

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

MARGARET GODFREY, ROSEMARIE
JAROSZ, GEORGE V. IMBURGIA and
JOSEPH ROSSINI,

Plaintiffs,

- against -

THOMAS P. DiNAPOLI, in his official capacity
as the New York State Comptroller and Sole
Trustee of New York State and Local Retirement
System,

Defendant,

-and-

PERI RAINBOW and TAMELA SLOAN,

Defendants-Intervenors.

Index No. 5896/06

Hon. Thomas J. McNamara

**VERIFIED ANSWER OF
DEFENDANTS-INTERVENORS**

Defendants-Intervenors Peri Rainbow and Tamela Sloan are employees of the State of New York who were validly married in Canada and are entitled to retirement and pension benefits under the New York State and Local Retirement System ("Retirement System"). Ms. Rainbow and Ms. Sloan were married in Canada on August 22, 2005. Ms. Rainbow is employed by the State University of New York at New Paltz; Ms. Sloan by the West Park Union Free School District. They have each paid into the Retirement System for retirement and pension benefits for themselves, each other and their family. Each designated the other as her spouse in the Retirement System and as her beneficiary to her retirement and pension benefits upon death. Their interests in the important benefits to which they are entitled as public employees and as spouses of public employees are at stake in the above-captioned action. By Decision & Order dated April

5, 2007, the Court, by the Honorable Thomas J. McNamara, Acting Supreme Court Justice, granted Defendants-Intervenors' unopposed motion to intervene. By their undersigned counsel, Defendants-Intervenors answer the Verified Complaint (the "complaint") as follows:

1. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations contained in paragraph 1 of the complaint, except they admit that Plaintiffs commenced this action against Defendant Alan G. Hevesi in his former official capacity as the New York State Comptroller and Sole Trustee of New York State and Local Retirement System, that Thomas P. DiNapoli in his official capacity as current New York State Comptroller and Sole Trustee of New York State and Local Retirement System has been substituted for Mr. Hevesi as Defendant, and that Plaintiffs purported to commence this action pursuant to New York State Finance Law § 123-b.

2. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations regarding Plaintiffs contained in paragraph 2 of the complaint. The remaining allegations are denied.

3. Defendants-Intervenors admit that Plaintiffs seek relief against Defendant. The remaining allegations in paragraph 3 are denied.

4. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations contained in paragraph 4 of the complaint.

5. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations contained in paragraph 5 of the complaint.

6. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations contained in paragraph 6 of the complaint

7. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations contained in paragraph 7 of the complaint.

8. Defendants-Intervenors admit that Plaintiffs commenced this action against Alan G. Hevesi in his former official capacity as the New York State Comptroller and Sole Trustee of New York State and Local Retirement System, and are without knowledge or information sufficient to aver the truth of the remaining allegations contained in paragraph 8 of the complaint.

9. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations regarding Plaintiffs' residency contained in paragraph 9 of the complaint. The remaining allegations are denied.

10. Defendants-Intervenors admit that the office of the Defendant issued a written statement dated October 8, 2004. The remaining allegations in paragraph 10 of the complaint are denied, as the statement is a written document that speaks for itself.

11. Defendants-Intervenors admit that New York State currently does not issue marriage licenses to same-sex couples. The remaining allegations in paragraph 11 of the complaint are denied.

12. The allegations in paragraph 12 of the complaint are denied as conclusions of law. The courts' opinions are written documents, which speak for themselves.

13. The allegations in paragraph 13 of the complaint are denied. The court's opinion is a written document, which speaks for itself.

14. The allegations in paragraph 14 of the complaint are denied. The court's opinion is a written document, which speaks for itself.

15. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations contained in paragraph 15 of the complaint.

16. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations contained in paragraph 16 of the complaint.

17. The allegations in paragraph 17 of the complaint are denied.

18. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations contained in paragraph 18 of the complaint.

19. Defendants-Intervenors are without knowledge or information sufficient to aver the truth of the allegations contained in paragraph 19 of the complaint.

20. Defendants-Intervenors admit that Defendant issued a statement dated October 8, 2004. The remaining allegations in paragraph 20 of the complaint are denied, as the statement is a written document that speaks for itself.

21. Defendants-Intervenors incorporate their responses in paragraphs 1 through 20 herein.

22. The allegations in paragraph 22 of the complaint are denied.

23. The allegations in paragraph 23 of the complaint are denied.

24. The allegations in paragraph 24 of the complaint are denied.

25. The allegations in paragraph 25 of the complaint are denied.

26. The allegations in paragraph 26 of the complaint are denied.

27. The allegations in paragraph 27 of the complaint are denied.

28. The allegations in paragraph 28 of the complaint are denied.

29. The allegations in paragraph 29 of the complaint are denied.
30. The allegations in paragraph 30 of the complaint are denied.

AFFIRMATIVE DEFENSES

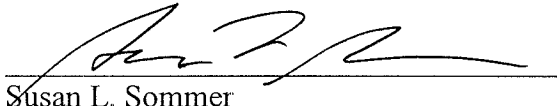
31. The complaint fails to state a claim upon which relief to Plaintiffs could be granted.
32. Plaintiffs lack standing to assert the claims alleged in the complaint.

WHEREFORE, Defendants-Intervenors respectfully request that the Court enter judgment denying all relief requested by Plaintiffs.

Dated: May 22, 2007

LAMBDA LEGAL DEFENSE
AND EDUCATION FUND, INC.

By: _____


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*Attorneys for Defendants-Intervenors
Peri Rainbow and Tamela Sloan*

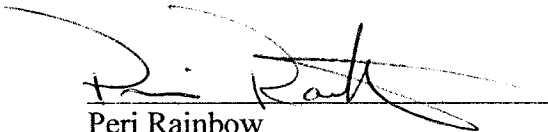
VERIFICATION

I, Peri Rainbow, the undersigned Defendant-Intervenor, state the following under the penalty of perjury:


I have read the foregoing **ANSWER OF DEFENDANTS-INTERVENORS** and know the contents thereof; the same is true to my own knowledge, except as to the matters I believe to be true.

DATED:

May 18, 2007


Peri Rainbow

Sworn before me this 18 day of
May, 2007.


Notary Public

KEVIN B. COOL
Notary Public in the State of New York
Resident in and for Ulster County
Commission Expires December 08, 2007
#01006102550

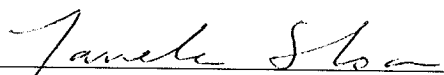
VERIFICATION

I, Tamela Sloan, the undersigned Defendant-Intervenor, state the following under the penalty of perjury:

I have read the foregoing **ANSWER OF DEFENDANTS-INTERVENORS** and know the contents thereof; the same is true to my own knowledge, except as to the matters I believe to be true.

DATED:

May 18, 2007

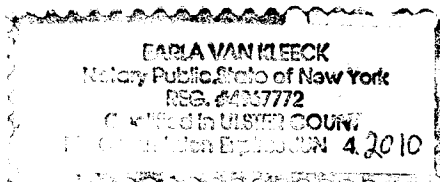


Tamela Sloan

Sworn before me this 18 day of
May, 2007.



Notary Public



CERTIFICATION OF SERVICE

I, Nick Tarasen, hereby certify that on May 22, 2007, I served a copy of the attached **VERIFIED ANSWER OF DEFENDANTS-INTERVENORS** upon all parties by forwarding the same via first-class mail to:

Joseph A. Ruta
RUTA & SOULIOS, LLP
1500 Broadway, 21st Floor
New York, NY 10036

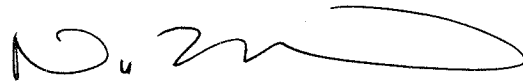
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Attorneys for Defendant



Nick Tarasen

Dated: May 22, 2007