

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

THE PEOPLE OF THE STATE OF NEW YORK,
and NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION,

Plaintiffs,

-against-

NORLITE, LLC.

Defendant.

Index No. 907689-22

**AFFIRMATION OF TODD D. OMMEN
IN SUPPORT OF MOTION TO INTERVENE**

I, Todd D. Ommen, an attorney duly admitted to practice law before the Courts of the State of New York, affirm under the penalties of perjury as follows:

1. I am an attorney at Pace Environmental Litigation Clinic, Inc., am over 18 years of age, and am not a party to this action. I submit this affirmation in support of Proposed Intervenor Plaintiffs' and Cross Plaintiffs' (collectively, "Plaintiffs") motion to intervene in the instant action.
2. Annexed hereto as Exhibit A is the proposed Complaint in Intervention of Plaintiffs.
3. Annexed hereto as Exhibit B is a true and correct copy of the December 7, 2022 Decision and Order of the Honorable Justice John J. Ark in *Fresh Air for the East Side, Inc. v. The State of New York, et al.* (Monroe County Index No. E2022-000699).
4. As fully set forth in the Complaint and the accompanying Memorandum of Law, Plaintiffs have a direct and substantial interest in the outcome of the instant action.

5. Plaintiffs' and members of Plaintiff organizations reside in close proximity to the Norlite Facility at issue here and are directly impacted by Norlite's emissions.
6. Plaintiffs have also suffered through decades of lack of full enforcement by the New York State Department of Environmental Conservation.
7. Accordingly, the proposed Complaint in Intervention shares common questions of law and fact with the instant action.
8. Further, as fully alleged in the Complaint, a proper resolution of this matter, including shutting down the Norlite Facility, is of vital importance to Plaintiffs.
9. As discussed in the Memorandum of Law, this motion for intervention is timely filed, and CPLR § 1013 is easily met.
10. For these reasons, we respectfully request that the Court grant Plaintiffs' motion to intervene in this action.

Dated: December 20, 2022
Dobbs Ferry, New York

Respectfully submitted,



Todd D. Ommen, Esq.
Managing Attorney
Pace Environmental Litigation Clinic, Inc.