To be argued by:
Joel B. Rudin, Esq.
(15 minutes requested)

NEW YORK SUPREME COURT
APPELLATE DIVISION—FIRST DEPARTMENT

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

- against -

FABIAN COKE,

Defendant-Appellant.

Appellate Case Nos. 2018-2162, 2023-4374

REPLY BRIEF FOR DEFENDANT-APPELLANT

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Indictment No. 70/15 (Bronx County)

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INTRODUCTION

Because the evidence of guilty intent is so utterly lacking in the trial record, Respondent resorts to fiction, throughout its brief, to salvage this indefensible conviction. Respondent asserts, without citing the record, that Appellant Fabian Coke "drove around the vicinity" of the crime with his codefendants, Resp. Br. 17, but there's no such testimony. "Defendant and Brown exited the vehicle," Respondent repeatedly proclaims, *id.*; *see also id.* at 2, 26, 27, but there is no such evidence either. Respondent repeatedly fantasizes that Coke "pulled back the slide on the handgun himself . . . and loaded the cartridge into the chamber," *id.* at 26; *see also id.* at 19, and took part in "shooting the victim," *id.* at 2—but nothing in the record establishes this. Finally, Respondent repeatedly asserts, again without citing the record, that Coke "readied the gun to be fired and knew the purpose for approaching the victim," *id.* at 28; *see also id.* at 27—but this, too, is pure confabulation. Respondent asserts "facts" throughout its brief that it wishes the Court to assume, but its dishonesty is exposed by its lack of citation to the record. The "facts" Respondent constantly repeats do not exist.

Respondent's brief would be fun reading if it were a John Grisham novel, but this is real life. Fabian Coke really is in prison, going on ten years. And he continues to face a District Attorney's Office that appears to believe it can contrive facts, mislead the Court, and bluff its way to an affirmance.

What are the core facts upon which Respondent's speculations are based? When one considers them, Respondent's extrapolations are truly shocking. Surveillance video purportedly showed Mr. Coke at a gas station, with a codefendant, *an hour and 38 minutes* before the crime—not at the time of it. Two or three of his cells allegedly were found on the slide of the gun used in the murder, but they were found alongside the cells of *at least* two other people. With the prosecution's own expert admitting those cells could have been transferred onto the gun by a third party who touched Mr. Coke or some object he had touched—and that this could have happened minutes, hours, even days before the shooting—the DNA evidence proved nothing related to the crime. Finally, a bottle of liquor that Mr. Coke and a codefendant allegedly purchased several hours before the crime was still in the vehicle after the shooting—but other bottles they purchased were not. That's everything the prosecution established. From these core facts, Respondent confabulates its novel.

Passing off fiction as fact is not all Respondent does to mislead this Court; it also ignores inconvenient legal standards. This Court, while "viewing the evidence in the light most favorable to the People, must decide whether a jury could rationally have excluded innocent explanations of the evidence." *People v. Reed*, 22 N.Y.3d 530, 535 (2014). Respondent's brief, prepared by highly-experienced appellate lawyers, conveniently ignores the "excluded innocent explanations" part

of this standard. Contrary to Respondent's approach, although the "wholly circumstantial evidence" must be viewed "most favorabl[y] to the prosecution . . . , the facts and inferences drawn must be so reasonable that they cannot be confused with mere conjecture or suspicion." *People v. Angel*, 158 A.D.2d 145, 150 (1st Dep't 1990) (internal quotation marks omitted); *accord Langston v. Smith*, 630 F.3d 310, 314-15 (2d Cir. 2011) ("[I]t is not enough that the inferences in the government's favor are permissible"; they must be "sufficiently supported to permit a rational juror to find that [guilt] is established beyond a reasonable doubt" (internal quotation marks omitted)). If speculation and surmise were sufficient and reasonable hypotheses of innocence could be ignored, then the controlling standard set forth in *Reed* would be meaningless.

Here, instead of showing that rational inferences from the trial evidence point only to Fabian Coke's guilt, Respondent repeatedly speculates about "possibilit[ies]" that the evidence "does not preclude," Resp. Br. 22, while ignoring reasonable hypotheses of innocence arising from the same core facts. If the evidence showed more than mere "possibilities," Respondent would not have to resort to fictional flights of imagination. That something is "possible" does not make it true. Indeed, Respondent ignores the long-established rule that inferences from circumstantial evidence about what is "possible" or "plausible" are insufficient to sustain a conviction. *People v. Way*, 59 N.Y.2d 361, 367 (1983).

Based upon conjecture about what is "possible," Respondent would confine Fabian Coke in prison for the rest of his life.

Faced with an insurmountable lack of evidence, Respondent invokes the District Attorney's best friend: a preservation challenge. But even these prosecutors don't have the gall to dispute what is plain in the record: that defense counsel *explicitly argued* that there was insufficient evidence of guilty intent. Indeed, Respondent *admits* that the appellate claim of insufficient evidence of criminal intent is preserved. Resp. Br. 13. However, through sleight of hand, Respondent then tries to pass off part of Mr. Coke's preserved lack-of-intent argument as an unpreserved lack-of-presence challenge. But, in fact, our principal contention on appeal is lack of criminal intent, just as trial counsel asserted. There is insufficient evidence of intent to kill where, as defense counsel argued in moving to dismiss, innocent interpretations of the record abounded and nothing Mr. Coke did established beyond a reasonable doubt that he intended the crime.

ARGUMENT

In this circumstantial case, where Respondent cannot rule out innocent explanations of the evidence and relies on rank speculation, Respondent has not refuted our showing that the evidence was legally insufficient and the verdict was against the weight of the evidence (replying to Respondent's brief at pp. 13-28).

A. Contrary to Respondent's brief, the jury could not have rationally concluded beyond a reasonable doubt, and should not have concluded, that Mr. Coke intended for anyone to be killed.

In our opening brief, we showed that a rational jury could not have found beyond a reasonable doubt that Coke had the requisite "intent to cause the death of" Dune Jacobs. PL § 125.25(1); A.2; *see* Opening Br. 30-38. Respondent relies on colossal, impermissible leaps of logic in arguing otherwise.

First, Respondent cites no evidence that Coke did anything to prepare or facilitate the crime before the car arrived at the crime scene. Coke's involvement in purchasing liquor did not evidence criminal intent.

Second, Respondent cites no *evidence* that Coke did anything at the crime scene to show guilty intent, or even that he was there. As we have shown, Jenkins's and Brown's fingerprints were found on the doors of the Nissan used in the shooting, while a cellphone that was left in the car, presumably by its fleeing owner, had Arvey Valderrama's fingerprints on it. Meanwhile, neither Coke's cellphone nor his fingerprints were found anywhere in the car. *See* Opening Br. 8, 11. This strongly suggests that Jenkins, Brown, and Valderrama—not Coke—were

the three men that Sgt. Casey saw in the Nissan. T.82. Ignoring this evidence, Respondent offers no explanation for how a jury could rationally exclude the reasonable possibility that Coke, not even being present, lacked criminal intent.

Respondent's principal argument that Coke was present and then engaged in acts from which his criminal intent can be inferred is that a Moët Champagne box resembling one that Coke supposedly bought in the liquor-store video—3 ½ hours before the shooting—was found in the Nissan after the shooting. *See* Resp. Br. 19-20. Respondent speculates that Coke would not have left his liquor. But, in fact, the video and photographic evidence show that liquor that Coke allegedly participated in purchasing was gone from the car when the police seized it. The liquor-store video shows the men buying one bright green box, apparently Patrón tequila; a small clear bottle; and two dark boxes with large gold lettering reading "MOËT." But the photos of the car show only *one* Moët box, a black box with a crest that is clearly distinct from the liquor-store purchases, and neither the green box nor the clear bottle. *Compare* People's Trial Exhibit 100, "1417589470722 _dvr_ch12_main_20141201211000_20141201212059.dav," at "9:14:35 PM"; *id.* at "9:16:20 PM", *with* People's Trial Exhibits 55-63. If anything, this evidence suggests that Mr. Coke left the car and took most of the purchased liquor with him. Evidently, individuals were in and out of the car with different types of liquor. The presence of particular liquor bottles in the abandoned Nissan says nothing about

who was in the car immediately prior to the shooting, nor about who exited the car when the shooting happened and engaged in guilty acts. Notably, the police did not voucher the liquor bottles or test them for fingerprint or DNA evidence. *See* T.225-26.

As trial counsel argued, guilty intent could not be inferred beyond a reasonable doubt from vague circumstantial evidence that was susceptible to innocent explanation. For any number of reasons, Coke could have left behind a bottle of liquor he had previously participated in purchasing. Maybe he was going to visit a girlfriend or take care of some other personal business, viewed carrying the liquor as burdensome, and planned on retrieving it later. Maybe he just forgot one bottle. The liquor "evidence," so heavily relied on by Respondent, does not, by any valid line of reasoning, support an inference of guilty intent beyond a reasonable doubt. If anything, the fact that liquor he had purchased was no longer present in the car was and is *exculpatory*.

Even if, *arguendo*, Coke was in the car when the shooting occurred, there still is nothing besides sheer speculation to prove that Coke intended Jacobs's death. It was rational for the jury to conclude that three men were in the car, as Sgt. Casey testified; that Jenkins, whose fingerprints were on the driver's door, was driving; and that someone got out of the car and shot Jacobs. However, there is simply no evidence proving Respondent's utter speculation that both passengers

got out of the car and participated in the shooting and that Coke was one of them, or that Coke got out of the car alone and shot Jacobs, or that Coke supplied the handgun with the intention that Jacobs be killed. And even if such possibilities somehow may be reasonably inferred from the scant supportive evidence, the prosecution failed to disprove beyond a reasonable doubt the innocent inference that Coke did none of these things and thus did not exhibit any criminal intent.

Beginning with the question of how many people exited the car, the trial evidence points strongly to *one* person, not two. The surveillance video shows a single shadow moving away from and then back toward the car. *See* Opening Br. 13 (discussing People's Trial Exhibit 9). Respondent claims "it is not clear . . . whether any shadow can be seen," Resp. Br. 22, but the shadow, while subtle, is unmistakable. Respondent argues that the presence of this shadow "does not preclude the *possibility* that a second shadow was not captured on the videos, nor the *possibility* that the shadow was cast by defendant." *Id.* (emphasis added). But such musing about "possibilit[ies]" is precisely the kind of speculation that cannot rationally support a guilty verdict. The video that was in evidence, and that the jury actually saw, indicates that one person exited the car. And there is zero evidence indicating that Coke, rather than Brown or Valderrama, was the person who cast that shadow.

The firearm-related evidence also strongly points to one shooter. The three recovered shells matched the recovered Glock handgun, and the three recovered bullet fragments all were consistent with being fired from a Glock, suggesting a single shooter. *See* Opening Br. 10-11. In claiming that the bullet fragments were "inconclusive as to th[e] handgun," Resp. Br. 7, Respondent misleadingly omits the testimony of the prosecution's own witness that the bullet fragments were "consistent with being fired of [sic] a Glock firearm," T.421.

Respondent quotes the prosecutor's *summation remarks* (as if that was evidence) claiming that the autopsy proved that two people ambushed Jacobs because part of the fatal bullet glanced off Jacobs's skull. *See* Resp. Br. 20-21. But the prosecutor's argument makes as little sense now as it did at trial. The mere fact that part of the bullet glanced off Jacobs's skull does not prove, as Respondent would have it, that a second person must have caused her to turn her head as the first person fired at her. That is the height of unsupported speculation. Indeed, it is at odds with the prosecution expert's testimony that it was "almost impossible" to tell where the gun was in "relationship to where [Jacobs was] standing." T.470. Again, even if such speculation were permissible, Respondent does not, and a rational jury could not, exclude reasonable hypotheses of innocence arising from the same core facts.

Respondent also invokes the prosecutor's incorrect claim in summation that the 911 caller told police, "'I don't think they were shooting at me.' *They*." Resp. Br. 21 (emphasis added) (quoting T.589). As we have shown, *the caller never said this*. Asked by the 911 operator, "Do you know who shot your car?", the caller responded, "No no no no," and then, "No. I don't think that it was, it was me. I don't even think." People's Exhibit 10, A.25, at 0:23 and 1:56; *see* Opening Br. 22. Incredibly, Respondent contends that it was "fair comment on the evidence" for the prosecutor to misquote the 911 recording, Resp. Br. 45, and "it was for the jury to decide what the caller said to the 911 operator," *id.* at 22. In other words, in Respondent's view, this Court should not be concerned that the jury, having not heard the 911 recording during deliberations, likely relied on the prosecutor's misstatement of the evidence to convict Coke and should find that reliance on false argument is a legitimate basis for a murder conviction. That is outrageous.

There being no evidence to prove that Coke got out of the car, either with another passenger or alone, Respondent resorts to more speculation and misrepresentation to argue that Coke supplied the murder weapon intending that it be used to kill Jacobs. Respondent contends that, "[r]egardless of who the shooter was," *id.* at 19, the alleged presence of a few cells containing Coke's DNA on the gun slide (according to an OCME statistical tool of dubious reliability, *see*

Opening Br. 48-55) proves that Coke "primed the gun to be fired," Resp. Br. 19. It does not.

The DNA evidence supports no rational inference—certainly not one beyond a reasonable doubt—that Coke touched the gun under circumstances having anything to do with Jacobs's killing. The prosecution's DNA expert, Kendra Hardy, agreed that the miniscule amount of Coke's DNA could have gotten on the gun via secondary transference, *without Coke ever touching the gun at all*. *See* Opening Br. 18-19, 33-34. Respondent acknowledges this testimony, Resp. Br. 8, but then avoids explaining how a jury could have ignored such a powerful source of reasonable doubt that Coke had anything to do with the crime. Based upon the trial record, the possibility that secondary transference accounts for Coke's two or three cells being on the gun is just as likely as the prosecution's theory that he directly handled it. For this reason alone, the DNA evidence should be completely discounted. It certainly does not establish Coke's intent.

Moreover, even setting aside the transference point, the alleged presence of Coke's DNA didn't come close to proving Respondent's fantasy that he "primed the gun to be fired" at Jacobs. *Id.* at 19. Rather, such evidence was equally susceptible to innocent interpretation. Hardy testified that the gun slide contained a "very small amount" of DNA, "five or six, seven maybe" skin cells left by "three persons," T.273-74, and all three persons "contribut[ed] about the same amount,"

T.252. In other words, each of the three contributors left just one, two, or three skin cells. Hardy agreed there was "*no way to tell when these five or six skin cells were deposited*" on the gun. T.286 (emphasis added). That is, they could have been deposited long before the crime occurred. If the gun contained such a miniscule amount of each person's DNA, and no more DNA from one person than any other, then there is simply no way to rationally infer that any one of the three contributors owned the gun or habitually used it, let alone "primed the gun to be fired" to kill Jacobs.

Respondent misleadingly implies that Hardy gave testimony tying Coke closely to the gun. She did not. According to Respondent, Hardy opined that if Coke had only "briefly touched" the gun, he "likely" would "'not leave enough DNA behind' for testing." Resp. Br. 24 (quoting T.260). But Hardy never said this. Rather, discussing DNA science *in the abstract*, she testified, "the more skin cells you shed, the more likely we can pick up your DNA profile . . . . So if you just handle an item for a brief moment, it's *more likely* that you will not leave enough DNA behind *or as much DNA behind* than someone, let's say, who uses their favorite pen every single day." T.260 (emphasis added). She never claimed that the DNA results in Coke's case suggested—let alone proved—that he owned or regularly handled the murder weapon. To the contrary, as discussed above, Hardy's own testimony that the three contributors left just two or three skin cells

each suggests that *none* of them were regular users of the gun. And the small number of Coke's cells on the gun doesn't prove that he handled the gun but only briefly; rather, it diminishes the likelihood he ever handled it at all, let alone in preparation for a shooting.

Respondent cites *People v. Williams*, 123 A.D.3d 527 (1st Dep't 2014), for the proposition that racking the slide of a gun is sufficient to prove murderous intent. *See* Resp. Br. 19. But in *Williams*, *a witness testified* that the defendant "'pull[ed] the top of the gun back' to cock it" shortly before the shooting. *See* Mem. of Law Opposing Habeas Petition, *Williams v. Chappius*, No. 16-cv-8329 (S.D.N.Y.), ECF Doc. 26 at ECF p. 15. Here, there is no proof that Coke directly touched the gun, let alone racked the slide. *Williams* does not hold that a murder conviction may be based on prosecutorial fantasy or withstand a reasonable hypothesis of innocence that the prosecution cannot refute.

Where a case is based only on circumstantial evidence, there is a "unique risk 'that the trier of fact may leap logical gaps in the proof and draw unwarranted conclusions based on probabilities of low degree,'" because circumstantial evidence requires a "type of reasoning [that] differs from the credibility determinations 'for which the jury is superbly suited.'" *People v. Baque*, No. 84, 2024 WL 4556545, at *1 (N.Y. Oct. 24, 2024) (quoting *People v. Benzinger*, 36 N.Y.2d 29, 32 (1974); then *People v. Kennedy*, 47 N.Y.2d 196, 201 (1979)). That

risk is especially acute where, as here, the prosecution relies heavily on DNA evidence. Lay jurors are likely to "overvalue" DNA evidence, deeming it "definitive[]" where it is in fact equivocal. *People v. Wright*, 25 N.Y.3d 769, 783-84 (2015) (internal quotation marks omitted). Such risk is heightened still more where the prosecution misrepresents the DNA and other evidence in summation. *See* Opening Br. 20-23.

This Court should correct this miscarriage of justice. It should reverse the conviction and dismiss the indictment, either based on the legal insufficiency of the evidence or because the verdict was against the weight of the evidence, or both.

B. Respondent concedes that Mr. Coke preserved his intent argument, of which his lack of presence at the crime scene is just one subcomponent.

Respondent concedes that trial counsel's motion for a trial order of dismissal preserved Coke's appellate claim "that the evidence of his intent was legally insufficient." Resp. Br. 13. As shown above, that is precisely our argument on appeal—that the evidence, considered in its entirety, was insufficient to prove that Coke had the requisite intent to kill. Therefore, the insufficiency claim is fully preserved. Respondent contends, however, that counsel's motion did not preserve a granular factual subcomponent of this argument: that the evidence did not prove that Coke was present at the crime scene. *Id.* This misstates Coke's position on appeal and, in any event, is incorrect.

In the decisions cited by Respondent, *see id.* at 14, the insufficiency claims were held unpreserved because counsel made only boilerplate, "general motion[s] to dismiss," without mentioning any element of the crime, *People v. Gray*, 86 N.Y.2d 10, 20 (1995). In *People v. Myles*, 232 A.D.3d 1295 (4th Dep't 2024), the entirety of the motion was as follows: "The People have not met their burden to provide evidence of Mr. Myles' guilt beyond a reasonable doubt as determined by any rational fact finder based on this entirely circumstantial case." Similarly, in *People v. Brown*, 224 A.D.3d 922 (2d Dep't 2024), counsel argued only that the People "fail[ed] to meet their burden in this case" and "fail[ed] to meet their burden of proof beyond a reasonable doubt."[1]

While counsel's dismissal motion "must be more than 'a general motion to dismiss,'" it "is 'sufficient if the party made his position with respect to the ruling or instruction known to the court,'" even if counsel is "not overly expansive." *People v. Jean-Baptiste*, 38 A.D.3d 418, 420 (1st Dep't 2007) (quoting *Gray*, 86 N.Y.2d at 19; then CPL § 470.05). Moreover, the Court of Appeals has expressly declined to hold "that a specific objection in a trial motion to dismiss is always necessary where, as is true in this case, such a requirement will not significantly

[1] The *Myles* trial transcript is on file with the Appellate Division, Fourth Department; the quoted language appears on p. 31 of the transcript dated March 28, 2023. Counsel's motion in *Brown* is quoted on page 23 of the respondent's brief, on file with the Appellate Division, Second Department. Present counsel will provide this Court with copies of these materials upon request.

advance the purposes for which the preservation rule was designed." *People v. Finch*, 23 N.Y.3d 408, 414 (2014). Those purposes are to "enable[] trial courts to avoid error" and to "alert[] the People to the claimed deficiency in the proof, thus giving them a chance to correct it and so advance 'the truth-seeking purpose of the trial.'" *Id.* at 414 (quoting *Gray*, 86 N.Y.2d at 21). "[A]n overbroad application" of the preservation rule "raise[s] the disturbing possibility that [a] factually innocent defendant[] will suffer criminal punishment, . . . without significantly advancing any valid purpose." *Id.* at 415*; see also id*. at 416 ("[P]rocedural rules should be so designed as to keep unjust results to a minimum.").

Here, counsel's motion was not "general." To the contrary, he made his position "known to the court": that the evidence was too equivocal to establish his client's guilty intent beyond a reasonable doubt. Before Coke's counsel addressed the court, both Jenkins's and Brown's attorneys argued that the prosecution had failed to show their clients had done anything to tie them to the crime and thus had failed to prove their criminal intent. T.595. Coke's counsel, referring to these attorneys' arguments, then expanded upon them. He contended that the evidence was "circumstantial" and "d[id]n't support only one inference[,] that being guilt," but rather supported "multiple inferences"; that "[t]here are some gaps in the testimony[,] in the evidence, as [stated by] my co-counsel"; and that "[t]here is absolutely no evidence that Mr. Coke had any intent." T.596. Thus, Coke's counsel

contended that the equivocal nature of the prosecution's proof failed to establish his client's guilty intent beyond a reasonable doubt.

This is the same argument we now make on appeal. That Coke was not present when the shooting occurred, and thus at that time did nothing to unequivocally demonstrate criminal intent, is merely one component of this argument. No case requires that every fact or piece of evidence in the record must be specifically or separately addressed to preserve an argument that a requisite element of the crime, such as intent, hasn't been proven beyond a reasonable doubt. Coke's counsel made his position reasonably known and afforded the court the opportunity to pass upon it.

While counsel thus said all that was necessary to preserve Coke's insufficiency claim, we observe that the context of counsel's argument in support of his motion made his position even more obvious. Counsel explicitly relied on the absence of proof that Coke was present from the beginning of the trial to the end. In his opening statement, he argued, "Tell you what, folks, they're not going to show beyond a reasonable doubt that Fabian was there." T.29. In summation, he argued, "there are so many other possibilities here. There's no proof that Fabian Coke was in that car at th[e] time when this homicidal act took place." T.553. He argued that Coke's alleged presence in the Nissan at the gas station didn't prove Coke was in the car at the crime scene an hour and forty-five minutes later, T.556;

see also T.566; that Arvey Valderrama could have been the third man in the car, not Coke, T.559; and that the jury couldn't exclude the possibility that Coke's DNA had gotten on the gun via secondary transference, T.567-68, 572. In his motion to dismiss—made *after* summations, at the court's request, *see* T.479, 593, 595—counsel then referred back to these arguments. He told the court that, in connection with his contention that "[t]here are multiple inferences here" and the evidence did not "support only one inference that being guilt," he would "rest *on the record* as far as any further argument." T.596 (emphasis added).

Finally, even if Respondent is correct that counsel did not say precisely the right words to preserve Coke's position that he wasn't present at the crime scene, this does not defeat Coke's appeal. Even if Coke is assumed to have been present, counsel indisputably preserved the balance of Coke's argument that the rest of the evidence is too equivocal to demonstrate beyond a reasonable doubt that he intended the victim's demise. Coke's two or three cells on the gun slide, mixed with the cells of two other individuals, do not demonstrate he intended anyone to be shot. There is no other evidence supporting the intent element. Thus, the Court still must reverse this conviction as a matter of law.

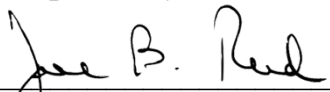
CONCLUSION

There is simply no evidence establishing that Fabian Coke did anything, anywhere, at any time, to support a jury finding of criminal intent beyond a reasonable doubt. Understanding full well this evidentiary void, Respondent tries to mislead the court by presenting rank speculation as established fact. It then mischaracterizes Coke's appellate argument to erroneously suggest that part of Coke's insufficiency issue is unpreserved. Neither tactic should divert this Court from its responsibility to correct this miscarriage of justice. Even assuming that one component of Coke's appellate argument is unpreserved, the balance of his claim still requires reversal. Sending a young man to prison for the rest of his life on this record is utterly shocking and indefensible. The ten years Fabian Coke has already spent in prison is enough punishment for a crime he did not commit.

The conviction should be reversed for legal insufficiency under federal and state law and because, under state law, it is against the weight of the evidence. In the alternative, the Court should order a new trial because Mr. Coke was deprived of the effective assistance of counsel, as shown in his opening brief.

Dated: January 10, 2025
New York, New York

Respectfully submitted,



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SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT

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The foregoing brief was prepared on a computer, using Microsoft Word. According to that software, the brief contains 4,668 words, counting headings and footnotes, but not counting the cover, table of contents, table of authorities, caption, signature block, or this certification. The brief uses double-spaced, 14-point Times New Roman font, except that quotations of more than two lines are indented and single-spaced, headings are single-spaced, and footnotes are single-spaced and use 12-point Times New Roman font.