

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

DAVID FLOYD *et al.*,

13-3088

Plaintiffs-Appellees,

-against-

CITY OF NEW YORK,

Defendant-Appellant.

**DECLARATION
OF DARIUS CHARNEY IN
SUPPORT OF PLAINTIFFS-
APPELLEES' OPPOSITION
TO THE UNIONS' MOTIONS
TO INTERVENE**

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

1. I submit this declaration in support of Plaintiffs-Appellees' opposition to the motions filed by the Patrolmen's Benevolent Association, Lieutenants Benevolent Association, Captains' Endowment Association, Detectives Endowment Association, and Sergeants Benevolent Association (collectively "the Unions") for intervention in the appeal before this Court. Dkt ## 252-1-3; 282-1-3.
2. I am a senior staff attorney at the Center for Constitutional Rights, co-counsel for Plaintiffs-Appellees in this action. I am not a party to this case.
3. I have been counsel of record for Plaintiffs-Appellees in this case since January 31, 2008. In that capacity, I participated in all pretrial fact discovery

in the district court, 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 up 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. 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.).

5. 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 the district court as Plaintiffs' Trial Exhibit 89.

6. Attached hereto as Exhibit C is true and correct copy the pre-2002 version of the U250 Stop, Question, and Frisk form used by the New York Police Department, which was admitted into evidence at the trial in the district court as Plaintiffs' Trial Exhibit 449.

7. Attached hereto as Exhibit D is a true and correct copy of the Stipulation and Order of Withdrawal of Individual Damage Claims, which was so-ordered by the district court on March 8, 2013.

8. Attached hereto as Exhibit E is a true and correct copy of Defendants' Proposed Findings of Fact and Conclusions of Law filed with the district court on June 12, 2013.

9. Attached hereto as Exhibit F is a true and correct copy of Plaintiffs' Proposed Findings of Fact and Conclusions of Law filed with the district court on June 12, 2013.

10. Attached hereto as Exhibit G are excerpts from the transcript of the trial in the district court.

11. Attached hereto as Exhibit H are true and correct copies of the 2002 and 2011 versions of the NYPD's UF250 stop, question, and frisk form, which were admitted into evidence at trial in the district court as Plaintiffs' Trial Exhibits 74 and 85, respectively.

12. Attached hereto as Exhibit I is a true and correct copy of NYPD Interim Order No. 21, dated May 16, 2012, which was admitted into evidence at trial in the district court as Defendants' Trial Exhibit Z4.

13. Attached hereto as Exhibit J is a true and correct copy of a March 5, 2013 memorandum from NYPD Chief of Patrol James Hall, which was admitted into evidence at trial in the district court as Defendants' Trial Exhibit J13.

14. Attached hereto as Exhibit K are true and correct copies of (a) a blank version of the NYPD Police Officer's Monthly Conditions Impact Measurement Report, (b) NYPD Operations Order No. 52, dated October 17, 2011, and (c) NYPD Interim Order No. 49, dated October 24, 2011, which were admitted into evidence at trial in the district court as Plaintiffs' Trial Exhibits 205, 285 and 315 respectively.

15. For the reasons set forth herein and in Plaintiffs-Appellees' accompanying memorandum of law, the Unions' motions to intervene should be denied.

Dated: New York, New York
November 25, 2013

DARIUS CHARNEY