

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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DAVID FLOYD, *et al.*,

Plaintiffs-Appellees,

-against-

THE CITY OF NEW YORK,

Defendant-Appellant.

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Docket No. 13-3088

**DECLARATION IN
SUPPORT OF MOTION TO
DISMISS**

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

1. I am an associate with Beldock Levine & Hoffman LLP, attorneys for Plaintiffs-Appellees in the above-captioned appeal, along with co-counsel the Center for Constitutional Rights and Covington & Burling LLP.

2. I submit this declaration in support of the motion by Plaintiffs-Appellees to dismiss this appeal in its entirety for lack of jurisdiction, and to provide this Court with pertinent background information.

3. The City of New York (the "City") opposes this motion, and it intends to submit a response. We request the following briefing schedule: (1) the City's response due Monday, October 7, 2013; (2) Plaintiffs-Appellees' reply due Tuesday, October 15, 2013.

4. A bench trial of this action was held from March 18, 2013 to May 20, 2013.

5. Over one-hundred witnesses testified, generating over 8,000 pages of transcript.

6. Over 400 exhibits were admitted.

7. On June 12, 2013, two weeks after the close of evidence, the parties submitted Proposed Findings of Fact and Conclusions of Law and Post-Trial Briefs to the district court.

8. For the reasons set forth more fully in the accompanying memorandum of law, this appeal should be dismissed in its entirety.

9. The City has moved for a stay pending appeal. *See* Dkt. # 72. Because this Court lacks jurisdiction to hear the appeal, this Court also lacks jurisdiction to consider the City's request for a stay pending appeal. We therefore respectfully request that the Court consider Plaintiffs-Appellees' motion to dismiss in tandem with the City's motion for a stay.

Dated: New York, New York
September 24, 2013


JENN ROLNICK BORCHETTA