I very much enjoy and look forward to returning to my parents' home during my breaks from school to spend time with my family.

4. I am scheduled to graduate from SUNY Albany in May 2012, at which time I intend to move back to New York City to live full-time.

5. I have never been convicted of any crimes.

6. I decided to become a named plaintiff in this lawsuit after having been illegally stopped-and-frisked by New York City Police Department (NYPD) officers on three separate occasions between January and June 2008.

I also strongly believe that each of these incidents was part of a larger department-wide policy and practice on the part of the NYPD to conduct suspicionless and racially discriminatory stops-and-frisks.

7. The first incident occurred on a weekday afternoon in January 30, 2008, at around 2pm in Jamaica, Queens, New York, near St. John's University, where I was a student at the time.

8. The NYPD officer who stopped me, Defendant Christopher Moran, falsely claimed that he thought that I had a gun inside of my clothes even though nothing that I had in the pockets of my clothes at the time resembled the shape of a gun.

9. In addition, even after frisking me and finding nothing that felt like a gun, Officer Moran still proceeded to illegally search through and remove all of the items from my clothing pockets after I had asked him why he had stopped me and had written down his name and badge number in the spiral notebook that I had with me. During the search of my clothing, Officer Moran did not find any weapons or contraband.

10. Finally, Officer Moran issued me a summons for disorderly conduct even though I had complied with all of his requests during the stop and did not in any way resist his attempts to frisk and search me. The disorderly conduct charge against me was ultimately dismissed by

the Queens County Criminal Court.

11. The second incident occurred on a weekday evening in February 2008, at around 6:00pm, in the same vicinity as the first incident, while I was walking with a white friend of mine on the sidewalk from the house I was then living in to the F Train subway station. During this incident, four plainclothes NYPD officers drove up next to my friend and me in an unmarked car, exited the car, and then three of them surrounded me, told me they were looking for guns, and frisked me, while my white friend stood fifteen feet away next to the fourth officer, who did not frisk my friend. Again, nothing that I had in the pockets of the clothes that I was wearing at the time resembled a gun.

12. After the three officers finished frisking me, the fourth officer told my white friend that he smelled like marijuana, searched the inside of my friend's clothing, pulled out a bag of marijuana from one of my friend's pockets, and then returned the bag of marijuana to my friend.

13. At this point, the three officers who had surrounded me began to search the inside of all of my clothing pockets, and one of them told me that if they found any drugs on me, they would arrest me. The officers did not find any drugs, weapons, or other contraband on me, and got back in their unmarked car and left without apologizing to me or my friend.

14. The third incident occurred on a weekday morning in early June 2008, at approximately 10:00am, in one of the courtyards of the Johnson public housing complex, which encompasses three city blocks (from East 112th to East 115th Streets between Lexington and Park Avenues) in Harlem. Almost all of the residents of the Johnson housing whom I've seen and/or spoken to when I have visited there are African-American.

15. I was at the Johnson housing complex that morning helping an African-American friend of mine move furniture out of his grandmother's apartment. At the time of the stop-and-frisk incident, I was sitting with my friend and three other African-American males on a bench in the courtyard of the complex. Neither my friend nor I had any weapons or contraband on us, and none of other three men appeared to have anything resembling a weapon on them either.

16. While the five of us were sitting on the bench, two uniformed NYPD officers ran towards us with guns drawn, shouted that they had received a report of someone in the complex with a gun and ordered us to get face down on the ground, which all five of us immediately did.

17. Neither prior to nor following this incident did I hear gun shots, see anyone in the Johnson housing complex carrying a gun, nor hear my friend or anyone else in the complex say anything about somebody in the complex having a gun.

18. After the five of us got face down on the ground, the two officers who had shouted at us and three additional officers who had just arrived in an NYPD van frisked all five of us, and despite the fact that I had nothing in any of my pockets which resembled the shape of a weapon, searched the inside of my pockets as well. They did not find any weapons or contraband on any of the five of us, and they let all five of us go.

19. In addition to the three incidents described above, I was stopped and frisked again following my filing this lawsuit, in January 2010, while I was on break from SUNY Albany and staying with my parents in Manhattan. This stop took place on a Saturday night around 9:00pm, right after two of my friends, one who is White and one who is Hispanic, and I had gotten into my car which was parked around the corner from my parents' apartment. My parents' apartment is located two blocks from Union Square in a predominately white neighborhood.

20. As soon as we had gotten into my car and closed the doors, four uniformed NYPD officers approached the car and ordered all of us to get out. We all got out immediately, at which point the officers began to frisk each of us. They did not find any weapons or contraband.

21. I then asked one of the officers why they were frisking us, and he told me that they were searching for drugs. Then the officers searched the interior of my car, but they did not find any drugs, weapons, or any other contraband.

22. I strongly believe that during each of these four incidents, NYPD officers stopped, frisked, and searched me without any basis to believe I had committed, was committing, or was about to commit a crime or that I was armed or dangerous. I was not doing anything suspicious or carrying anything that resembled a weapon at the time of any of these incidents. I also strongly believe that the officers stopped and frisked me on each time because of my race, specifically because I am part African-American.

23. Each of the stop-and-frisk incidents described above has been a very humiliating and frightening experience for me. I am now constantly afraid of being stop, searched, harassed, and having my constitutional rights violated by NYPD officers every time I walk the streets of New York City.

24. In addition, almost every one of my black and Hispanic friends who live in New York City has shared with me one or more similar stop-and-frisk encounters which they have had with NYPD officers, which have also made them very afraid and distrustful of the NYPD. My friends' stories, along with my knowledge of the NYPD's stop-and-frisk statistics which I learned about through stories I've seen and hear in the local New York City media, I strongly believe that the NYPD has a department-wide policy and practice of illegal and racially-discriminatory stops and frisks.

25. Thus, much more than any monetary damages, what I most want to achieve through this lawsuit is real and lasting changes to the NYPD's stop-and-frisk policies and practices so that neither I, my friends, nor any other New Yorkers of color are ever again stopped and frisked without reasonable suspicion or because of our race.

26. Since joining this lawsuit as a plaintiff, I have participated in extensive discovery, including sitting for two depositions and responding to document requests and interrogatories from the Defendants

27. I understand that, if I am certified as a Plaintiff class representative, it will only be for purposes of injunctive and declaratory relief. As described in the preceding paragraph, I share a common interest with all victims of the NYPD's unconstitutional and racially-discriminatory stop-and-frisk policies and practices to put an end such policies and practices. Therefore, I do not have any claims for injunctive and declaratory relief that are unique to me, and there is no reason why I would not be able to adequately protect the interests of absent class members with respect to injunctive relief.

28. I understand that, if I am certified as a class representative, I may be called upon to formulate settlement offers and evaluate offers from the City of New York that have to do with reforming the New York Police Department's stop-and-frisk practice through injunctive relief. I understand that a settlement would involve some degree of compromise. I am prepared to discuss the options with my attorneys and represent the interest of the class, especially to maximize the injunctive relief that is obtained for the class to the fullest extent reasonable under the circumstances.

29. I am represented in this case by attorneys from the Center for Constitutional Rights, Beldock, Levine and Hoffman, and Covington & Burling, LLC. I am in regular contact

with my attorneys, and I have been very happy with the representation they have provided to me thus far in this case. I am satisfied that if appointed as class counsel, they will vigorously and competently represent the interests of the plaintiff class.



DAVID OURLICHT

Sworn to before me this
1st day of November, 2011



NOTARY PUBLIC

DARIUS CHAPNEY
Notary Public, State of New York
No. 02CH618666
Qualified in Kings County
Commission Expires Nov. 14, 2014

EXHIBIT 6

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

DAVID FLOYD, LALIT CLARKSON,
DEON DENNIS, and DAVID OURLICHT,
on behalf of themselves and all others
similarly situated,

08 Civ. 1034 (SAS)

Plaintiffs,

-against-

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

Defendants.

-----X

**DECLARATION OF DEVIN ALMONOR
IN SUPPORT OF CLASS CERTIFICATION**

DEVIN ALMONOR declares as follows pursuant to 28 U.S.C. § 1746:

1. I am a 15-year-old Black person, and I submit this declaration in support of class certification in the above captioned action.
2. I live with my parents on Riverside Drive between West 139th and West 140th Streets, in the Harlem neighborhood of New York, New York.
3. On Saturday afternoon, March 20, 2010, when I was 13 years old, I was at home with a friend playing video games.
4. At about 8:30 that night, I walked with my friend, who was going home, to a nearby bus stop on West 145th Street.
5. After my friend boarded the bus, I walked toward Hamilton Place to meet my older brother at a local bodega. My brother was 15 years old at the time.

6. At around 9:00 p.m., I began to cross the street toward the bodega by walking through the pedestrian crosswalk.

7. While I was crossing the street, a dark, unmarked car came upon me and stopped between me and the bodega. There were New York Police Department (“NYPD”) police officers inside the car—Sergeant Jonathan Korabel and Officer Brian Dennis—dressed in plain clothes.

8. Sergeant Korabel and Officer Dennis exited the car and came toward me.

9. Sergeant Korabel and Officer Dennis asked me for my name, my age, and where I lived. I answered their questions. I told them, among other things, that I was 13 years old.

10. Sergeant Korabel and Officer Dennis then asked me where I was going while searching me, although I had done nothing to cause them to believe that I was a threat to their safety. I answered their questions. I told them among other things that I lived two blocks away.

11. At the time of the stop, before it, and during it, I was not engaged in any action or conduct that would have permitted a reasonably objective police officer to believe that I had committed a crime, was committing a crime, or was about to commit a crime. I was not acting disorderly. There was no reason for anyone to suspect that I had weapons or drugs on my person. At all times during the stop, I cooperated with the police officers.

12. I believe that Sergeant Korabel and Officer Dennis stopped and frisked me without reasonable suspicion and because I am a Black person. I believe this in part because the officers had no reason to stop me. I cooperated with them and had done nothing wrong. In addition, a neighbor later told me that the NYPD had tried to stop her son, also a young Black person, when he was in front of their house. She got involved and the officers left him alone. This happened right before I was stopped and in the same area, and it makes me feel like the NYPD was just looking for young Black men to stop, frisk, and arrest.

13. After frisking me, but even though they did not find any drugs or weapons on me, and without any cause, Sergeant Korabel and Officer Dennis handcuffed me and placed me in the back of their car.

14. As this was happening, my brother came out of the bodega and saw the officers handcuffing me and placing me in the back of their car.

15. My brother approached and asked for the officers' names, but Sergeant Korabel and Officer Dennis refused to provide them. My brother told the officers that our father was a retired NYPD officer. Sergeant Korabel said to him, in words or substance, "Well, I'm a Sergeant." Sergeant Korabel and Officer Dennis told him to tell my father to pick me up at the 30th Precinct.

16. Sergeant Korabel and Officer Dennis then drove me to the 30th Precinct. Officer Dennis sat in the back of the car beside me. When I began to cry, Officer Dennis said, in words or substance, "why are you crying like a little girl?"

17. When we arrived at the 30th Precinct, Sergeant Korabel and Officer Dennis brought me to the front desk and Officer Dennis told the Sergeant there that they picked up me up because he thought I had a gun, even though I had done nothing that would cause them to believe that I had a gun. And by that point Sergeant Korabel and Officer Dennis had already frisked me in the street and knew I did not have a gun.

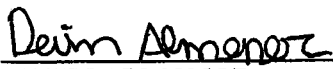
18. Officer Dennis then took me to the juvenile holding room and handcuffed me to a bar, where I remained until I was released to the custody of my uncle hours later. In the meantime, the officers at the 30th Precinct, among other things, arrested both of my parents when they came to pick me up. I was never charged with any violation or crime—not anything.

19. On June 17, 2011, my parents and I filed a lawsuit based in part on this stop (11 Civ. 4121).

20. I was, among other feelings, scared and humiliated during this stop. I am afraid of this happening again. I am afraid that I will again be stopped and frisked and searched for no reason other than my race.

21. I do not want the NYPD to stop and frisk people without any suspicion and based on race, and I wanted to bring what happened to me to the Court's attention.

I declare under penalty of perjury on the third day of November, 2011, that the foregoing is true and correct.



DEVIN ALMONOR

EXHIBIT 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

DAVID FLOYD, LALIT CLARKSON,
DEON DENNIS, and DAVID OURLICHT,
on behalf of themselves and all others
similarly situated,

08 Civ. 1034 (SAS)

Plaintiffs,

-against-

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

Defendants.

-----X

**DECLARATION OF IAN PROVOST
IN SUPPORT OF CLASS CERTIFICATION**

IAN PROVOST declares as follows pursuant to 28 U.S.C. § 1746:

1. I am a 41-year-old man of Jamaican and East Indian descent, and I submit this declaration in support of class certification in the above captioned action.
2. I reside on 130th Avenue, in Queens County, State of New York.
3. On November 24, 2009, I was visiting my girlfriend at the Seth Low Houses at 365 Sackman Street in Brooklyn, New York. While there, I was helping her to clean her stove and I had been using a pocket knife to do so.
4. At or about 2:00 p.m., I left my girlfriend's apartment in order to pick up food from a nearby restaurant and bring it back to eat.
5. I exited the building and crossed the street. As I walked toward the restaurant, I noticed two New York Police Department ("NYPD") officers, one of whom I later learned was

Officer Jonathan Rothenberg, standing on the corner of Belmont and Sackman streets. I said hello to the officers.

6. Without any basis or reason, Officer Rothenberg stopped me and asked me if I was from the area. I responded that I did not live in the area and that I lived in Queens.

7. Officer Rothenberg then asked me where I was going and where I was coming from, and I responded that I believed that I didn't have to respond to the questioning of the officer, but that I was a visiting a friend.

8. Officer Rothenberg told me that as a housing officer he was allowed to stop and question anyone who walked out of public housing.

9. I then took out my cell phone in order to call a friend who worked for the NYPD. Officer Rothenberg instructed me to close my phone and I complied.

10. I then asked Officer Rothenberg why I was being stopped and questioned and why I was not allowed to use my phone. Officer Rothenberg replied that he did not like it when people used their phones while he was questioning them.

11. I then attempted to use my cell phone again, this time with the intention of calling my sister who is an attorney.

12. With no reason to believe that I was armed or dangerous, and without any cause, Officer Rothenberg said "that's it," grabbed my hands, took my cell phone, placed me in handcuffs, and pushed me against a nearby fence.

13. Officer Rothenberg then began to frisk me.

14. When he began the frisk, I remembered that I had put my knife into my back pocket before I left my girlfriend's apartment. I then told Officer Rothenberg about the knife. He went immediately into my back pocket, retrieved it, and then arrested me.

15. I was wrongly and falsely charged with Disorderly Conduct and Possession of a knife with a blade of four inches or more. I defended the charges, and they were entirely dismissed.

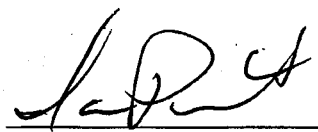
16. At no time prior to being stopped and frisked was I engaging in any unlawful, wrongful or disorderly conduct, nor had I been engaging in any conduct that would have objectively created a reasonable suspicion sufficient to justify my stop and frisk.

17. I believe that Officer Rothenberg stopped and frisked me without reasonable suspicion and because I am a Black person. I believe this because the officers had no reason to stop me. I cooperated with them and had done nothing wrong. I was just walking down the street. I have also heard my friends and family in New York tell of similar incidents—when they too were stopped and frisked by the NYPD when they were not doing anything wrong or anything suspicious.

18. I was humiliated by this stop, and I am afraid that I will again be stopped and frisked and searched for no reason other than my race.

19. I believe it is important for the NYPD to stop conducting suspicionless and race-based stops and frisks.

I declare under penalty of perjury on the third day of November, 2011, that the foregoing is true and correct.



IAN PROVOST

EXHIBIT 8

been involved with "Know Your Rights" training for New York City High Schools. Our trainers educate urban youths on how to handle interactions with police officers. Through these trainings, I have heard stories where youth in Queens and Brooklyn believe they are stopped and frisked by police officers even though they were not engaging in nor plan to engage in unlawful activity.

4. On the evening of February 12, 2011, at approximately 6:15 p.m., I was stopped by four or five uniformed police officers as I was exiting a PetCo. store at the corner of Broadway and East 17th Street, near Union Square, in New York City, New York. I was not committing nor was I about to commit a crime.

5. The officers ordered me to follow them around the corner and I complied.

6. The officers accused me of following a woman in the store and asking her for money which I had not. I told the officers that I had not followed anyone nor asked anyone for money. The officers asked me for my name, address and identification. I provided the officers with the information they requested. One of the officers, whose nametag said Officer White told me to take my hands out of my pocket. I complied with his request.

7. Another of the officers, whose nametag said Officer Gillespie told me that the woman and the store manager had identified me as the man who had been following the woman. I reiterated that I had not followed anyone, and asked if I could speak with the store manager. They said I could not. One officer ran my identification while others continued to aggressively question me. I asked why the officers believed the woman's story and not mine, at which point one of the officers replied, "Shut up, asshole! You talk too much!"

8. Officer White then told me that I was allowed to leave, but that I must walk north on Broadway away from Union Square. I asked for permission to cross the street instead to allow me access to the subway that would take me home. Officer White denied my request. I didn't

understand because I were free to leave, I should have been allowed to get into the appropriate subway to go home. I asked again for permission to go home using my subway station. He told the officers that I was a "wise guy" and he was going to take me to the precinct.

9. I was ordered to place my hands against the wall. I was then handcuffed and ordered to sit down on the ground. It was a very cold evening and the ground was freezing. I asked for permission to stand up. Officer White laughed and responded, "No, you dick." The other officers made comments like "that will teach him a lesson."

10. Without my permission and even though I was handcuffed and there was no reason for the officers to believe I had a weapon, the officers searched me and my backpack but found no drugs, weapons or contraband. They unzipped my jacket when they searched me. They zipped my jacket only halfway up even though it was very cold. They denied my request to completely zip up my jacket and sarcastically asked whether I wanted a back rub.

11. When the officers completed their search, I was placed in a patrol car. I asked Officer White why I was being arrested, and he told me that I needed to "learn a lesson" and I had "talked too much."

12. I was taken to the 13th Precinct on East 21st Street, where I was booked and placed in a holding cell for approximately 30 minutes. Upon my release, I was given a summons for disorderly conduct. The summons described the offense as "officer told respondent to leave the location three times. Respondent failed to disperse from the location." *Id.*

13. As I was leaving the precinct, I asked Officer White to provide a copy of the police report he had written. He said no.

14. I left the precinct at 8:13 p.m.. I had been detained for approximately two hours.

15. The day after this incident, I called the PetCo. store and asked to speak with the manager who had been on duty at the time of the incident. The manager told me that he had observed the incident but had never spoken with the police.

16. On April 14, 2010, I appeared in court on the disorderly conduct charge. The charges were dismissed for legal insufficiency.

17. This incident left me feeling powerless and confused. I was frustrated with the profane and discourteous attitude of the police officers who had arrested me. I had remained calm and polite during the encounter, but I was not accorded the same treatment.

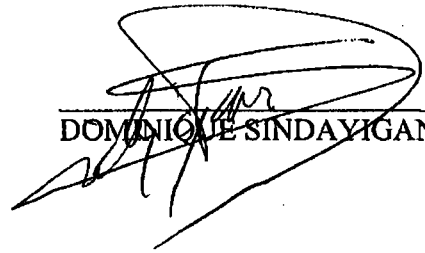
18. I believe that I was wrongfully stopped on the basis of my race in violation of my constitutional rights. I was not doing anything wrong nor acting suspiciously. I am concerned I will be stopped and frisked again on the basis of my race or without any reason. Since the incident, several people I know have let me know they were also stopped and frisked by the NYPD without a reason and I have read numerous news reports about the problem. Based on this incident, news reports and accounts from people I know, I believe that NYPD officers rampantly stop and frisk Black and Latino people in New York City.

19. I filed a civil lawsuit on November 10, 2010 against the NYPD and the officers who stopped and arrested me. The case has been resolved through a settlement with all defendants.

20. Please consider my declaration in deciding whether to certify *Floyd v. City of New York* as a class action.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
November 4, 2011



DOMINIQUE SINDAYIGANZA

EXHIBIT 9

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DAVID FLOYD, et al.,

08 Civ. 01034 (SAS)

Plaintiffs,

-against-

**DECLARATION OF
NICHOLAS PEART**

THE CITY OF NEW YORK, et al.,

Defendants.

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

NICHOLAS PEART, declares as follows pursuant to 28 U.S.C. § 1746:

1. I submit this affidavit in support of Plaintiffs’ motion for class certification. I am not a party to the above captioned matter.

2. I am a 23 year-old Black man who was raised in New York. I reside in Harlem at 125 West 144th Street Apartment #1B New York, New York 10030.

3. I am scheduled to graduate from the Borough of Manhattan Community College in December 2011 with an Associate of Arts degree in Liberal Arts.

4. I also work in the after school program as a junior staff member at Brotherhood/SisterSol (“BHSS”), a Harlem-based organization that provides comprehensive, holistic and long-term support services to youth ages eight to twenty-two.

5. BHSS has engaged in educational discussions and workshops with community

members about the New York City Police Department's ("NYPD") stop-and-frisk practices. Through these events we educate youth about their rights when stopped by a police officer, but also how to remain safe in their interactions with the police. During my participation in these events, I have heard young men and women tell numerous accounts of unfair stops and frisks by NYPD officers.

6. I have never been arrested or convicted of any crimes.

7. I have been illegally stopped-and-frisked by NYPD officers between five and ten occasions since I was about 16-years-old. I do not recall the details of each incident, but I have described a few of them below. I strongly believe that during each of these incidents, NYPD officers have violated my rights when they stopped, frisked, and searched me. The officers involved had no reason to stop me. I was not committing nor about to commit any crime; nor did I look suspicious. I believe the officers stopped me because of my race, specifically because I am Black. Based on my experiences and those of people I know, I believe that each of these incidents are part of a larger problem and system within the NYPD to stop-and-frisk Black and Brown people. Members of my community feel under siege by the NYPD instead of protected.

8. On Saturday, August 5, 2006 I was celebrating my 18th birthday with my cousin from Pennsylvania and a friend. We had already gone home to my sister's apartment on 96th and Amsterdam but we left again later to get something to eat at McDonalds but it was closed. On our way back, the three of us were sitting on a bench in the median of West 96th Street and Amsterdam Avenue. We witnessed a car accident. We had not been drinking or engaged in any illegal activity. Suddenly, three or four police cars appeared and numerous officers rushed out of their vehicles with guns drawn. The officers yelled at us to get on the ground. We immediately complied.

9. While laying face down on the ground, without my consent, one of the officers frisked me. After reviewing my identification, I was shocked when the officer sarcastically wished me a happy birthday. The officers who searched us found no weapons or contraband.

11. I felt humiliated and very upset by the incident. I felt violated by the police. I was forced to lie on the ground with a gun pointed towards me.

12. Another incident occurred during the daytime in the Spring of 2008. I had been visiting my grandmother who lives on East 49th Street in Flatbush, Brooklyn and left to go home. I was walking to the sidewalk on her driveway when a police car drove past. I reached the sidewalk and began walking down the block. The police car reversed and stopped near me. Approximately three officers exited the car and told me to stop and put my hands up against the garage door of my grandmother's neighbor. I was not committing a crime and was not planning to commit a crime.

13. Without my permission, one of the officers frisked me and reached into my pocket and removed at least my wallet to look at my identification. I only had my wallet, keys and cell phone in my pockets.

14. The officers wrote down something and returned my identification. The officers got back into their car and drove away. I was embarrassed and shocked. I had not been doing anything wrong but the police stopped, frisked and searched me.

15. *Another incident* occurred on a weekday evening during September 2010. I was walking home by myself from the gym. When I was about a block away from home, on West 144th Street between 7th and 8th Avenues, two uniformed officers on foot told me to come near. I immediately complied with the officers' instructions and as I approached them, they told me to turn around and put my hands up against the wall. Without my permission, one of the officers

frisked me, unzipped my jacket, and reached into my pockets. The officer who frisked me removed my wallet from my pocket.

16. I think one of the officers wrote something down on a pad and then returned my wallet. The officers did not find any weapons or other contraband.

17. *The most recent incident* occurred on a weekday evening around 11:00p.m. in May 2011. I left my apartment to go to the bodega nearby. There was an unmarked police car parked alongside the street.

18. Two officers jumped out of the car and told me to stop and put my hands up. I immediately complied and put my hands up against the church wall. Without my permission, they removed my cell phone from my hand and one of the officers frisked me and reached into my pockets, removing my wallet and keys. The officer looked through my wallet. The officer then handcuffed me and grabbed my sweatshirt at the chest and held it tightly.

19. I told the officers that I didn't understand what was going on. The officers asked if I had just come out of 129 West 144th Street. I told them I had not and explained that I lived in 125 West 144th St.

20. One of the officers asked which of the keys they had removed from my pocket opened my apartment door. Without asking permission, the officer then entered my building and attempted to enter my apartment using my keys.

21. My 18 year-old sister who was inside my apartment with two of our younger siblings became extremely frightened that the police were trying to enter our apartment. She attempted to call my mobile phone several times, but because I was handcuffed in the back of the police car and my mobile phone had been confiscated by the police, I could not answer.

22. Still handcuffed, one of the officers put me in the back of the police car. The

officer asked if I had any marijuana, and I replied that I did not. He removed and searched my shoes and patted down my socks. I asked one of the officers why they were searching me, and he told me someone in my building complained that a person they believed fit my description had been ringing their bell.

23. After the officer returned from inside my apartment building, they opened the door to the police car, told me to get out, and removed the handcuffs.

24. The officers got back inside the police car. I was calm, but frustrated and told the officers that what they did to me was wrong. The officers simply drove away. In total, the incident lasted approximately 20 minutes. The officers did not find any weapons or contraband.

25. Each of the stop-and-frisk incidents described above has been embarrassing and frightening. Since I turned 18, I have been afraid of being stop, searched, harassed, and having my rights violated by NYPD officers when I walk the streets of New York City. Regardless of what I am doing or where I am going, police may stop and frisk me. This is not a good policy and I think it should change.

26. I want this lawsuit to achieve real and lasting changes to the way the NYPD stops-and-frisks me, my friends and thousands of other New Yorkers of color without a true reason.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
November 3rd, 2011



NICHOLAS PEART


EXHIBIT 10

information of persons stopped and frisked by NYPD officers but not arrested or issued summonses as a result of such stops-and-frisks.

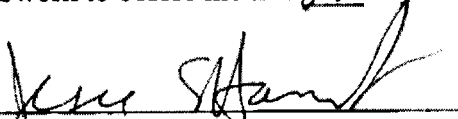
4. During this meeting, I expressed to Commissioner Kelly my concerns about the disproportionately high number of young black and Latino men stopped and frisked by NYPD officers in recent years.

5. In response, Commissioner Kelly stated that the NYPD targets its stop-and-frisk activity at young black and Latino men because it wants to instill the belief in members of these two populations that they could be stopped and frisked every time they leave their homes so that they are less likely to carry weapons.

6 Following this meeting with Commissioner Kelly, on July 16, 2010, then New York Governor David Patterson signed Senate Bill 7945A-2009 into law.


ERIC ADAMS

Sworn to before me this 28th day of October, 2011


NOTARY PUBLIC

JESSE E. HAMILTON III, ESQ.
Notary Public, State of New York
No. 02HA8171798
Qualified in Kings County
Commission Expires July 30, 2015

EXHIBIT 11

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVID FLOYD, LALIT CLARKSON, DEON DENNIS
and DAVID OURLICHT, individually and on
behalf of a class of all other similarly
situated,

Plaintiffs, Index No.

-against- 08 CIV 01034

THE CITY OF NEW YORK, NEW YORK CITY POLICE
COMMISSIONER RAYMOND KELLY, in his
individual and official capacity, et al,

Defendants.

-----x

November 23, 2009

10:42 a.m.

VOLUME II

CONTINUED DEPOSITION of JOSEPH

ESPOSITO, taken by the Plaintiffs, at One Police
Plaza, New York, New York before Karen Perlman, a
Shorthand Reporter and Notary Public within and
for the State of New York.

GREENHOUSE REPORTING, INC.
875 Sixth Avenue - Suite 1716
New York, New York 10001
(212) 279-5108

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A P P E A R A N C E S :

BELDOCK, LEVINE & HOFFMAN, LLP

Attorneys for the Plaintiffs

99 Park Avenue

New York, New York 10016

BY: JONATHAN MOORE, ESQ.

RACHEL KLEINMAN, ESQ.

NEW YORK CITY LAW DEPARTMENT

OFFICE OF CORPORATION COUNSEL

Attorneys for the Defendants

100 Church Street

New York, New York 10007

BY: JENNIFER ROSSAN, ESQ.

LINDA DONAHUE, ESQ.

ALSO PRESENT:

KERRY SWEET, ESQ., NYPD Legal Bureau

1 J. Esposito
2 Q. But in terms of being the person who
3 is responsible in the department for ensuring
4 that this order is complied with, has he
5 delegated that duty to you, or has he maintained
6 that responsibility in his office?
7 A. Performance in this area will also
8 be included in the CompStat review, at the very
9 least that's me.
10 Q. In terms of articulating the policy
11 though, that there is a policy against racial
12 profiling, there is a policy against stop and
13 frisk, is that the province of the commissioner
14 or the chief of the department?
15 A. It's everyone's job in this agency.
16 Q. Who is primarily responsible for it?
17 MS. ROSSAN: Objection to form.
18 A. Responsible for what?
19 Q. Who has the last word on it?
20 A. The last word on what, the policy?
21 Q. On the policy regarding --
22 A. He has the last word on the policy.
23 Q. -- stop, question and frisk?
24 That is with regard to stop,
25 question and frisk, right?

1 J. Esposito
2 A. He has the last word on every
3 policy, including stop, question and frisk.
4 Q. And including the department's
5 policy regarding racial profiling, right?
6 A. Yes.
7 MR. MOORE: So when is he going to
8 come testify?
9 MS. ROSSAN: That is why I'm shaking
10 my head. I object.
11 MR. MOORE: Add that to the list of
12 depositions.
13 MS. ROSSAN: That you can't have.
14 MS. DONOHUE: You're not getting it.
15 MR. MOORE: That I can't have and
16 that I'm not getting? We'll both see when
17 it happens. Unless there has been an order
18 today that you're aware of that I am not.
19 MS. ROSSAN: We're sitting here with
20 you.
21 MR. MOORE: That doesn't mean you're
22 not on your BlackBerry.
23 THE WITNESS: We got a half hour
24 left and then I got to take a break. We
25 can come back later this afternoon, but I

EXHIBIT 12



OPERATIONS ORDER

SUBJECT: POLICE OFFICER PERFORMANCE OBJECTIVES	
DATE ISSUED:	NUMBER:
10-17-11	52

1. The mission of a New York City police officer is, through use of self-initiated and team-led efforts, to enhance quality of life in the City by preserving the public peace, preventing crime, detecting and arresting offenders, suppressing disorder and protecting the rights of persons and property. The success of these efforts requires consistent dialogue with the community, personal observations, and action in order to gather intelligence and impact on crimes, quality of life issues, and conditions threatening persons, property, or public order. Such crimes, quality of life issues and conditions threatening persons, property or public order are properly addressed and corrected through the use of *proactive enforcement activities*. Proactive enforcement activities are those areas of enforcement which are delegated to officers by virtue of their police powers, including, but not limited to, the issuance of summonses, the stopping and questioning of suspicious individuals, and the arrests of criminals.

2. Therefore, it is incumbent upon police officers performing vehicle patrol, foot patrol, vertical patrol within buildings, or patrol in the transit system, to gather intelligence either from the public or through personal observation and, through self-initiated or team-led effort, utilize proactive enforcement activities to address crimes, violations, and conditions endangering persons, property or public order.

3. To be effective in addressing the community's crime and quality of life conditions, daily activities of police officers must be designed and coordinated to impact on the identified issues. To provide guidance to police officers concerning their duties, Department managers can and must set performance goals. Officers should be expected to act within appropriate legal standards to perform the tasks cited in the above Mission Statement with particular attention to self-initiated arrests, issuing summonses, conducting stops, and engaging in other enforcement activities.

4. In order to assist police officers and supervisors in identifying the locations within the command where patrol enforcement activity may be most effective in addressing the community's crime and quality of life conditions, the Department implemented the use of a new intelligence document entitled, "**COMMAND CONDITIONS REPORT**" as outlined in *Operations Order 50, series 2011, "Quest For Excellence - Command Conditions Reports."* This report informs members of the service of current crime conditions, crime patterns and trends, quality of life and traffic conditions, in every sector of the command with an emphasis on specific platoons, time frames and locations. The **COMMAND CONDITIONS REPORT** is a road map designed to direct police officers and supervisors to command conditions. The **COMMAND CONDITIONS REPORT** represents a baseline of sector information and commanding officers are encouraged to attach any additional information they determine would be useful in addressing command conditions (e.g., wanted photographs, accurate criminal intelligence, specific condition details or any other relevant information).

5. Commanding officers, in consultation with the special operations lieutenant and command staff (e.g., crime analysis section, field intelligence officer, etc.), will prepare the **COMMAND CONDITIONS REPORT** for each sector/post within the command every Monday. The command's crime analysis section will input the **COMMAND CONDITIONS REPORT** via the "Quest for Excellence" computer application on the Department's intranet. The "Quest for Excellence" application will allow the **COMMAND CONDITIONS REPORT** to be entered and viewed as a power-point presentation on the command's video conferencing system displays. In addition, hard copies of the **COMMAND CONDITIONS REPORT** can be printed out upon request.

6. The commanding officer, in consultation with the special operations lieutenant and command staff (e.g., crime analysis section, field intelligence officer, etc.) will evaluate the current **COMMAND CONDITIONS REPORT** every Monday and amend the **REPORT** to show the most recent trends. The **REPORT** should also be updated during the week if emerging trends require. Commanding officers will instruct all lieutenants concerning the identified conditions. Lieutenants will then discuss the identified conditions on the **COMMAND CONDITIONS REPORT** with their squad/unit sergeants and police officers under their supervision. Precinct/housing/transit commanders are reminded that the implementation of the **COMMAND CONDITIONS REPORT** does not preclude the precinct/housing/transit commander from distributing any other type of criminal intelligence. Furthermore, a hard copy of the **COMMAND CONDITIONS REPORT** will be printed from the "Quest for Excellence" application and posted in the Crime Information Center. An additional hard copy will be immediately forwarded to the borough concerned on a weekly basis and at other times, as appropriate (e.g., emerging trends, etc.).

7. The **COMMAND CONDITIONS REPORT** will provide officers and supervisors on patrol with actionable intelligence that requires attention within the officers' specific area of responsibility, every day and on every tour. The **COMMAND CONDITIONS REPORT** and any additional reports will be distributed by the commanding officer, through supervisors, to police officers on a weekly basis. As noted, it will also be maintained in the command's Crime Information Center in order to assist police officers and supervisors in being aware of conditions throughout the command. At the start of tour, uniformed members of the service, in consultation with the patrol supervisor, will utilize the current **COMMAND CONDITIONS REPORT** in identifying the two primary conditions to be addressed within their assigned sector/post. These two identified primary conditions will be immediately noted daily on a newly created form as described below.

8. Effective 0001 hours, November 1, 2011, uniformed members of the service will be required to prepare and document their daily assignment, selected two primary conditions to be addressed, and daily activity noted (e.g., community interaction, arrests, summonses issued, reports prepared, etc.) on new Department form entitled, "**POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT (PD439-1424)**." The **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** will be maintained and carried in the inside pocket of the uniformed member's regulation leather binder and will be presented to any supervisor upon request. The uniformed member of the service will ensure that the **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** is folded neatly as to minimize any tears. Uniformed members will document the two primary identified conditions to be addressed during the tour on the **REPORT** prior to commencing patrol. In addition to other assignments given by supervisors or by the Communications Division, the officer will focus on addressing these two identified sector/post conditions. Other conditions requiring police attention, identified by civilians or through the member's own observation, must also be addressed. Officers will note on the **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** *ALL* activities (e.g., arrests, field reports, etc.) engaged in during the tour. If an activity specifically impacts on either of the two identified conditions for the tour, then the 'Y' in the left hand box will be circled. Otherwise, the 'N' will be circled. On the back of the **REPORT**, officers may also write remarks regarding actions taken to impact on the two primary identified conditions and other significant conditions which were impacted on.

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9. The **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** will be submitted by the member to the squad/unit sergeant concerned for review and signature on the seventh, fourteenth, and twenty-first day of every month. Squad/unit sergeants will meet with each subordinate to review the member's current activity following the seventh, fourteenth, and twenty-first day of every month. As part of the weekly review, the squad/unit sergeant will compare the member's current monthly activity as it pertains to the member's daily assignment and the two identified conditions to be addressed within the sector(s)/post(s) assigned. The member's **ACTIVITY LOG (PD112-145)** may also be reviewed if the member has documented additional information ascertained from community interactions, summonses issued, arrests made or other actions taken. This review will provide the supervisor with a weekly opportunity to evaluate the uniformed member's performance in proactively addressing sector/post conditions. The supervisor must indicate to each uniformed member an assessment of the quality and caliber of the officer's efforts. In the absence of the squad/unit sergeant concerned (e.g., sick report, vacation, etc.), the weekly review of the **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** will be conducted by the platoon commander/special operations lieutenant.

10. At the end of every month, uniformed members will complete the captions on the rear side of the **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** indicating the total activity for the month and list any additional comments pertaining to actions taken to address declared conditions. The completed **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** will be submitted to the squad/unit sergeant concerned by the second day of the following month. The squad/unit sergeant will then make his/her assessment of the officer's efforts and will enter his/her comments in the "Officer's Impact on Declared Conditions" section on the rear of the **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT**. The squad/unit sergeant will check off one of the following two boxes: Effective Ineffective and must provide a justification as to why the uniformed member of the service was given either an effective rating or ineffective rating. In addition, the failure to address identified conditions will also be documented. Platoon commanders/special operations lieutenants will then review and sign the **REPORT** for members under their direct supervision. Audits of the Online Booking Arrest System (O.L.B.S.) and the Electronic Summons Tracking System will be conducted by the integrity control officer to ensure the accuracy of entries of the **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT**.

11. Upon review and signature by the platoon commander/special operations lieutenant, the **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** will be submitted to the operations coordinator for entry into the Quest for Excellence application. The **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** will be scanned and filed for future reference utilizing the network scanner located at the desk.

12. Uniformed members of the service, who are normally assigned to perform administrative duties, will be required to complete and submit the **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT** to their designated supervisor, if they are assigned to any enforcement duties during the reporting month (e.g., "All Out" enforcement, etc.).

13. Uniformed members of the service must be made aware that when a supervisor conducts an evaluation, a high degree of review and consideration will be given to member's daily efforts to address the two primary identified conditions. When signing a uniformed member's **ACTIVITY LOG (PD112-145)**, supervisors will also regularly review the member's **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT**, which is carried by the member in the inside pocket of the regulation leather binder. Inquiries will be made concerning actions taken to address the two primary identified and other significant conditions. Instruction and direction will be given, as required. Supervisors will document any direction given in their **ACTIVITY LOGS**. Duty captains, as part of their daily patrol within a borough, will review platoon commanders and patrol sergeants **ACTIVITY LOGS** to ensure these actions are being taken, and entries are being made regarding them.

14. In cases where an officer's performance fails to address sector/post conditions, the squad/unit sergeant will notify their platoon commander/special operations lieutenant. The platoon commander/special operations lieutenant, in conjunction with the squad/unit supervisor, will take appropriate steps to improve the police officer's performance. These steps include, but are not limited to, assisting the police officer in identifying the conditions to be addressed, assigning the police officer to work with a supervisor and a squad/unit that effectively addresses sector conditions through community interaction, the issuance of summonses, and effecting arrests, etc. and referring the police officer to Performance Enhancement Training.

15. Uniformed members of the service who remain ineffective, who do not demonstrate activities impacting on identified crime and conditions, or who fail to engage in proactive activities, despite the existence of crime conditions and public safety concerns, will be evaluated accordingly and their assignments re-assessed. Continued failure to address sector/post conditions will be documented on an interim or annual **PERFORMANCE EVALUATION**. If after training, mentoring and hands-on instruction, the uniformed member continues to fail in addressing sector/post conditions, the member will be referred to the Employee Management Division's Performance Monitoring Unit for placement in the appropriate level of performance monitoring, transfer, reassignment or other appropriate disciplinary action. Quarterly, each precinct/PSA/transit district will notify their borough in writing, of uniformed members of the service who are under-performing. The boroughs will provide oversight and direction in monitoring and improving their performance.

16. In order to facilitate administrative efficiency and ensure appropriate supervisory oversight, Department form entitled, "**SQUAD SUPERVISOR'S RECAPITULATION (PD439-1418)**" has been revised and incorporated into the Quest for Excellence application. The **SQUAD SUPERVISOR'S RECAPITULATION** will be prepared electronically within the Quest for Excellence application by the squad/unit sergeant based on information contained on submitted **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORTS**. The squad/unit sergeant will be responsible to verify the activity of each member under his/her supervision a minimum of once each quarter. The squad/unit sergeant will note in the "Comments by Squad Supervisor" section of the **SQUAD SUPERVISOR'S RECAPITULATION**, the member(s) of service verified each month. Furthermore, a new Department form entitled, "**QUARTERLY ASSESSMENT OF SQUAD SERGEANT (PD439-1425)**" has been incorporated into the Quest for Excellence application to allow the platoon commander/special operations lieutenant to

evaluate sergeants under their supervision and to ensure compliance in meeting performance objectives. Platoon commanders/special operations lieutenants will evaluate their squad sergeants each quarter in the seven categories listed on the **QUARTERLY ASSESSMENT OF SQUAD SERGEANT**. For each category listed, the platoon commander/special operations lieutenant will assess the squad sergeant and check off one of the following two boxes: Effective Ineffective. The platoon commander/special operations lieutenant must provide a justification as to why the squad sergeant was given either an effective rating or ineffective rating for the selected category. In addition, the platoon commander/special operations lieutenant will give an overall rating of either Effective Ineffective and must provide a justification as to why the squad sergeant was given an overall rating of effective or ineffective.

17. Precinct commanders will utilize their executive officers and integrity control officers to conduct observations at locations of identified conditions and monitor the performance of the uniformed members of the service thereat. Bureau/borough investigation units should also be utilized by higher commands to ensure quality efforts throughout the borough to impact on conditions.

18. Effective 0001 hours, November 1, 2011, commands will discontinue using Department form **POLICE OFFICER'S MONTHLY PERFORMANCE REPORT (PD439-1414)** and use the new Department form **POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT (PD439-1424)** which is available for print through the Quest for Excellence application.

19. Effective 0001 hours, November 1, 2011, Department form **POLICE OFFICER'S MONTHLY PERFORMANCE REPORT (PD439-1414)** is hereby **REVOKED**.

20. Effective 0001 hours, November 1, 2011, wherever the form "**POLICE OFFICER'S MONTHLY PERFORMANCE REPORT (PD439-1414)**" appears in the Department Manual or other Department directives, **REPLACE** it with "**POLICE OFFICER'S MONTHLY CONDITIONS IMPACT MEASUREMENT REPORT (PD439-1424)**."

21. Effective 0001 hours, November 1, 2011, commands will discontinue using Department form **SQUAD SUPERVISOR'S RECAPITULATION (PD439-1418)** bearing a printing date of [Rev. 05-08] and begin using the revised **SQUAD SUPERVISOR'S RECAPITULATION (PD439-1418)** [Rev. 10-11] which has been incorporated into the Quest for Excellence application.

22. Commanding officers will ensure that the contents of this Order are brought to the attention of members of their commands.

BY DIRECTION OF THE POLICE COMMISSIONER

DISTRIBUTION
All Commands

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