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

THE COUNCIL OF THE CITY OF NEW YORK

Plaintiff-Petitioner,

For a Judgment Under Article 78 of the
Civil Practice Law and Rules

-against-

MAYOR ERIC ADAMS, in his official capacity as Mayor of the City of New York, RANDY MASTRO, in his official capacity as First Deputy Mayor, and the NEW YORK CITY DEPARTMENT OF CORRECTION,

Defendants-Respondents.

Index No. 154909/2025

REPLY AFFIRMATION IN SUPPORT OF MOTION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF

I, Meghna Philip, affirm the following pursuant to Rule 2106 of the Civil Practice Law and Rules:

1. I am an attorney at The Legal Aid Society, counsel for proposed *amici curiae* The Legal Aid Society, Office of the New York City Public Advocate, Bronx Defenders, Brooklyn Defender Services, Immigrant Children Advocates' Relief Effort, Immigrant Defense Project, LatinoJustice, Make the Road New York, New York Civil Liberties Union Foundation, Neighborhood Defender Service of Harlem, New York County Defender Services, New York Legal Assistance Group, New York Immigration Coalition, Queens Defenders, and UnLocal (collectively, "Proposed *Amici*"). I am duly admitted to this court, and submit this affirmation in support of Proposed *Amici*'s motion for leave to file an *amicus curiae* brief.

2. Respondents conflate their disagreement with the substance of Proposed *Amici*'s brief with their conclusion that our brief should not be permitted before this Court. Respondents also narrowly and improperly construe the standard for New York State Supreme Courts' evaluation of proposed *amici curiae* and mischaracterize the arguments within our brief. This case is of vital public importance and its outcome will have significant consequences for thousands of New Yorkers who are members, clients, and constituents of our organizations. Our brief usefully and distinctively illuminates these consequences for the Court, and will be of assistance to the Court's determination of the legal issues in this case. The Court should therefore grant leave for The Legal Aid Society, the Office of the Public Advocate, and our thirteen co-*amici*, to file our *amicus curiae* brief.

3. Proposed *Amici* clearly fulfill all the factors articulated in *Kruger v. Bloomberg*, and applied by numerous trial courts, to evaluate whether to accept an *amicus curiae* brief: (1) we have applied by order to show cause, the preferable procedure, so as not to interfere with the main action; (2) we have clearly articulated our substantial interest in the issues to be briefed; (3) as our affirmation in support indicates, we are drawing the court's attention to particular facts and arguments regarding irreparable harm that are not the focus of the merits briefing, and that we are uniquely situated to illuminate, and our brief would be of special assistance to the court; (4) our application does not prejudice the rights of the parties and does not delay the proceedings; and (5) this case obviously concerns questions of vitally important public interest. 1 Misc.3d 192, 198–99 (Sup. Ct. N.Y. Cty. 2003). Courts routinely accept *amicus* briefs where just some of the *Kruger* factors are met, and "[i]n cases involving questions of important public interest leave is generally granted to file a brief as *amicus curiae*." *Empire Ctr. for Pub. Policy v. New York State Dep't of Health*, 72 Misc. 3d 759, 768 (Sup. Ct. Albany Cty. 2021) (accepting amicus brief because it would

be of special assistance to the court, would not prejudice either party, and because the case involved questions of important public interest); *see also MacArthur Properties, LLC v. Metro. Transportation Auth.*, 61 Misc. 3d 1204(A) (Sup. Ct. N.Y. Cty. 2017) (accepting amicus brief over a party's objection, where "satisfied that it *may* be of special assistance to the court . . . [and] the issue is of important public interest as well as of concern to the [industry represented by amici].").

4. Respondents' argument against our application for *amicus* status boils down to a misleading characterization of our brief as duplicative of Petitioner's briefing, on the basis that both briefs address the issue of irreparable harm. NYSCEF No. 56 at 8. Irreparable harm is, of course, one of the key factors this Court must evaluate in determining whether to issue a preliminary injunction, and that our brief pertains to this aspect of the court's prospective analysis only makes it highly relevant to this litigation and supports our application for *amicus* status. Our brief addresses irreparable harm in numerous ways that are distinct from Petitioner's briefing, and that would be of special assistance to the Court. For example, our brief gives a detailed history of the specific conduct of ICE and DOC during the time when ICE maintained an office on Rikers Island. Petitioner's briefing does not include this specific history, which is relevant to the Court's analysis of potential future harm by the same agencies. Our brief also contains significant detail about the immigration practices of the current federal administration, and includes distinct factual arguments for the Court's consideration, based on *amici*'s expertise and experiences, such as how EO 50 would lead to data aggregation and information-sharing between DOC and ICE for immigration enforcement. Finally, our brief gives the Court particular and illustrative examples of irreparable harm based on the experiences of constituents, clients, and members of our organizations, including those currently incarcerated on Rikers Island.

5. Respondents' remaining arguments are irrelevant to the Court's analysis of whether to accept our brief. First, they argue that Petitioner fails to meet the burden of demonstrating irreparable harm, and that *amici*'s brief also does not demonstrate irreparable harm. *Amici* do not purport to take on the role of a party to this litigation, but rather "invite the court's attention to law or arguments [about irreparable harm] which might otherwise escape its consideration;" and, of course, *amici* disagree with Respondents' substantive analysis of irreparable harm. *Kruger*, 1 Misc.3d at 198. Next, they argue that potential witness testimony from "community groups" at the preliminary injunction hearing makes our brief "cumulative." Petitioner has indicated that it does not intend to call any witnesses from "community groups," or introduce any potentially duplicative testimony, at the preliminary injunction hearing. NYSCEF No. 58. And regardless, any considerations about prospective live testimony are irrelevant to the *Kruger* factors.

I affirm under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true.

Dated: New York, New York
May 19, 2025

/s/ Meghna Philip
Meghna Philip