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January 28, 2022

VIA EMAIL AND NYSCEF

Justice Lyle E. Frank
Supreme Court of the State of New York
New York, NY 10007
email: lfrank@nycourts.gov

Re: *NYC Organization of Public Service Retirees, Inc. et al v. Renee Campion et al*, Index No. 158815/2021

Dear Justice Frank:

We represent Petitioners in the above-captioned matter.

The Petitioners just received a copy of the City's latest letter to Your Honor, requesting that the hearing date you set for February 23rd "be advanced to the soonest possible date." Petitioners strongly oppose any such change for several reasons:

The City and Alliance's "enhanced educational informational efforts" are a disaster. We have been preparing a response to the City's latest update to the Court, which we will submit soon. But the "highlights" include:

- Retirees who request printed enrollment guides are being sent documents from Empire and Anthem that have absolutely nothing to do with the City's new Medicare Advantage Plan (MAP). In the last week Petitioners have been sent evidence from retirees who requested enrollment guides and received booklets for the New York Hotel Trades Council and Hotel Association; for a California IBEW plan; and for an Empire Mediblu Freedom plan. Retirees are preparing affidavits attesting to the receipt of these non-relevant plans.
- Retirees who request printed copies of the MAP's Evidence of Coverage are being told none are available.
- The Alliance's doctor participation search tool continues to return simply erroneous information: it lists doctors as participating who are not.
- The webinars being hosted by the City and the Alliance are little more than one-way commercials. Retirees can't ask live questions; and questions that they post in chat boxes are not answered.

- Callers to the Alliance’s 833-telephone call center are still being given misleading and often contradictory information. Ironically, one piece of information inadvertently shared with a retiree was that if he wanted to ensure that he was actually opted-out of the new MAP, he had better do so by February 10th. Now we know why.

Petitioners will provide a more comprehensive analysis – with documentation – of the City/Alliance’s “enhanced education” effort soon.

The March 31st opt out deadline is a sham and disingenuous; and the City’s request to transfer data and rush the process is dangerous. Back in November, the Alliance asked the Court for permission to begin data preparation and transfer. We outlined the many problems associated with such a data transfer, the City admitted it misrepresented what such a data transfer entailed, and the Court set a new March 31st opt-out deadline. Now the City and the Alliance are saying that if they obey the Court’s Order, it will “require shutdown of the City’s payroll system and the work of hundreds of people each working hundreds of hours to manually transfer each retiree.”

We reiterate our earlier objections to the data transfer, and suggest that the City’s track record of its irrational, misleading, and inadequate educational plan is only a harbinger of the disasters likely to follow if they are allowed to rush into a data transfer. Retirees will be irreparably harmed.

The underlying legality of the City’s plan is yet to be determined. Your Honor told us to be ready to argue the underlying legality of the City’s plan on February 23rd. The City is again asking the Court to ignore the law and abandon its role – and just let the City do what it wants to do.

Petitioners are preparing a dispositive motion. We plan to file a dispositive motion with the Court shortly so that the underlying merits can be discussed fully and thoughtfully with the Court. Rushing the process serves no one.

We ask that Your Honor’s plan for a February 23rd hearing stand; that the City be prohibited from transferring any data; and that the City and the Alliance fix its broken “enhanced educational informational efforts”. Retirees deserve accurate information and adequate time to make an informed decision.

Thank you for Your Honor’s attention and consideration.

Sincerely,
/s/ Steve Cohen
Steve Cohen

Justice Lyle Frank
January 28, 2022
Page 2 of 2

cc (via email): Rachel DiBenedetto, Esq.
William Fraenkel, Esq.
Michael DeLarco, Esq.