

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

LEVI YODER, JONAS ZOOK, SAM ZOOK,
JOHN L. HERSHBERGER, MENNO S.
HERSHBERGER, URIE HERSHBERGER,
MENNO L. GLICK, ANDY A. MILLER,
DANNIE L. SWARTZENTRUBER, MOSIE
SWARTZENTRUBER, PETER D.
SWARTZENTRUBER, BISHOP HARVEY
MILLER, and BISHOP MOSE MILLER,

Plaintiffs,

Case No.: 09-CV-0007 (TJM/GHL)

v.

TOWN OF MORRISTOWN, LANETTA KAY
DAVIS, in her official capacity; FRANK L.
PUTMAN, in his official capacity; HOWARD
WARREN, in his official capacity; DAVID
STOUT III, in his official capacity; MARK
BLANCHARD, in his official capacity;
CHRISTOPHER COFFIN, in his official capacity;
and GARY TURNER, in his official capacity,

Defendants.

ECF CASE

AFFIDAVIT OF DANIEL P. GOLDBERGER

STATE OF NEW YORK)
)ss.
COUNTY OF NEW YORK)

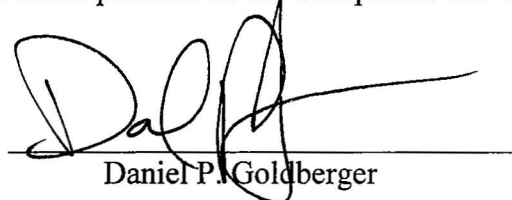
I, DANIEL P. GOLDBERGER, bring duly sworn, state:

1. I am associated with the firm Proskauer Rose LLP, attorneys for Plaintiffs. I
make this affidavit in support of Plaintiffs' Motion for Leave to File Sur-Reply.

2. Defendants filed a motion to dismiss or, in the alternative, to join necessary
parties on February 5, 2010. (Docket No. 42.)

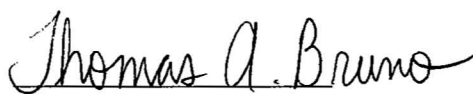
3. Plaintiffs filed their Opposition to that motion on February 19. (Docket No. 46).

4. On February 25, Defendants filed a Reply in support of their motion. (Docket No. 48). The Reply contained detailed argument on building codes, included lengthy attachments, and purported to make a new motion to strike portions of the Complaint. *See id.*



Daniel P. Goldberger

Sworn to before me this
2nd day of March, 2010



Notary Public

THOMAS A. BRUNO
Notary Public, State of New York
No. 01BR5088465
Qualified in Queens County
Commission Expires Nov. 17, 2013