

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

WARREN TAYLOR, IVAN COPPIN, JOSE TORRES,
LUIS MORA, WILLIAM QUINONES, ANIBAL DIAZ,
and BENNIE WALLACE, on behalf of themselves
and all persons similarly situated,

Plaintiffs,

-against-

STATE OF NEW YORK; DAVID A. PATERSON, in
his official capacity as Governor of State of New
York; NEW YORK STATE SENATE; DEAN G.
SKELOS, in his official capacity as Majority
Leader of the New York State Senate; NEW
YORK STATE ASSEMBLY; and SHELDON SILVER,
in his official capacity as Speaker of the New
York State Assembly,

Defendants.

Index No.

COMPLAINT

CLASS ACTION

NATURE OF THE ACTION

Plaintiffs Warren Taylor, Ivan Coppin, Jose Torres, Luis Mora, William Quinones, Anibal Diaz and Bennie Wallace by their attorneys Paul, Weiss, Rifkind, Wharton & Garrison LLP, The Urban Justice Center, and The Economic Justice Project, Main Street Legal Services, allege as follows:

1. This case exposes the harsh consequences of legislative inaction. Specifically, it concerns the failure of the New York State Legislature (“Legislature”) and the other defendants to meet their constitutional duty under Article XVII, Section 1, of the New York State Constitution (“Article XVII”) to determine and provide the amount of support that is necessary to meet the most basic needs of New York’s most vulnerable and marginalized citizens. Simply put, the defendants have failed to take action despite a

constitutional obligation to do so — and the result is a class of citizens who are forced to lead lives of abject poverty.

2. For example, the current maximum monthly public assistance grant for individuals is \$137.10 per month. This amount does not include shelter assistance, but includes energy grants. The grant amounts to \$4.41 per day for a single person.

3. For two-person households — often a mother and child — the maximum monthly public assistance grant is \$218.50 per month, including energy grants. This amounts to \$3.64 per person per day — not even enough, for example, to cover the cost of one round-trip ride on public transportation in New York City.

4. Recipients of public assistance grants are subject to the “Public Assistance Employment” provisions of §§ 330-342 of the Social Services Law, which require recipients to work as a condition of receiving their grants by performing workfare assignments at the rate of the minimum wage, and/or to engage in other assigned work activities, unless the local social services district determines that the individual is disabled, incapacitated or otherwise exempt from employment.

5. The Legislature last adjusted the amount of New York’s basic public assistance grant in 1989. At that time, to “restore what inflation ha[d] eroded,” the Legislature chose to increase the amount of the grant by fifteen percent. It had been only three years since the previous time the Legislature increased the grant, in 1986.

6. Over the course of the last nineteen years, New York residents have experienced an astounding rise in the cost of living. The prices of basic necessities

like housing, groceries, transportation, and toiletries have climbed dramatically. Many of these items now cost more than twice as much as they did in 1989.

7. Despite these drastically changed circumstances, there has been no increase in the amount of the basic public assistance grant during this time. The woeful inadequacy of the current grant has resulted in a class of citizens whose lives are bleak and precarious. They regularly endure hunger, cold, and extreme deprivation. They are consumed by the impossible task of stretching yesterday's dollars far enough to meet today's prices. The anxiety associated with the relentless pursuit of survival compounds the debilitating depression they experience. Put simply, these citizens need more help than they are currently getting.

8. The defendants have taken no meaningful action to determine what the appropriate grant amount should be. Consumer prices have surged, but the buying power of those who receive the basic grant is frozen in time — and, in complete abdication of their constitutional obligations, the defendants have done nothing.

9. To ensure that they, and the countless other New Yorkers who share their unfortunate living conditions, are no longer forced to endure such an existence, plaintiffs bring this class action for declaratory, injunctive and other relief on behalf of themselves and all other persons similarly situated.

LEGAL FRAMEWORK

The New York State Constitution

10. In 1938, after years of severe economic hardship that devastated the poorest residents of New York State, New York added Article XVII to the State Constitution in order to ensure that that no citizen would lack for basic needs.

11. Article XVII establishes that the State of New York (the “State”) must provide for the needy, stating: “The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.” The Court of Appeals has recognized that Article XVII created a “mandate[.]” that requires the State to take action when necessary. *Tucker v. Toia*, 43 N.Y.2d 1, 7 (1977).

The Court of Appeals explained that, under Article XVII:

In New York State, the provision for assistance to the needy is not a matter of legislative grace; rather, it is specifically mandated by our Constitution. . . .

The legislative history of the Constitutional Convention of 1938 is indicative of a clear intent that State aid to the needy was deemed to be a fundamental part of the social contract.

Id.

12. The Court of Appeals emphasized that, while the State has discretion as to the precise manner in which it meets this duty, “it cannot simply shirk its responsibility” to provide for the needy, nor can it “ignore the realities of the needy’s plight.” *Id.* at 9 (internal quotations and citations omitted).

13. In exercising its discretion to determine how to provide for the needy, the Legislature is required to “ascertain and define the . . . standard of need” for its citizens. *Lovelace v. Gross*, 80 N.Y.2d 419, 426 (1992).

14. The State, thus, may not treat this constitutional obligation as a matter of political calculation that can be the subject of bargaining and trade-offs against other goals.

15. The courts of New York should ensure that the State does not shirk its constitutional responsibilities towards the needy. The Court of Appeals has held that “it is the province of the Judicial branch to define, and safeguard, rights provided by the New York State Constitution, and order redress for violation of them.” *Campaign for Fiscal Equity, Inc. v. New York*, 100 N.Y.2d 893, 925 (2003).

16. Because this case involves such a fundamental right, the judiciary’s role as a safeguard is all the more important.

Social Services Law § 131-a

17. One of the ways in which the State purports to meet its obligation to provide aid, care, and support for the needy is by providing monthly grants and allowance of public assistance to needy individuals and families.

18. Section 131-a of the Social Services Law sets forth the amount of the maximum monthly basic public assistance grants for individuals and families.

19. Public assistance grants comprise a monthly basic grant, a monthly home energy grant and a supplemental home energy grant.

20. The monthly basic grant was last increased in 1989.

21. The monthly home energy grant was established in 1981 and has never been increased.

22. The monthly supplemental home energy grant was established in 1986 and has never been increased.

23. Eligible individuals and families receive the maximum monthly grant, less any available income or resources that are not required to be disregarded by other provisions of the Social Services Law.

24. The public assistance grant is the residual program of last resort for individuals who do not qualify for a number of other assistance programs, including benefits from the Social Security Administration under its Supplemental Security Income (“SSI”) and Old Age Survivors and Disability Insurance Benefits programs, Workers’ Compensation, Unemployment Insurance, and Veterans’ Benefits.

25. For many recipients who cannot find employment, the grant is their only source of income.

26. For individuals, the current maximum basic monthly grant is \$112, the monthly home energy grant is \$14.10 and the monthly supplemental home energy grant is \$11. The total monthly maximum amount of public assistance for individuals is \$137.10, an amount that has not increased since 1989.

27. For two-person households, the current maximum basic monthly grant is \$179, the monthly home energy grant is \$22.50 and the monthly supplemental home energy grant is \$17. The total monthly maximum amount of public assistance for two-person households is \$218.50, an amount that has not increased since 1989.

28. For three-person households, the current maximum basic monthly grant is \$238, the monthly home energy grant is \$30 and the monthly supplemental home energy grant is \$23. The total monthly maximum amount of public assistance for three-person households is \$291, an amount that has not increased since 1989.

29. For four-person households, the current maximum basic monthly grant is \$307, the monthly home energy grant is \$38.70 and the monthly supplemental home energy grant is \$30. The total monthly maximum amount of public assistance for four-person households is \$375.70, an amount that has not increased since 1989.

30. For five-person households, the current maximum basic monthly grant is \$379, the monthly home energy grant is \$47.70 and the monthly supplemental home energy grant is \$37. The total monthly maximum amount of public assistance for five-person households is \$463.70, an amount that has not increased since 1989.

31. For six-person households, the current maximum basic monthly grant is \$438, the monthly home energy grant is \$55.20 and the monthly supplemental home energy grant is \$42. The total monthly maximum amount of public assistance for six-person households is \$535, an amount that has not increased since 1989.

32. For each additional person in a household, the additional basic monthly grant allowance is \$60, the additional monthly home energy grant allowance is \$7.50 and the additional monthly supplemental home energy grant allowance is \$5.

THE PARTIES

33. Plaintiff Warren Taylor lives at 1665 Randall Avenue, Bronx, NY 10473.

34. Plaintiff Ivan Coppin lives at 169 Lewis Avenue, Apt. 3C, Brooklyn, NY 11221.

35. Plaintiff Jose Torres lives at 2707 Barnes Avenue, Apt. 6N, Bronx, NY 10467.

36. Plaintiff Luis Mora lives at 2236 Story Avenue, 2nd Floor, Bronx, NY 10473.

37. Plaintiff William Quinones lives at 413 East 152nd Street, Bronx, NY 10455.

38. Plaintiff Anibal Diaz lives at 202 West 24th Street, Room 302, New York, NY 10011.

39. Plaintiff Bennie Wallace lives at 285 East 171st Street, Bronx, NY 10457.

40. On behalf of defendant State of New York, the executive and legislative branches of government appropriate funds to pay for the expenses in the budget, including the expense of providing the basic public assistance grant.

41. Defendant David A. Paterson is the Governor of the State of New York, in whom vests the executive power of the State. NY. Const. Art. IV, § 1.

42. Defendants New York State Assembly and New York State Senate comprise the two Houses of the New York State Legislature, in which the legislative power of the State vests. N.Y. Const. Art. III, § 1.

43. Defendants Sheldon Silver and Dean G. Skelos are, respectively, the Speaker of the New York State Assembly and the Majority Leader of the New York State Senate and are sued in their official capacities. Defendants Assembly Speaker Silver and Majority Leader Skelos chair the Rules Committees of their respective Houses of the Legislature. Defendants Assembly Speaker Silver and Majority Leader Skelos convene and govern their respective Houses. They set the legislative agenda for their respective Houses' Rules Committees and, effectively, for the Houses themselves. On information and belief, bills generally do not become part of the agenda or achieve passage in either House without the support of defendants Assembly Speaker Silver and Majority Leader Skelos.

VENUE

44. Venue is proper in New York County pursuant to CPLR 503(a) because plaintiff Anibal Diaz resides in New York County.

FACTS

Legislative History

45. The Legislature last increased the basic grant, by fifteen percent, in 1989.

46. When the bill was approved, the Governor's Bill Jacket accompanying the legislation stated:

New York has long recognized the importance of providing for its neediest citizens. The basic grant does that. The basic grant has not increased since 1986. As with any fixed benefit, the value of public assistance benefits have been eroded by inflation. This increase will restore what inflation has eroded
.....

47. The State Assembly Committee on Social Services ("Committee on Social Services") held hearings on September 6-7 and September 28, 2007 on the adequacy of the basic grant.

48. None of the witnesses who testified at these hearings suggested that the basic grant is adequate to meet the needs of the citizens of New York or recommended that the grant be maintained at its present level.

49. In its summary of these hearings, the New York State Assembly Committee on Social Services (the "Committee") stated that increases in the cost of living since 1990 had "reduced the real value of the public assistance grant, making it

nearly impossible for families to meet even their most basic needs.” *See 2007 Annual Report of the New York State Assembly Standing Committee on Social Services.*

50. The Committee purportedly proposed increases in the basic grant during 2007 budget negotiations, but these do not appear to have been even considered by the Legislature. *See id.*

51. The Committee purportedly proposed increases to the basic grant during 2008 budget negotiations, but, again, these do not appear to have been even considered by the Legislature.

52. In spite the Legislature’s awareness of clear evidence requiring a substantial increase in the basic grant, the defendants have not taken any meaningful steps to increase the basic grant. The Legislature is simply ignoring its constitutional obligation.

The Cost of Living

53. When the cost of living in New York is set against the paltry amount of the basic grant, it is clear that the grant is grossly inadequate.

54. In the years that have passed since the basic public assistance grant was last adjusted, prices have risen dramatically. Between 1990 and October 2008, total inflation, according to the United States Bureau of Labor Statistics Consumer Price Index, was over 65%. Inflation Calculator, Bureau of Labor Statistics website, accessed November 24, 2008, *available at* <http://data.bls.gov/cgi-bin/cpicalc.pl>.

55. During this time the cost of many basic necessities grew at an even greater rate. For example, according to the Bureau of Labor Statistics Consumer Price

Index, between 1990 and October 2008 the price of white bread increased by 154% and the cost of eggs increased by 80%.

56. Other necessities have also increased in cost at a rate higher than inflation: between 1990 and 2006, the cost of toothpaste increased by 68% and the cost of laundry detergent increased by 71%. *See* Addendum to Testimony of Mark Dunlea, Hunger Action Network of New York State, to the Assembly Standing Committee on Social Services, September 7, 2007.

57. Recently, the situation has worsened. Between June 2007 and June 2008, the cost of purchasing the food necessary for a minimally nutritional diet increased by 7.2% across the nation. *See* Leslie Kaufman, *Food Stamps Buy Less; Families Are Hit Hard*, New York Times, June 22, 2008.

58. Between July 2007 and October 2008, according to the Bureau of Labor Statistics Consumer Price Index, the price of eggs increased by 20% and the price of bread increased by 19%.

59. In New York, where the cost of food is substantially higher than the rest of the nation, the impact of these increases has been all the more difficult to bear.

60. Recipients are eligible to receive food stamps, but these are limited in value. The maximum value that a single-person household may receive in food stamps in New York City, for example, is \$176 per month.

61. Furthermore, the maximum amount of the food stamp benefit is calculated by reference to the United States Department of Agriculture's Thrifty Food Plan, which is widely acknowledged to be an unrealistically conservative measure of the cost of a balanced diet for low-income people. *See* A. Drewnowski and S.E. Specter,

Poverty and Obesity: the Role of Energy Density and Energy Costs, 2004 Am. J. Clin. Nutr. 79, 6-16; L. Kupillas and M. Nies, *Obesity and Poverty Are Food Stamps to Blame?* Home Health Care Management and Practice, December 2007, 20:1, 41-49.

62. In addition to causing short-term suffering and anxiety, food insecurity and hunger create long-term health problems.

63. Both food insecurity and hunger are linked to obesity and its attendant health problems. See Christine Olson, *The Relationship Between Hunger and Obesity: What Do We Know and What Are the Implications For Public Policy*, Proceedings of the Roundtable on Understanding the Paradox of Hunger and Obesity, Food Research And Action Center, November 22, 2004, at 75-77; Christine Olson, *Nutrition and Health Outcomes Associated with Food Insecurity and Hunger*, 1999 J. Nutr. 129, at 521S-524S.

64. Food insecurity and hunger also exacerbate chronic diseases such as diabetes. See Karin Nelson, *Food Insecurity and Medical Conditions Observed in an Adult Population*, in Food Assistance and Nutrition Research Report No.11-1 (Margaret Andrews and Mark Prell, eds.).

65. Since the total amount of the basic grant was last increased, the prices of fuel oil and natural gas have also increased dramatically. Figures from the Bureau of Labor Statistics show that, since 1990, the cost of natural gas has more than doubled and the cost of residential fuel oil has increased almost five-fold. Average electricity prices have almost doubled.

66. Recipients in different parts of the State have different expenses, but the basic grant does not provide adequate means anywhere in the State.

Recipients in New York City face particularly high housing costs. The 2008 fair market rent for an efficiency unit in New York City has been calculated by the United States Department of Housing and Urban Development to be \$1,095 per month. HUD Final FY 2008 Fair Market Rent Documentation System, Summary for New York, NY HUD Metro FMR Area, *available at* <http://www.huduser.org/datasets/fmr/fmrs/2008summary.odn>.

67. The maximum rental subsidy in New York City is \$215 for a single person, \$250 for a two-person household with children under the age of eighteen, and \$400 for a three person-household with children under the age of eighteen.

68. Although this complaint does not challenge the adequacy of the shelter benefit, which is fixed by regulation rather than by statute, the disparity between the maximum rent grant and the actual cost of housing requires many recipients of the basic grant to use the already inadequate grant to supplement their rent grant.

69. To underscore the unusually high cost of housing in New York, a 2006 report by the Public Policy Institute of California found New York State to have the second highest percentage of people living in poverty in the United States when the poverty line is adjusted to account for the cost of housing. *See* Deborah Reed, *Poverty in California: Moving Beyond the Federal Measure*, Public Policy Institute of California, May 2006, at 5. Available at http://www.ppic.org/content/pubs/cacounts/CC_506DRCC.pdf

70. This situation is only getting worse. Between 2000 and 2004, New York City housing costs increased between 19% and 40%, depending on variables such as the size of the apartment and its location. *See The 2004 Self Sufficiency Standard for*

the City of New York, Women's Center for Education and Career Advancement, at 2.

Available at http://www.unitedwaynyc.org/pdf/sufficiency_full.pdf

71. By 2003, almost 80% of working poor families in New York State were spending more than one third of their income on housing. *See More Hard Times for New York's Working Families*, Center for an Urban Future & Schuyler Center for Analysis and Advocacy, March 2006, at 2. Available at http://www.nycfuture.org/images_pdfs/pdfs/002-FINAL2.pdf

72. Recipients in upstate New York face particularly high energy costs.

73. In the City of Albany, for example, families living below 50% of the federal poverty level spend an average of 55% of their income on heating their homes during the winter. *See* Testimony of Denise Harlow to the State Assembly Committee on Social Services, September 28, 2007.

Other calculations of the total cost of living in New York

74. A number of entities, including the State of New York and the City of New York, have estimated that the cost of living in New York is significantly higher than the amount of the basic grant.

75. In calculating the amount of benefits for SSI recipients, the State of New York has clearly determined that a minimally decent standard of living requires significantly greater resources than are provided under the basic grant.

76. The total SSI payments for a single individual in 2008 are \$724 per month. SSA Publication No. 05-1114. This amount includes a federal payment of \$637

and a supplement of \$87 from New York State. See *Understanding Supplemental Security Income*, 2008 ed. Available at <http://www.ssa.gov/ssi/text-understanding-ssi.htm>

77. Persons receiving SSI are also entitled to food stamps.

78. The State of New York has thus determined that persons dependent on SSI benefits cannot subsist on the federal payment of \$637 plus food stamp benefits.

79. This suggests that — by the State of New York’s own calculations — the amount of the basic grant is inadequate.

80. In 2004, United Way released a report called *The Self-Sufficiency Standard for the City of New York*, prepared for the University of Washington’s Women’s Center for Education and Career Advancement. The report “calculate[d] a bare-bones budget of [the annual] costs that a working family in New York City faces. It includes costs for housing, child care, food, transportation, health care, miscellaneous expenses, and federal, state, and local taxes. The result is a measure set at a level that is neither luxurious — or even comfortable — nor so low that it cannot adequately provide for a family.”

81. The report calculated different budgets for four different family types and for six different parts of New York City. The following table presents the report’s calculations for households with one adult and for households with one adult and one preschool-aged child:

	One Adult	One Adult & One Preschool-Aged Child
Bronx	\$20,575	\$37,443
Brooklyn	\$21,920	\$38,983

Manhattan South	\$40,048	\$60,902
Manhattan North	\$19,406	\$36,481
Queens	\$24,583	\$42,136
Staten Island	\$23,730	\$41,211

82. New York’s maximum individual basic public assistance grant, including home energy grants, equals \$1,645.20 over one year. Including food stamps and rental assistance, the maximum total value of benefits to which a single person is entitled is approximately \$6,289.

83. This amounts to *less than one third* of the cost of living in the *least expensive* area of New York City four years ago, as calculated by United Way.

84. In a separate study, New York City’s Center for Economic Opportunity (CEO) recently developed a new alternative to the federal measure of poverty. NYC Press Release, New York City, “New York City Mayor Bloomberg Announces New Alternative to Federal Poverty Measure,” (July 13, 2008).

85. The CEO’s study factors in necessary expenditures for food, clothing, shelter and utilities. In addition, it accounts for tax credits and other benefits, including food stamps and Section 8 housing subsidies.

86. According to the CEO’s report, the poverty threshold for an adult with no children is \$12,114 and the threshold for an adult with one child is \$18,280.

87. Therefore, the basic public assistance grant — when combined with food stamps and rental assistance — amounts to approximately one half of the “bare minimum” amount that New York City has determined it costs to live just above the poverty line.

The Impact of the Inadequacy of the Basic Grant on Plaintiffs

88. As a result of the significant discrepancy between the cost of living and the basic public assistance grant, many plaintiffs are not able to make ends meet.

89. The increase in the cost of housing in New York City has placed a particular burden on plaintiffs.

90. The dramatic increase in the cost of food has frequently left plaintiffs hungry.

91. The amount that plaintiffs receive in food stamps is inadequate for their monthly needs, and the basic public assistance grant is too small to make up the difference. As a result, their food stamps do not last them for an entire month.

92. Many plaintiffs regularly skip meals because they have run out of money. This pattern meets the United States Department of Agriculture definition of chronic, very low food security. *See* Mark Nord, Margaret Andrews, and Steven Carlson, *Household Food Security in the United States, 2006*, ERR-49, U.S. Dept. of Agriculture, Econ. Res. Serv. November 2007, at 5.

93. Even when they do not have to reduce their food intake, plaintiffs must resort to “coping strategies,” such as eating nutritionally inadequate diets and obtaining emergency food supplies. They thus suffer from ongoing food insecurity as defined by the United States Department of Agriculture. *See id.* at iv.

94. Plaintiffs are also unable to afford the most basic goods and services. Plaintiffs often do not have the resources for laundry, to take public transportation, or to buy necessary clothing.

95. Lack of means prevents many plaintiffs from making minimal expenditures that would help them find work and become self-sufficient.

96. As a result of their all-consuming efforts to make ends meet, plaintiffs are plagued with severe anxiety. In the short term, they do not know where their next meal will come from or whether they will be unable to pay their rent each month and become homeless. In the long term, they do not know how — or whether — they will ever manage to escape the bleak situation in which they find themselves.

97. Difficult to endure in its own right, in many cases this anxiety also compounds plaintiffs' pre-existing depression and other medical conditions.

PLAINTIFFS

Plaintiff Warren Taylor

98. Plaintiff Warren Taylor receives a basic grant of \$138 per month and receives approximately \$162 in food stamps.

99. Mr. Taylor was born in 1958 in Yonkers, New York.

100. Mr. Taylor graduated from the Saunders Free Trade and Technical High School in Yonkers, where he trained as a printer. He worked as an offset pressman for twenty-five years in printing shops in New York, Atlanta and Miami. In 2001, the thumb on his left hand was crushed while he was working. He lost 65% of the use of his thumb. He received a settlement of \$2,100.

101. Shortly after he returned from disability leave in 2003, Mr. Taylor lost his job. He has not been able to find employment since then and his experience in the printing business is now out-of-date.

102. Mr. Taylor regularly works seven hours a day on Thursdays and Fridays for the New York City Department of Sanitation as part of a public assistance employment program.

103. Mr. Taylor lives in a one-room New York City Housing Authority apartment.

104. Mr. Taylor's food stamps run out after only two weeks due to the recent increases in the cost of food. After his food stamps and basic grant are exhausted, he generally eats only one meager meal per day. On many days, he does not eat a single meal.

105. Mr. Taylor's basic grant lasts only a few days. He spends the rest of the month struggling to meet his basic needs. Mr. Taylor often cannot afford to use public transportation. This makes it difficult for him to keep his appointments and to find work.

106. Most of Mr. Taylor's clothes are donated. He sometimes can afford to shop in thrift stores. Mr. Taylor cannot afford a telephone.

107. As a result of his workplace accident, Mr. Taylor's left thumb is often painful and it is difficult for him to carry things. His application for SSI was denied.

108. Mr. Taylor often feels depressed and anxious. His dramatic change in circumstances since he lost his job contributes to his feelings of depression.

Plaintiff Ivan Coppin

109. Plaintiff Ivan Coppin and his sister, Ramona Coppin, receive a basic grant of \$109 per month. Mr. Coppin receives approximately \$161 per month in food stamps.

110. Mr. Coppin was born in Atlantic City in 1951.

111. Mr. Coppin left high school in the 12th grade, but has passed the General Educational Development tests. In 1972, he enrolled in Atlantic City Community College, where he took courses in English and African-American studies and trained as a cook.

112. Mr. Coppin worked as a short-order cook from 1972 to 1977. He then took a job with the City of Atlantic City, where he worked as a truck driver, laborer and equipment operator for a total of seventeen years.

113. Mr. Coppin plans to seek work as a truck driver again. He recently obtained a license from New York State that will allow him to take a pre-licensing test and a road test. Mr. Coppin had to pay \$56 for this license. It took him six months to save this sum.

114. Mr. Coppin lived in the New York City shelter system for eighteen months. He now shares an apartment with his sister. Mr. Coppin receives Housing Shelter Plus assistance for his rent. This money goes directly to his landlord. Because he has been receiving this form of assistance for more than one year, Mr. Coppin is now required to contribute 20% of the costs of his rent. He cannot afford to make these payments, and his landlord is trying to evict him.

115. Mr. Coppin's food stamps usually last just three weeks. When his food stamps run out, Mr. Coppin must rely on the soup kitchen at a local church for a hot

meal. This will often be his only proper meal of the day once his food stamps are exhausted.

116. Mr. Coppin sometimes works three days a week in a public assistance employment program. He cannot afford to buy prepared food on these days, so he often eats nothing while he is out of his apartment.

117. The money from Mr. Coppin's basic grant never lasts through the entire month. Mr. Coppin spends \$60 per month on gas and electric bills. He often runs out of money for personal items such as toiletries. Mr. Coppin struggles to pay for public transportation. He is entitled to monthly reimbursement of \$48 for a MetroCard, but he must pay for the card up front and he often cannot afford to do this. Every month, Mr. Coppin has to borrow money to cover these basic needs. When he receives his basic grant, it is gone within a few days because he has to repay his debts from the previous month.

Plaintiff Jose Torres

118. Plaintiff Jose Torres receives a basic grant of \$68.50 twice a month and receives approximately \$162 a month in food stamps.

119. Mr. Torres was born in 1965 in Bronx, New York.

120. Mr. Torres left high school after the tenth grade and enlisted in the United States Army. He was a member of the Air Assault 11 Bravo Unit. He served in the Army for three years on active duty and for four years as a reserve. He was honorably discharged. After leaving the Army, Mr. Torres worked as a messenger and then as a security guard at 299 Park Avenue, New York, for twelve years.

121. Mr. Torres lives alone in the Bronx.

122. Mr. Torres's food stamps run out after about two and a half weeks.

For the rest of the month Mr. Torres depends on soup kitchens and food pantries. He regularly skips meals and occasionally goes an entire day without eating.

123. Mr. Torres's basic grant typically lasts only a couple of days.

Once he has paid for laundry, public transportation, and basic needs such as toiletries and cleaning products, he has nothing left.

124. Earlier this year, Mr. Torres's public assistance was suspended for three months when he missed a work appointment. During this time he had no income. He survived on food from soup kitchens and food pantries. On one occasion, he was so hungry that he ate a can of dog food that a store-owner gave him.

125. Mr. Torres suffers from depression and anxiety, for which he takes prescription medication. He often feels anxious and depressed about his circumstances.

Plaintiff Luis Mora

126. Mr. Mora receives a basic grant of \$137 per month and monthly food stamps worth approximately \$162.

127. Mr. Mora was born in 1957 in St. Francis Hospital in Bronx, New York.

128. Mr. Mora attended public schools in the Bronx and in Brooklyn through the seventh grade.

129. Mr. Mora has worked as a bar manager and as a messenger. It is difficult for him to find employment because he has a criminal record, even though the

longest period he served in prison was ten months and he has not been in prison or on probation during the past ten years.

130. Mr. Mora lives in cramped conditions with his daughter, his mother, and his brother. He has his own room in their shared house, but it only has space for a bed.

131. Mr. Mora's mother is 76 years old and her health is failing. He does not know how he will manage if he can no longer live with her.

132. Mr. Mora's basic grant lasts only half-way through the month. Mr. Mora sometimes does not leave his house because he has completely run out of money. Mr. Mora cannot afford to buy clothes. He occasionally can buy supplies at the "99 Cent" Store.

133. Mr. Mora often walks long distances because he cannot afford to use public transportation. He has osteo-arthritis in his back, knee and hip, and walking causes him pain. His condition is worse when it rains or when the weather is cold.

134. Mr. Mora suffers from depression, for which he takes prescription medication. His circumstances cause him to feel worthless and anxious.

Plaintiff William Quinones

135. Plaintiff William Quinones receives a basic grant of \$137 per month and approximately \$152 in food stamps. He also receives an additional \$64 per month in the form of a food allowance because he does not have access to cooking facilities.

136. Mr. Quinones was born in 1954 in Bronx, New York.

137. Mr. Quinones completed high school and attended New York University for three years. He left college when his Basic Educational Opportunity Grant was cut off and worked as a salesman in Puerto Rico for two years. Mr. Quinones worked for eighteen years as a security guard for East River Housing.

138. Mr. Quinones has applied through New York State's Vocational and Educational Services for Individuals with Disabilities program to be trained as a paralegal.

139. Mr. Quinones currently lives in a New York City transitional shelter, where he shares a bedroom with three other people. The shelter has no cooking facilities or common areas.

140. Before he moved into the shelter, Mr. Quinones slept on the sofa in the sitting room of a friend's apartment. He had no privacy in the apartment, which was moldy and infested with mice.

141. Mr. Quinones's food stamps and extra food allowance do not last the entire month. He often eats just one meal a day in order to stretch his food resources further.

142. Mr. Quinones's basic grant does not last through the month and he often has no money to buy anything. Mr. Quinones washes his clothes by hand because he cannot afford a laundromat.

143. Mr. Quinones's daughter recently had a baby. He cannot afford to buy anything for his new grandchild.

144. Mr. Quinones suffers from asthma. He feels ashamed of his situation and often feels depressed about it.

Plaintiff Anibal Diaz

145. Plaintiff Anibal Diaz receives a basic grant of \$137 per month. He also receives approximately \$156 in food stamps.

146. Mr. Diaz was born in New York City in 1956. He grew up in Spanish Harlem and in the Bronx.

147. Mr. Diaz left school after the eighth grade, when his stepfather died and Mr. Diaz needed to work to support his mother and his siblings.

148. Mr. Diaz has worked for almost all his adult life. He has worked in stores, as a messenger and delivery man, and as a supervisor in an apartment building.

149. Mr. Diaz became homeless in 1999, when the business for which he was working failed and he lost his job. He lived in a shelter on Ward's Island for three years.

150. Mr. Diaz now lives in supportive housing in Chelsea. The fact that he lives in one of the most expensive areas of New York City means that he must travel out of his neighborhood to purchase food and other necessities. These added public transportation costs further drain his limited resources.

151. Mr. Diaz cannot afford to eat three meals a day. On a typical day he has coffee and a donut for breakfast, and gets through the rest of the day on a small snack such as a few chicken wings.

152. Mr. Diaz's basic grant typically runs out within 10 days. He spends approximately \$40 per month on laundry. He spends \$8.50 a month on a cable

service and \$17 a month to have air-conditioning in his apartment. Mr. Diaz is left with only about \$75 per month to cover all his other needs, including transportation, toiletries and other essential household items.

153. Mr. Diaz is almost completely blind in one eye. He was stabbed in an altercation with his brother-in-law in 1977 and still feels pain from this wound. He also suffers from asthma and arthritis.

154. Mr. Diaz takes prescription medication for depression and schizophrenia. He often feels despair about his circumstances.

Plaintiff Bennie Wallace

155. Plaintiff Bennie Wallace receives a basic grant of \$135 twice a month and receives approximately \$227 a month in food stamps for himself and his eleven-year-old daughter, Aniya Wallace.

156. Mr. Wallace was born in 1966 in Bronx, New York.

157. Mr. Wallace completed the eleventh grade in high school. He left school to work with his uncle, who owned a floor-waxing business.

158. Mr. Wallace has worked for almost his entire adult life. For most of his career he worked as a truck-driver, but has also worked as a messenger, as an assistant in a home for the elderly, and as a driver for Metro-Access, a service in Maryland that provides transportation for disabled people.

159. Mr. Wallace and his daughter live in a family shelter in the Bronx.

160. Mr. Wallace's food stamps usually run out after three weeks. At the end of the month, Mr. Wallace often skips meals, or eats just one meal a day, to ensure that his daughter does not go hungry.

161. Mr. Wallace's basic grant typically lasts for about a week. He spends about \$40 a month on laundry so that he and his daughter can have clean clothes. Mr. Wallace constantly has to refuse his daughter's requests for even inexpensive items of clothing or toys. Often they cannot afford to use public transportation.

CLASS ACTION ALLEGATIONS

162. In addition to bringing this action on their own behalf, plaintiffs bring this action as a class action, under Article 9 of the New York Civil Practice Law and Rules, on behalf of all present recipients of New York State's basic public assistance grant.

163. The number of persons in the class is so numerous — in the tens of thousands — that joinder of all members would be impracticable.

164. Because all members of the class receive a grant under the schedule outlined in Section 131-a of the Social Services Law, there are questions of law or fact common to the class which predominate over any questions affecting only individual members.

165. The plaintiffs will fairly and adequately protect the interests of the class.

166. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

STATEMENT OF CLAIMS

FIRST CAUSE OF ACTION New York State Constitution, Article XVII

167. Plaintiffs incorporate and re-allege paragraphs 1 through 166, above, as though fully set forth herein.

168. The Legislature and other defendants have neglected, for the last nineteen years, to make any fact-based determination of the level at which the basic grant must be set in order to meet the most basic needs of destitute individuals and families in New York State.

169. The Legislature has failed, for the last nineteen years, to engage in any meaningful consideration of the level at which the basic grant must be set to meet the most basic needs of destitute individuals and families in New York State.

170. This history of inaction constitutes a violation of the obligation under Article XVII of the Constitution of the State of New York to determine “from time to time” what resources are necessary to ensure the “aid, care and support of the needy.”

SECOND CAUSE OF ACTION New York State Constitution, Article XVII

171. The assistance provided by the basic grant is grossly inadequate to meet the most basic needs of destitute individuals and families in New York State. The basic grant is set at a level that does not genuinely or meaningfully address even the most brutal needs of impoverished New Yorkers.

172. This failure to provide for the basic needs of New York’s most vulnerable citizens constitutes a violation of the obligation under Article XVII of the

Constitution of the State of New York to provide for “the aid, care and support of the needy.”

PRAYER FOR RELIEF

Wherefore, plaintiffs respectfully request that this Court enter judgment:

(a) certifying this action as a class action pursuant to CPLR 902;

(b) declaring that the defendants’ failure to make any fact-based determination of the minimum basic public assistance grant required to provide meaningful aid, care, and support to the needy for nineteen years violates Article XVII of the New York Constitution;

(c) declaring that the current amount of the basic public assistance grant violates Article XVII of the New York Constitution;

(d) enjoining the defendants to (i) make a fact-based determination of the minimum basic public assistance grant required to provide meaningful aid, care, and support to the needy, and (ii) increase the amount of the basic public assistance grant to an amount adequate to provide meaningful care, aid, and support of the needy as required by Article XVII of the New York Constitution; and ordering that, if defendants fail to comply forthwith, defendants shall be enjoined to increase the basic public assistance grant in an amount to be determined at trial in this Court.

(e) awarding reasonable attorneys’ fees, as provided by the New York State Equal Access to Justice Act;


(f) awarding reasonable attorneys’ fees, as provided by CPLR 909;

(g) awarding costs and disbursements; and

(h) granting such other and further relief as the Court may deem just and proper.

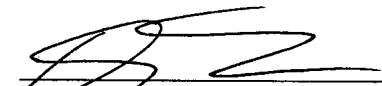
Dated: New York, New York
December 8, 2008

Respectfully submitted,



Marc Falcone

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