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February 5, 2014

Via CM/ECF

Hon. Eric N. Vitaliano  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: S.W., et al. v. City of New York, et al.  
Civil Action No.: 1:09-cv-1777 (ENV) (MDG)

Dear Judge Vitaliano:

On behalf of the Agency Defendants, I write to advise the Court of the Agency Defendants' intention to seek leave to certify for interlocutory appeal, pursuant to 28 U.S.C. § 1292(b), so much of the Court's Memorandum and Order, filed January 28, 2014, as denied the Agency Defendants summary judgment on the plaintiffs' claims pursuant to 42 U.S.C. § 1983 based upon the Court's legal determination that the Agency Defendants' alleged conduct constituted action under color of state law, or state action. Pursuant to this Court's Individual Motion Practice and Rules, I respectfully request that the Court so-order the following briefing schedule:

1. The Agency Defendants' motion shall be filed on or before Friday, February 7, 2014;
2. Plaintiffs' opposition to the motion shall be filed on or before Tuesday, February 18, 2014; and
3. The Agency Defendants' reply, if any, shall be filed on or before February 24, 2014.

The undersigned has conferred with and obtained consent to the above schedule from lead counsel for the plaintiffs, Theodore Babbitt, and his co-counsel William A. Kapell.

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I thank the Court for its courtesies.

Respectfully submitted,

/s/ Jeremy S. Rosof

Jeremy S. Rosof

cc: All Counsel of Record (via CM/ECF)

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