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June 14, 2006

BY HAND

Hon. Roseann B. MacKechnie
Clerk of the Court
U.S. Court of Appeals
for the Second Circuit
40 Foley Square - 18th Floor
New York, NY 10007

Re: Lopez Torres v. New York State Board of Elections,
06-0635-cv

Dear Ms. MacKechnie:

In response to the panel's request at oral argument in the above-captioned case, the Attorney General of the State of New York, as statutory intervenor pursuant to 28 U.S.C. § 2403(b) and on behalf of the New York Legislature as amicus curiae, submits this letter proposing a time frame for the potential implementation of any remedy that the Court might order in this matter.

For the reasons identified in Appellants' briefs and at oral argument, we believe that the judicial convention system in its current form is constitutional. Should the Court nonetheless conclude that the statutes at issue are constitutionally infirm, the Attorney General urges the Court to afford the New York Legislature until June 30, 2007 to enact any new legislation that may be necessary in light of the Court's decision. The new Legislature will be sworn in on the first Wednesday of January 2007. This timeframe would allow the Legislature a reasonable opportunity - until the conclusion of its regularly-scheduled 2007 session - to properly deliberate on a policy matter of great public import, and to vote on any proposed legislation.

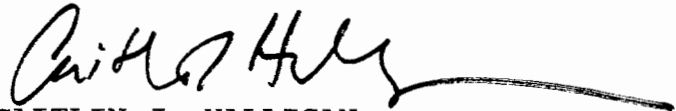
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In the interim, the district court could conduct additional proceedings, including, if necessary, a hearing regarding the question of an appropriate remedy in the event the Legislature fails to act.

Pursuant to this proposed schedule, any remedy imposed by this Court or by the district court could become effective by December 31, 2007, which is approximately the time when the 2008 election cycle will begin for candidates for the office of Supreme Court Justice. See 22 N.Y.C.R.R. § 100.0(Q) (the "window period" for permissible political activity begins "nine months before a . . . judicial nominating convention . . . for the elective judicial office for which a judge or non-judge is an announced candidate"); N.Y. Elec. Law § 6-158(5) ("A judicial district convention shall be held not earlier than the Tuesday following the third Monday in September preceding the general election and not later than the fourth Monday in September preceding the general election.").

This schedule strikes a proper balance. It affords legislators answerable to the electorate sufficient time to deliberate about a matter that has been subject to considerable public debate, but nonetheless establishes a deadline by which the Legislature must take action. At the same time, the schedule provides the district court with sufficient time to conduct a hearing to consider more adequately the imposition of a proper remedy in the event that the Legislature fails to take action, and prevents a judicially-imposed change in the middle of an election cycle.

Respectfully submitted,



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