

At a motion term of the Supreme Court held in and for the County of Onondaga, at the Courthouse in the City of Syracuse, New York, the 8<sup>th</sup> day of December, 2009.

PRESENT: HON. BRIAN F. DEJOSEPH

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ONONDAGA

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In the Matter of the Application of the  
NORTH SYRACUSE CENTRAL SCHOOL  
DISTRICT,

Petitioner,

ORDER

Index No.: 09-7473

RSI 33-09-4329

For a judgment pursuant to New York  
CPLR Article 78

-against-

NEW YORK STATE DIVISION OF HUMAN RIGHTS,

Respondent.

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The Petitioner, North Syracuse Central School District, by its attorneys, Michael J. Livolsi, Esq., Associate, The Law Firm of Frank W. Miller, having duly moved this Court by Order to Show Cause dated December 8, 2009, for an Order pursuant to Article 78 of the CPLR Ordering that the Respondent, New York State Division of Human Rights, be permanently stayed from any further proceeding against the Petitioner, North Syracuse Central School District, be severed, and;

The Court having considered the Order to Show Cause dated November 9, 2009, the Notice of Petition filed November 5, 2009, the Verified Petition filed November 16, 2009, with

attached exhibits, the Petitioner's Memorandum of Law filed November 17, 2009, the Answer to the Petition dated December 1, 2009, Respondent's Memorandum of Law dated December 1, 2009, with attached exhibits, and Petitioner's Reply Memorandum of Law filed on December 7, 2009, and the Court having heard oral argument on December 8, 2009, and Counsel for the Petitioner, North Syracuse Central School District, having presented oral argument thereon, and Counsel for Respondent, New York State Division of Human Rights, having presented oral argument thereon, and the Court having rendered a decision thereon on December 8, 2009, a transcript of which is attached hereto;

NOW after due deliberation having been held thereon and the Court having duly considered said Motion, pursuant to the attached transcript, it is therefore:

ORDERED, that the Order to Show Cause by the Petitioner, North Syracuse Central School District, is hereby granted and Respondent New York State Division of Human Rights is hereby permanently stayed and enjoined from proceeding with SDHR Case No. 10125491; and it is further

ORDERED, that the Petition is hereby granted and Respondent New York State Division of Human Rights is hereby permanently stayed and enjoined from proceeding with SDHR Case No. 10125491; and it is further

ORDERED, that a declaratory judgment be entered against Respondent, in that the Respondent, New York State Division of Human Rights is found to have no jurisdiction over Petitioner, North Syracuse Central School District and is hereby permanently stayed and enjoined from proceeding with SDHR Case No. 10125491; and it is further

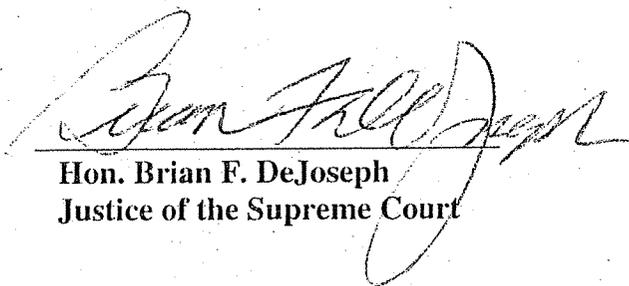
ORDERED, that Petitioner has sufficiently shown that Petitioner has no administrative remedy or that any administrative remedy available is and would be futile, that Respondent will

be irreparably harmed in the absence of prompt judicial action, and that Respondent is proceeding wholly beyond its grant of power, and therefore Respondent's Order to Show Cause and Petition is hereby granted and Respondent New York State Division of Human Rights is hereby permanently stayed and enjoined from proceeding with SDHR Case No. 10125491;

Order signed this 21 day of Dec 2009 at Onondaga, New York.

**ENTERED.**

DATED: \_\_\_\_\_, 2009  
Syracuse, New York



**Hon. Brian F. DeJoseph**  
**Justice of the Supreme Court**