

NEW YORK SUPREME COURT
APPELLATE DIVISION – FOURTH DEPARTMENT

COLUMBUS MONUMENT CORPORATION, indiv.)
and as successor in interest to the COLUMBUS)
MONUMENT ASSOCIATION, NICHOLAS J.PIRRO,) Docket No.
BOB GARDINO, JOANNE GARDINO, JAMES) CA 22-00380
ALBANESE, MIKE ALBANESE, KATIE ALBANESE,)
MARY EMILY ALIBRANDI, SILVIO AND LAUREN)
ASCENZO, BRENDA WENDY LEE BOUSEFELD,)
ANGELO AND MARGARET CHiodo, JOAN)
CHRISTENSEN, GABRIEL DIGENOVA, PETER) Onondaga County
DIGENOVA, GENE FISCH, ANDRE GRASSO,) Supreme Court
KEVIN KANE, SHANNON KENNEDY, BILL) Index No.
KINNE, JOE LEPIANE, TARKY LOMBARDI, JR.,) 00456-2021
RANDY POTTER, JOSEPH RUSSO, GERARADA)
SCUDERI, CHARLES TREMPER, AND)
JOHN VIGLIOTTI,)
Petitioners-Respondents,) NOTICE OF
v.) MOTION
CITY OF SYRACUSE)
Respondent-Appellant)
and)
BEN WALSH, as Mayor of the City of Syracuse,)
Respondent.)

PLEASE TAKE NOTICE that upon the annexed Affirmation of Thane Joyal, Esq.,
executed on the 15th day of March, 2023; the supporting Affidavits of Grace Fritzke,
Andy Mager, Cynthia Squillace, Sue Eiholzer, Colleen Zawadzki, and Hilary Anne
Coppola attached thereto; the proposed Amicus Curiae Brief; and all of the pleadings and

proceeding heretofore filed herein, the proposed Amici Curiae, Women of Italian Heritage of Syracuse [WISH CNY] and Neighbors of the Onondaga Nation [NOON] will move this Court, pursuant to 22 NYCRR § 1250.4 (f), at the courthouse thereof, located at 50 East Avenue, Rochester, New York 14604, on the 27th day of March, 2023, at 10:00 am., or as soon thereafter as Counsel may be heard, for an Order granting the proposed Amicus Curiae, WISH CNY and NOON, leave to file the proposed Amicus Curiae Brief, submitted herewith in the instant proceedings, together with such other and further relief as this court deems just and proper.

Dated: Syracuse, New York
March 15, 2023



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Syracuse, New York

**SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, FOURTH DEPARTMENT**

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AFFIRMATION

THANE JOYAL, ESQ., an attorney duly admitted to practice law in the State of

New York, affirms the following under penalty of perjury, pursuant to CPLR 2106:

1. I make this Affirmation in support of this Motion by the Women of Italian and Syracuse Heritage of Central New York (WISH CNY) and the Neighbors of the Onondaga Nation (NOON) to join this matter as an Amicus Curiae and for leave to file a proposed Amicus Brief.

2. I have followed and reviewed all of the events and pleadings of the above captioned action in the Onondaga County Supreme Court, and therefore am fully familiar with the facts, circumstances and legal arguments of this matter.

3. For the past several years, the members and leadership of WISH CNY and NOON have been actively involved in the community discussions concerning the removal of the Columbus monument.

4. Cindy Squillace, Colleen Zawadzki, and Hilary-Anne Coppola, founding members of WISH CNY, participated in the formal dialogue circles and committees created by the City of Syracuse to discuss, study, and make recommendations on the future of the Columbus monument. Their involvement is detailed in the attached affidavits. *See:* Affidavit of Cindy Squillace, Affidavit of Colleen Zawadzki and Affidavit of Hilary-Anne Coppola.

5. Andy Mager and Sue Eiholzer, long-time members and leaders within NOON, have been part of these dialogue circles and community discussion processes. Their involvement is detailed in the attached affidavits. *See:* Affidavit of Andy Mager; and Affidavit of Sue Eiholzer.

6. NOON and WISH CNY have both been heavily involved in community

education around the true and complete history of Christopher Columbus and the disastrous impacts of the colonization and subjugation of Native peoples triggered by his arrival in the Americas. WISH CNY maintains a website with detailed historical information on Columbus and the structures of colonialism, as well as materials on alternative Italian-American heroes. Squillace Affidavit. Both NOON and WISH CNY have developed and delivered educational workshops on the effects of colonialism. Mager Affidavit; Squillace Affidavit.

7. WISH CNY and NOON submit that no other party can properly represent its interests in this matter or present an accurate factual history of the events which impact the Nation and its citizens. These interests include the pain felt by many Italian-Americans at their continued association with Columbus and the harms done to others in the community by the continued heroization of this flawed man. Squillace Affidavit, Coppola Affidavit, Zawadzki Affidavit, Mager Affidavit, Eiholzer Affidavit.

8. WISH CNY and NOON seek to join this matter as Amicus to bring the following issues to the Court's attention, which might otherwise escape the Court's consideration or would otherwise be of assistance to the Court. To the best of their knowledge, WISH and NOON believe that these issues have not been fully briefed by the parties or other party to the appeal.

9. As described in peer-reviewed research by reputable historians relying on primary sources, the complete history of Columbus shows that he either personally directed the enslavement of Native peoples and the perpetration significant violence,

including rape, torture, and murder, on the indigenous populations of the “newly discovered” Americas or allowed others in his command to do so. *See*:Affidavit of Grace Fitzke.

10. Columbus is inextricably linked with the violent colonization and subjugation of Native peoples in the Americas and with the development of harmful legal theories that allowed the exploitation of native peoples, such as the Doctrine of Discovery. Fitzke Affidavit.

11. The Columbus monument and other Columbus celebrations have sparked wide-spread opposition in Syracuse for decades, including several years of protests and demonstrations, petition drives, and vandalism. Mager Affidavit, Zawadzki Affidavit.

12. In response to this public pressure, Syracuse Mayor Ben Walsh created a series of carefully structured dialogues and discussion groups with representatives of all perspectives, including some of the individual Petitioners in this case. Participants in those dialogues experienced them as fair, balanced, and informative. Squillace Affidavit, Zawadzki Affidavit, Coppola Affidavit, Mager Affidavit, Eiholzer Affidavit.

13. The Columbus Monument Corporation (CMC) and individual Petitioners represented a minority voice in these dialogues and they do not represent the interests of many Italian-Americans or of the general public in Syracuse. The Mayor’s final decision was more in line with the discussion within and recommendations of these dialogue circles and committees. Squillace Affidavit, Coppola Affidavit, Mager Affidavit.

14. The Amended Petition requested equitable relief, but did not consider either

the balancing of the equities between the parties or the interests of the general public. Both tests disfavor the granting of an injunction in this case. court to engage in the necessary balancing of equities.

15. WISH CNY and NOON support the City's position that the Preservation Covenant, which the trial court determined prevented the City from removing or altering the Columbus monument, has been terminated by agreement of the parties or, in the alternative, by the passage of time. WISH CNY and NOON also assert that the Preservation Covenant has terminated of its own accord because the Columbus monument has reached the end of its useful life.

16. The Columbus monument was created to honor Italian-Americans by elevating a heroic exemplar of Italian achievement. Due to the evolving historical understanding of Columbus, this is no longer the case and the monument has reached the end of its useful life, terminating the Preservation Covenant.

WHEREFORE, I respectfully request that the Court grant this Motion to allow the WISH and NOON to appear herein, as Amicus Curiae; and that the proposed Amicus Brief be accepted by this Court; and for such other and further relief as to the Court may seem just and proper.

Dated: Syracuse, New York
March 16, 2023



Thane Joyal, Esq.

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COUNTY OF NEW YORK)
COUNTY OF ONONDAGA) ss:

I, Cynthia A. Squillace, being duly sworn, deposes and says that:

1. I currently reside on Jamesville Avenue, in Syracuse, New York.

2. I am a member of Women of Italian and Syracuse Heritage of Central New York¹ (WISH CNY). It is in that context that I am writing this affidavit.

3. WISH CNY, retains its structure as a loosely organized, grassroots group. WISH CNY is neither a non-profit, nor a corporation. We do not hold funds, nor do we take donations or fundraise for our work.

4. We have a variety of interests. However, our reason for forming WISH CNY is focused on education and truth telling, particularly about Christopher Columbus.

5. Our group loosely came together around an editorial signed by 21 women and printed in the Syracuse Post Standard on September 4, 2020.²

6. Our group of women began to meet weekly and came up with the name Women of Italian and Syracuse Heritage of Central New York. We developed a webpage³ and a social media presence.

7. We fully embrace our Italian heritage and call for respectful representations to honor that heritage and the heritage of others.

8. The views of the Columbus Monument Committee do not represent us.

9. I am second generation Italian American, with grandparents who immigrated from southern Italy between 1890-1900. My family moved to the city of Syracuse, NY around 1977 and have made Syracuse our family's permanent home.

10. I am a licensed social worker, having worked for three decades teaching, counseling, and supporting Syracuse/Central NY residents. Most of my professional work

¹ <https://www.wishcny.org/founding-member-bios>

² <https://www.syracuse.com/opinion/2020/09/rethinking-removing-and-replacing-the-columbus-statue-your-letters.html>

³ <https://www.wishcny.org/>

has been in the field of trauma, including working with bereaved parents, traumatized families, and with high school students in the City of Syracuse.

11. Through decades of education, researching and listening to both the history and attachment of some Italian-Americans to the Columbus monument in Syracuse, and the accurate history of what Columbus and European colonizers like him caused to happen and through my experience as a professional social worker and trauma counselor, I have concluded that although the monument is a source of pride for a small group of Syracuse's Italian families, it is hurtful to many others in our community, reminding them of the attempted genocide, enslavement and land theft that Columbus represents.

12. I believe the statue needs to be moved to a more appropriate location, away from the Civic Center of our City.

13. In 2016, I began educating others and making my voice heard as a community member advocating for the relocation of the Columbus monument. I helped to organize and speak at public demonstrations with this purpose on Columbus Days in 2017, 2018, 2019, 2021,⁴ and 2022.

14. I am also the founding Coordinator of an educational program called Witness to Injustice/the KAIROS Blanket Exercise⁵ in which a facilitator team made up of Haudenosaunee citizens and non-native people teach the history of colonization of North America beginning with Columbus landing on Hispaniola. Beginning in 2018, this 3-hour program has been presented to approximately 80 organizations in Central NY with over 1,400 participants taking part.

15. I have been personally involved in the following dialogues and committees regarding the controversy of Columbus since this original process began: Columbus Day:

⁴ <https://cnycentral.com/news/leading-syracuse/syracuse-woman-says-columbus-statue-debate-is-an-opportunity-for-the-city>

⁵ <https://www.kairosblanketexercise.org/witness-to-injustice-the-kairos-blanket-exercise/#:~:text=The%20Blanket%20Exercise%20was%20developed,non%2DIndigenous%20peoples%20of%20Canada.>

A Community Conversation⁶, 2018 – 2019; Columbus Circle Action Committee⁷, 2020; Heritage Park Advisory Commission⁸, 2020 – present.

16. Beginning in 2018, I agreed to be part of a dialogue process initiated by the City of Syracuse regarding the future of the Columbus monument and Circle in downtown Syracuse, titled: *Columbus Day: A Community Conversation*. The City hired InterFaith Works, a non-profit agency experienced with dialogue processes over three sessions, to bring together and facilitate a diverse group of Syracuse residents. This formal dialogue process, in Mayor Walsh’s words⁹, “[will] help us come to a better understanding of each other’s interests and concerns and will help find common ground to go forward together.”

17. The City of Syracuse made sure it included Italian heritage residents whose family members were part of the original funding and erecting of the Columbus monument in 1934, as well as citizens of the Onondaga Nation and people from many of Syracuse’s diverse community groups, i.e., African heritage, Muslim, Jewish, Latinx, Catholic, LGBTQ, etc.

18. These sessions were inclusive and covered several different views regarding Columbus.

- a. *Viewpoint 1: Columbus Discovered America and Should Be Celebrated*
- b. *Viewpoint 2: Italian Americans have Contributed Greatly to this Country and Should Be Celebrated*
- c. *Viewpoint 3: Consider the Impact of Columbus on Native American People*

⁶ <https://www.interfaithworkscny.org/wp-content/uploads/2019/10/Columbus-Day-Report-to-Mayor-2019.pdf>

⁷ <https://www.interfaithworkscny.org/wp-content/uploads/2020/10/Final-Report-and-Recommendations-Opt.pdf>

⁸ <https://ourcity.syr.gov.net/2021/08/heritage-park-community-engagement-and-final-procedural-steps/>

⁹ <https://ourcity.syr.gov.net/2018/09/interfaith-works-partners-with-mayor-walsh-to-conduct-dialogue-circles-on-columbus-commemoration/>

d. Viewpoint 4: Facing Our Past and Creating a New Future Means Saying No to Columbus Day.

19. Unfortunately, the first Community Conversations did not produce the “common ground” hoped for. A majority of the group of about 30 agreed that the monument should be relocated from the center of Syracuse, a few were undecided, and there was a small group of Italian heritage participants who would not consider any option other than leaving the monument exactly where it is. This small group, who have family connections to the monument, include Nicholas Pirro, one of the petitioners in this case.

20. Part of the report’s conclusion exposed early on the intransigence of those defending Columbus, and states, “Though many Italian-Americans were invited, and almost half of our participants were of Italian heritage, no one in one dialogue circle had a staunch position that Columbus was a hero and needed to continue to be celebrated. This group struggled with this lack of voice, and frequently asked themselves, ‘What would Viewpoint 1 people say?’”

21. I observed behaviors from some opposed to the relocation that came across as bullying, and caused what seemed to be trauma (crying, the need to leave the room) to those targeted directly or indirectly by the insults. These were mainly the Indigenous peoples in the room.

22. I was also part of the “Columbus Circle Action Committee,” which was proposed by the City of Syracuse to help resolve these divisions and find common ground. InterFaith Works invited another diverse, civic-minded group of around 30 people to meet every week for 8 weeks to discuss the monument issue and provide recommendations. InterFaith Works was charged with preparing a final report, summarizing these recommendations at the end of this 2-month process. Again, Nicholas Pirro and other supporters of the Columbus monument participated in these sessions.

23. The Final Report and Recommendations included the only “common ground” agreement the group could reach about the statue, which was that the heads of the Indigenous people, under Columbus’ feet on the monument, should be removed as should the two bas relief plaques: “Columbus bringing Christianity to the New World” and “Columbus returning to Queen Isabella’s Court”.

24. It is my opinion, after participating in both of these valuable community feedback processes, that all participants understood the complex feelings and deep ties some of the Italian heritage people felt to the Columbus monument. Most participants, including many of Italian heritage (myself included), still wanted the statue relocated.

25. This recommendation for removal was not represented in the final recommendations as consensus was blocked by the small group with family and personal ties to the monument.

26. Later, in May, 2021, I was appointed to Mayor Walsh’s Advisory Commission¹⁰ as a participant in the Heritage Park which included two committees: the Heritage Park Advisory Commission and the Columbus Statue Italian American Task Force.

27. The Italian American Task Force was specifically created to advise on relocating and preserving the Columbus monument space and on continuing to permanently honor Italian Americans at the circle.

28. The Mayor’s press release stated: In creating “an expanded space that is welcoming to all,” Mayor Walsh promises to ensure “history is protected and remembered.”¹¹

¹⁰ <https://ourcity.syr.gov.net/2021/05/mayor-walsh-appoints-advisory-commission-to-guide-creation-of-heritage-park-at-columbus-circle/>

¹¹ <https://ourcity.syr.gov.net/2021/05/mayor-walsh-appoints-advisory-commission-to-guide-creation-of-heritage-park-at-columbus-circle/>

29. Our committee was anticipating work to create this new space as The Heritage Park Commission Mission Statement was clear in its purpose. “The purpose of the Heritage Park Commission is to encompass the community’s desire to:

Create a public space for healing, peace, rest, and gathering;
Celebrate the many different peoples from many cultures that have contributed to our community’s history and life;
Acknowledge the Onondaga People as the original peoples of this land;
Recognize oppression in its many forms and its effects on our communities;
Work with the Italian American Task Force to maintain the fountain basin and an Italian presence in the newly created Park.

Two main strategies under the purview of the Heritage Park Commission:

Develop the content and inform the design of the Heritage and Education Site.
Inform the City’s Request for Proposal (RFP) that will draw designers and artists.

30. In Summer 2021,¹² the Mayor put out a request for community input for a new Heritage Park in downtown Syracuse.

31. Later in 2021, Greg Loh, the City of Syracuse, Chief Policy Officer, informed us that litigation had occurred and that the State Supreme Court was not allowing any change or development to occur on the site. He said regardless of the decision, the city intends to follow all legal requirements for public art and public place development.

32. There has been only one Heritage Park Commission meeting since the first one because of the litigation. This has caused great frustration, and a waste of time and money, preventing this well thought out and researched project from moving forward.

¹² <https://ourcity.syr.gov.net/wp-content/uploads/2021/08/2021-08-26-OVERVIEW-Heritage-Park-Community-Engagement-and-Final-Procedural-Steps.pdf>


33. My work as a mental health counselor in the Syracuse City high schools showed me the anger and traumatic reflections that our high school students and families experience having to walk by the Columbus monument in the civic center of our City.

34. Syracuse students from Henninger and the Institute of Technology high schools petitioned for at 2 years to remove the statue and rename Columbus Day as Indigenous Peoples' Day. They have presented statements and spoken up at several School Board meetings where they name Columbus as representative of European colonization around the world as a consequence of the Doctrine of Discovery.

35. The Doctrine of Discovery decimated many non-European countries – the countries many of these refugee families in the Syracuse area were forced to flee from.

36. As an Italian heritage woman, a member of Women of Italian & Syracuse Heritage of Central New York, I can no longer tolerate the Columbus monument in the center of the City of Syracuse. I fully support the position taken by Mayor Ben Walsh and the City of Syracuse to have the statue removed from the Center of Syracuse.

I have read the foregoing and swear that the facts contained above are true and accurate, to the best of my knowledge.


CYNTHIA A. SQUILLACE

Sworn to before me
This 13th day of March, 2023


NOTARY PUBLIC

HANNAH E. LUPOLE
Notary Public, State of New York
No. 01LU6375884
Qualified in Onondaga County
My Commission Expires May 27, 2026

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STATE OF FLORIDA)	VOLUSIA
COUNTY OF) ss:	073-46-7558

I, COLLEEN ZAWADZKI, being duly sworn, deposes and says that:

1. I currently reside in the town of Tully, in Onondaga County.

2. I am a property owner in the First District in the City of Syracuse on Shuart Ave, Syracuse, New York, 13203 which I share with my mother, Gloria Ruta Eagan.
3. I am a person of Italian heritage and grew up in an Italian-American family in Syracuse among many other descendants of Italian immigrants. I am a founding member of Women of Italian and Syracuse Heritage of CNY (WISH CNY).
4. WISH CNY is an unincorporated organization that was founded in 2020. We focus on educational outreach and truth telling, particularly about Christopher Columbus. WISH maintains a website and conducts public outreach to promote both the complete history of Christopher Columbus and to lift up other notable Italians and Italian Americans, that might be more fitting symbols of Italian American achievement. WISH does not hold funds, take donations, or fundraise.
5. I am also a member of Mayor Walsh's Italian American Task Force, convened in May 2021 to advise the City on the creation of a heritage and education site at Columbus Circle.
6. The Italian-American Petitioners in this case do not reflect me or my interests.
7. Having learned the full history of Columbus and his role in the violent colonization of the Americas, I am pained by the continued association of Christopher Columbus with my Italian heritage. For me and for many other Italian Americans, including the other members of WISH, Christopher Columbus is no longer a suitable symbol of Italian-American pride or one that I would offer to represent my Italian-American heritage.
8. As an Italian-American from Syracuse, I do not want to be represented by Christopher Columbus. I am not honored by being associated with this figure and believe that there are many more worthy Italian-American heroes that could be commemorated in this space.

9. I graduated from Syracuse City Schools and worked in the Syracuse School District and at Onondaga-Cortland-Madison Board of Cooperative Educational Services (OCM-BOCES) for a combined 33 years.
10. One of my key responsibilities in this work was training teachers throughout central New York in history and the social studies curriculum. The topic of Columbus' legacy has always been controversial, creating division even during discussions with my educational colleagues as we examined omissions in the curricula.
11. In my professional experience, the history of Columbus is often misrepresented through the omission of the true and complete history of Columbus in readily available primary sources and other educational materials.
12. Educators are left to create teacher-made, local materials which they can then use to supplement this gap. When that does not happen, students in our community are taught a one-sided sanitized perspective of Columbus simply as an explorer and the initiator of the movement of Europeans to the New World. ([K-12 Social Studies Framework | New York State Education Department \(nysed.gov\)](#))
13. This one-sided history is exacerbated by the Columbus monument and similar monuments, which commemorate Christopher Columbus as an Italian-American hero without providing any context or correct historical information.
14. In my professional opinion as an educator, children are harmed by this incomplete history, which misrepresents Columbus' role in the Spanish conquest of the New World. A more accurate historical record is reflected in primary documents written by his contemporaries and in the modern historic understanding of that time period.

15. Within WISH, I have worked over the last three years to educate local organizations and our community about our Italian heritage in a variety of ways, including social media, and two workshops: Goodbye Columbus: Time for Justice, Time For Healing (March 14, 2022) and Why Removing Monuments Matters: Seeking Justice in Syracuse (March 24, 2022) on The History of Monuments. The focus of the sessions included the history of the monument from the 1930s to present and the focus of this lawsuit. Information in the second session addressed the historical impact of monuments as powerful political symbols and the evolution of shifting attitudes around their removal.

16. The prominent placement of the Columbus monument in the center of Syracuse makes this educational work more difficult, but also more pressing.

17. Based on my observations as an educator, activist, and committee member, the Columbus monument is also out of sync with the view points of the majority of our community members and visitors.

18. A petition demanding the removal of the Syracuse Columbus Statue from three years ago, has received 18,908 signatures, ([Petition · Remove Racist Monument in Syracuse · Change.org](#)) compared to the 532 signatures demanding it remain. ([Petition · Protect & Preserve The Columbus Monument of Syracuse NY · Change.org](#))

19. The Columbus statue has also been the object of numerous physical protests, and in 1992 and 1997, unknown persons spray-painted "terrorist" and "killer" on it. It was defaced again in 2011 and 2020.

20. For all these reasons, I support the goal of moving the monument to a place which allows a meaningful teaching opportunity and which protects it from possible future vandalism.

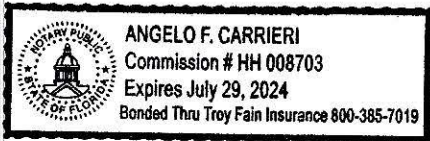
I have read the foregoing and swear that the facts recited above are true and accurate to the best of my knowledge.


COLLEEN ZAWADZKI

Sworn to before me

This 14th day of March, 2023.


NOTARY PUBLIC



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BEN WALSH, as Mayor of the City of Syracuse,)	
<i>Respondent.</i>)	

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

I, HILARY-ANNE COPPOLA, being duly sworn, deposes and says that:

1. I currently reside in the village of Fayetteville, in Onondaga County, New York.
2. I am a founding member of Women of Italian and Syracuse Heritage CNY (WISH CNY) and it is in that context that I write this affidavit.
3. WISH CNY is an unincorporated grassroots organization with our primary focus on education and community participation, particularly concerning the true historical record of Christopher Columbus and continuing impacts of his actions on people living today. WISH CNY does not hold funds, take donations, or fundraise for our work.
4. I was born in Syracuse, grew up 15 minutes outside the city, and am a person of Italian descent. My perspectives on and experience with the Columbus monument are not reflected by Petitioners-Respondents. Their views do not represent the views of a large segment of the Italian Americans in our community. They do not speak for all Italian Americans.
5. While I am a resident of Fayetteville, I work in the city of Syracuse and am regularly in the city and the downtown area for community, arts, and pleasures. I pass the Columbus monument and am frequently reminded of the efforts to link Columbus with Italian-Americans.
6. Columbus' elevation as a character used to celebrate Italian-American heritage saddens and insults me as an Italian-American person. I do not feel honored to be represented by a person so closely associated with the genocidal impacts of colonization.

7. In educating myself about Columbus, I learned that he worked under the Doctrine of Christian Discovery and domination, which supports and encourages the taking of lands from Indigenous Peoples and their violent subjugation. I also learned that Columbus self-reported the horrific violence he and his cohort performed, including enslavement and forced labor, rape of adults and children, murder, torture, and dismemberment.

8. I recognize that the heroization of Columbus associated with Italy may have historically helped recent Italian immigrants in the United States gain respect and safety in the past. Based on my experience and knowledge, Italian-Americans living today do not need Columbus to give us protection or for his image to represent our cultural pride or identity.

9. I am connected and involved with numerous local and area institutions, non-profits, grassroots organizations, and faith groups which share a common desire to replace Columbus.

10. I have been a lead organizer for over six Indigenous Peoples' Day and "Goodbye Columbus" events, beginning in 2017. At these events, community leaders shared their concerns about the impacts of Columbus historically and presently, and their support for moving the monument from public property.

11. I have helped to organize over 3 dozen speakers/performers at these events and 10 short films, with 50-400 attendees at each event. I have spoken publicly and

demonstrated at these events in support of our goal of moving the Columbus monument from public property and celebrating Indigenous Peoples' Day, not Columbus Day.

12. In Fall of 2018 and Spring of 2019, the City of Syracuse convened a series of community dialogue circles, facilitated by Interfaith Works, with the request to begin a community conversation about Columbus Day, Indigenous Peoples' Day, and the Columbus monument.

13. I participated in one of the Spring 2019 "Columbus Dialogues", where we spent 12 hours total over 2 months discussing this issue. The entire series included 34 participants and 74 total invitees who are highly involved in Syracuse's communities. These included at least 9 Italian-American participants and over 20 Italian-American invitees. From my perspective, their voices and viewpoints were more than adequately expressed and heard.

14. During this process, I was able to fully voice my perspective. I was also able to hear and learn the perspectives of others. The facilitators created a balanced and compassionate process that allowed everyone to fully express their ideas and concerns. The process was not biased toward any particular perspective or outcome. Facilitators seemed to accurately capture the discussion and the balance of opinions in their final report.

15. I am currently continuing this work as a member of the Office of the Mayor's "Columbus Circle Advisory Commission" (established 2021), made of local community leaders with the goal of guiding development of a culturally representative park including

St. Mary's Circle – where the Columbus monument currently resides – and the space immediately adjacent.

16. I received my Bachelor of Science in Natural History and Interpretation at the SUNY College of Environmental Science and Forestry. This program prepared me with skills and tools to relate specialist information in meaningful and lasting ways to diverse members of the public, in various contexts and on numerous subjects.

17. As a trained educator with a background in museums, parks, nature centers, and schools, I understand the importance of thematic displays and providing accurate and values-driven information that is relevant to the audience. The Columbus monument's current position in the city center cannot support accurate, values-driven, appropriately-themed education.

18. The Columbus Monument provides daily opportunities to continue trauma experienced by many people of color, including Onondaga Nation citizens and Black Syracuseans, who may view Columbus as a murderer, land thief, and slaver.

19. The City announced its decision to pursue removal of the Columbus monument after years of public pressure, solicitation of a broad range of perspectives, and a great deal of public input. The decision announced by the City comports with my understanding of public opinion, as expressed by participants in the Columbus Day Dialogues and people encountered in my education and outreach work with WISH.

20. The City's careful process of convening multiple discussion groups, over several years, with broad, community-wide representation, generated a broad consensus that the monument should not be part of the image or message which our city should convey.


21. Based on my experiences in the Columbus Day Dialogues, the Columbus Circle Advisory Commission, and my own activism and on my training as an educator, I believe that Heritage Park project must be paired with the removal of the entire Columbus monument to be successful and to serve the general public in Syracuse.

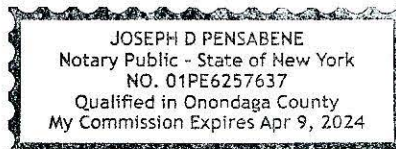
I have read the foregoing and swear that the fact contained above are true and accurate to the best of my knowledge.

Hilary-Anne Coppola
Hilary-Anne Coppola

Sworn to before me

This 16th day of March, 2023


NOTARY PUBLIC



**NEW YORK SUPREME COURT
APPELLATE DIVISION – FOURTH DEPARTMENT**

COLUMBUS MONUMENT CORPORATION, indiv.)	
and as successor in interest to the COLUMBUS)	
MONUMENT ASSOCIATION, NICHOLAS J.PIRRO,)	Docket No.
BOB GARDINO, JOANNE GARDINO, JAMES)	CA 22-00380
ALBANESE, MIKE ALBANESE, KATIE ALBANESE,)	
MARY EMILY ALIBRANDI, SILVIO AND LAUREN)	
ASCENZO, BRENDA WENDY LEE BOUSEFELD,)	
ANGELO AND MARGARET CHIODO, JOAN)	
CHRISTENSEN, GABRIEL DIGENOVA, PETER)	Onondaga County
DIGENOVA, GENE FISCH, ANDRE GRASSO,)	Supreme Court
KEVIN KANE, SHANNON KENNEDY, BILL)	Index No.
KINNE, JOE LEPIANE, TARKY LOMBARDI, JR.,)	00456-2021
RANDY POTTER, JOSEPH RUSSO, GERARADA)	
SCUDERI, CHARLES TREMPER, AND)	
JOHN VIGLIOTTI,)	
<i>Petitioners-Respondents,</i>)	
v.)	
)	
CITY OF SYRACUSE)	
<i>Respondent-Appellant</i>)	
and)	
)	
BEN WALSH, as Mayor of the City of Syracuse,)	
<i>Respondent.</i>)	

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

I, ANDY MAGER, being duly sworn, deposes and says that:

1. I currently reside on Buckingham Avenue, Syracuse, New York 13210

2. I am a longtime community organizer and member of Neighbors of the Onondaga Nation (NOON), a project of the Syracuse Peace Council. It is in that context, and as a citizen of the City of Syracuse for several decades, that I submit this affidavit.

3. I moved to Syracuse at the end of 1981 and have lived here most of the time since then. I have been concerned about Native American issues since learning the full history of the subjugation and systematic destruction of Native Nations as a high school student.

4. I began working with the Onondaga Nation in 1982. I continued that work as part of NOON when it was formed in the mid- to late-1990s.

5. NOON is a grassroots organization that recognizes and supports the sovereignty of the Onondaga Nation. It was created to support the Onondaga Nation's potential land rights claim and the Nation in general.

6. For over 20 years, NOON has sought to educate ourselves and the broader community about the history of relations between our peoples and to provide opportunities for people to hear directly from Onondaga people about their history, culture, and concerns.

7. NOON has an email list of over 3200 people, primarily in Central and Upstate New York. Over its lifetime, it has organized several hundred community presentations, produced and distributed over 60,000 pieces of literature and staffed outreach tables at more than 200 community events. In the past four years alone, NOON has held more than 79 workshops entitled "Witness to Injustice Blanket Exercise" on the effects of the

colonization of North America on Indigenous people, reaching nearly 1800 participants in Upstate New York and beyond.

8. During the 500th anniversary of Christopher Columbus' arrival in the Americas, I learned more about his central role in the attempted genocide of the original peoples of this hemisphere.

9. Since then, it has pained me to see or be near the Columbus monument. That pain is amplified by the disembodied heads of Indian chiefs which sit below Columbus' feet on the monument.

10. Efforts to remove or replace the Columbus monument in Syracuse have a long history. I have been aware of, or involved in, many of these efforts as an individual or as part of NOON.

11. In 2006, as part of Neighbors of the Onondaga Nation, I coordinated the year-long educational series "Onondaga Land Rights and Our Common Future" hosted by Syracuse University. The issue of celebrating Columbus and the need to remove the monument was raised during several of those programs.

12. In 2016, a group of Henninger High School students called on the Syracuse City School District to change its calendar from Columbus Day to Indigenous Peoples' Day. NOON supported their efforts. In the spring of 2017, the Syracuse City School District changed the school calendar to read Indigenous Peoples Day/Columbus Day on 2nd Monday in October.

12. Subsequently, NOON started a petition to the Mayor of Syracuse, the Syracuse Common Council, Onondaga County Office of the County Executive, and Onondaga County Legislators calling on them to change their respective calendars to commemorate Indigenous Peoples' Day rather than Columbus Day.

13. In 2017, NOON helped organize the first Indigenous Peoples' Day Celebration in Syracuse. Over 200 people attended that celebration, where speakers supported changing Columbus Day to Indigenous Peoples' Day and removing the Columbus statue. In 2018, over 200 people again gathered to repeat this call. Similar celebrations have been held annually ever since.

14. In 2018, in the midst of the activism around the Columbus monument and Columbus Day, Syracuse Mayor Ben Walsh announced a collaboration with InterFaith Works to hold a series of dialogue circles starting in the fall on the Columbus monument and Columbus Circle. The goal of the dialogues was to gather a cross section of interests from our community, to listen to each other and to try to find common ground concerning this divisive monument.

15. I participated in a dialogue circle that met weekly from June 4 to July 2, 2019. My group included three Italian-Americans, two citizens of the Onondaga Nation, and several other people. I found the meetings to be educational and informative and thought the facilitators from InterFaith Works did a good job of creating an open environment for the

sharing of different perspectives and ideas. None of the people in our group supported keeping the Columbus monument in the center of our city.

16. InterFaith Works issued a final report and summary of its work in the fall of 2019. That report summarized the discussions in the dialogue circles and recommended several next steps, including more dialogues.

17. In May of 2020, Syracuse University graduate student Blake Garland-Tirado created an online petition "Remove Racist Monument in Syracuse" which called for the removal of the Columbus monument from St. Mary's Circle. The petition gathered over 10,800 signatures.

18. On June 27, 2020, the Resilient Indigenous Action Collective organized a Take Down Columbus Statue Rally calling for the immediate removal of the Columbus monument. NOON helped publicize and support the rally which was led by People of Color and drew over 300 people. Mayor Ben Walsh attended the rally and listened to the speeches.

19. On July 14, 2020, Mayor Walsh announced the creation of a 23-member Columbus Circle Action Group "to take a closer look at the statue in Columbus Circle." That group, which included members of the Italian American community, the Onondaga Nation, and NOON among others, issued its final report and recommendation on October 7, 2020.

20. On October 9, 2020, Mayor Walsh announced that he had heard and would follow the calls from the community as reflected in the dialogue circles, the Columbus Circle Action Group, the on-going protests, and other community actions. His plan to remove the Columbus monument matched my understanding of the discussion within these public, participatory processes.

I have read the foregoing and swear that the facts recited above are true and accurate to the best of my knowledge.



Andy Magee

Sworn to before me
This 13th day of March, 2023



NOTARY PUBLIC

Samuel Thomas Eschenbrenner
Notary Public, State of New York
Qualified in Onon. Co., No. 01ES6331366
My Commission Expires Oct. 05, 20 23

**NEW YORK SUPREME COURT
APPELLATE DIVISION – FOURTH DEPARTMENT**

COLUMBUS MONUMENT CORPORATION, indiv.)	
and as successor in interest to the COLUMBUS)	
MONUMENT ASSOCIATION, NICHOLAS J. PIRRO,)	Docket No.
BOB GARDINO, JOANNE GARDINO, JAMES)	CA 22-00380
ALBANESE, MIKE ALBANESE, KATIE ALBANESE,)	
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CHRISTENSEN, GABRIEL DIGENOVA, PETER)	Onondaga County
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SCUDERI, CHARLES TREMPER, AND)	
JOHN VIGLIOTTI,)	
<i>Petitioners-Respondents,</i>)	
v.)	
)	
CITY OF SYRACUSE)	
<i>Respondent-Appellant</i>)	
and)	
)	
BEN WALSH, as Mayor of the City of Syracuse,)	
<i>Respondent.</i>)	

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

I, REBECCA SUE EIHOLZER, being duly sworn, deposes and says that:

1. I have resided in the Town of LaFayette on Coye Rd, Jamesville, NY 13078 for 48 years.

2. Although I do not live in the boundaries of the City Syracuse, I have maintained close ties with the city for decades. I have been active in a variety of volunteer and professional organizations connected to the city and the county.
3. I often find myself in or near St. Mary's Circle, which contains the Columbus monument. I am personally offended and pained by the continued commemoration of Christopher Columbus, because of my understanding of his role in the colonization and violent subjugation of Indigenous people in the Americas.
4. I am a founding member of Neighbors of the Onondaga Nation (NOON), a committee of the Syracuse Peace Council. NOON was created approximately 25 years ago with the goal of supporting the Onondaga Nation through education and advocacy. I currently serve on NOON's steering committee.
5. The Columbus monument has long been a concern and an issue among NOON members.
6. Over the years, I have presented innumerable programs about the Onondaga Nation to civic organizations and community groups. I have also participated in multiple NOON-sponsored discussion groups to teach and learn about the experience of being Indigenous. The issue of the Columbus monument almost always arose in these discussions with strong feelings being expressed that it should be removed.
6. In 2019, I agreed to be part of a dialogue process initiated by the City of Syracuse through InterFaith Works regarding the future of the Columbus monument in downtown Syracuse. This formal dialogue process was initiated to help the many unique segments of our community to better understand each other's background and concerns and to find common

ground for moving forward. I have initiated and guided just such an approach with families in my professional work.

7. The dialogue was structured to allow all participants to express their ideas and concerns and to help participants listen respectfully to and learn about the perspectives of others. I learned, through my dialogue experience, to understand and respect the history of the Italian-American community in Syracuse, the hurts that they suffered, and their feelings around and goals for the Columbus monument. I recognize that a century ago, the intent of the Columbus monument was to counter the xenophobia against Italian-Americans prevalent at the time of construction.

8. As a result of this testimony and this increased understanding, my dialogue group was in agreement that the monument should be removed because of the public harm caused by the continued heroization of Columbus and his historical ties to colonization, slavery, and the violent subjugation of Native peoples.

9. In particular, I view the four heads of the Indigenous people at the feet of Columbus on the monument and the two plaques (“Columbus bringing Christianity to the New World”, and “Columbus returning to Queen Isabella’s Court”) as perpetuating the very xenophobia that the community was working to change.

10. Although the first round of Dialogue conversations did not produce a “common ground” agreement, the City’s announced decision to pursue the removal of the Columbus monument and the creation of a more culturally representative park at St. Mary’s Circle matches my understanding of the majority opinion of my dialogue circle and of the members of the public that I have encountered in my work with NOON.

I have read the foregoing and swear that the facts recited above are true and accurate to the best of my knowledge.


REBECCA SUE EIHOLZER

Sworn to before me

This 14 day of March, 2023



NOTARY PUBLIC

ROBERT E. LEE CARTER
Notary Public, State of New York
Qual. in Onondaga Co. No. 02CA6097467
My Commission Expires August 18, 2023

**NEW YORK SUPREME COURT
APPELLATE DIVISION – FOURTH DEPARTMENT**

COLUMBUS MONUMENT CORPORATION, indiv.)	
and as successor in interest to the COLUMBUS)	
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SCUDERI, CHARLES TREMPER, AND)	
JOHN VIGLIOTTI,)	
)	
<i>Petitioners-Respondents,</i>)	
v.)	
)	
CITY OF SYRACUSE)	
)	
<i>Respondent-Appellant</i>)	
and)	
)	
BEN WALSH, as Mayor of the City of Syracuse,)	
<i>Respondent.</i>)	

STATE OF WASHINGTON)
County of Walla Walla) ss:

GRACE FRITZKE, being duly sworn, deposes and says that:

1. I am a member of the Women of Italian and Syracuse Heritage of Central New York (WISH). I am not Italian-American, although I am European-American. My

involvement in WISH began in the fall of 2020 due to my scholarly interest and expertise in public memorials, United States history, and specifically Christopher Columbus.

2. I earned a master's degree from Syracuse University's Religion Department, in the History of American Religions. My thesis is on the memorialization of Christopher Columbus in the United States and Syracuse's monument specifically.
3. My bachelor's honors thesis is on the memorialization of a colonial figure named Marcus Whitman. I also have worked as an archival researcher for Tamástlikt Cultural Institute (Cayuse, Umatilla, Walla Walla).
4. My academic training as a researcher of archival material and my extensive research on Christopher Columbus and historical memorials in the United States enables me to respond to claims that may or may not be up to a high standard of historical scholarship.

My review of COPOMIAO's Research:

5. The January 24, 2023 brief submitted by the Conference of Presidents of Major Italian American Organizations, Inc. (COPOMIAO), NYSCEF No. 61. states that their organization runs a website intended to “[provide] the public with vast historical information collected from historians and academics.”¹
6. However, there is no “vast” amount of historical materials available on this website, because the sum of this information on the website are six YouTube links (described in ¶¶ 7 and 8 below) and one link to a different organization's resource page (described in ¶ 9).²

¹ COPOMIAO Brief, 2.

² “The Columbus Project,” Conference of Presidents of Major Italian American Organizations, August 6, 2022, <https://copomiao.org/history/>; “Resources,” *Know Columbus*, National Columbus Education Foundation, accessed February 18, 2023, <https://knowcolumbus.org/resources/>.

7. The six YouTube links are to video excerpts from the thirty-minute, pro-Columbus film “Courage and Conviction—the True Story of Christopher Columbus,” put together by the Catholic fraternal organization Knights of Columbus.³
8. The video clips intersperse a handful of historians such as William Connell and Carol Delaney, but the amount of screentime given to them is vastly eclipsed by non-scholarly voices:
 - a. an author published by a Catholic publisher,
 - b. an attorney,
 - c. a lawyer,
 - d. a former head of Knights of Columbus,
 - e. a political columnist,
 - f. an Italian-American activist and philanthropist, and
 - g. workers at the pro-Columbus *National Columbus Education Foundation*.⁴

These individuals do not constitute an array of scholarly voices.

9. The resources link on the COPOMIAO webpage is underneath the videos. It is hyperlinked in the sentence, “*Check our sources above, explore the academic research, and tell us your thoughts.*”⁵ The link goes to the National Columbus Education Foundation’s (NCEF’s) resource page.
10. NCEF’s page consists of five handouts, each with answers to a frequently asked question about Columbus, such as “Did Columbus bring slavery to the New World?”

³ “About Christopher Columbus, KofC,” Knights of Columbus, accessed February 18, 2023, <https://www.kofc.org/en/news-room/columbus/index.html>.

⁴ COPOMIAO, Did Christopher Columbus Commit Genocide against the Indigenous Peoples of America?, 2021, https://www.youtube.com/watch?v=ZM9_hvSW1uc; COPOMIAO, Did Christopher Columbus Introduce the Slave Trade to the Americas?, 2021, <https://www.youtube.com/watch?v=i72uIADzBUI>; COPOMIAO, Is Columbus Day a Holiday That Celebrates White Privilege?, 2021, <https://www.youtube.com/watch?v=JoyzVjudVK4>; COPOMIAO, Should Columbus Day Be Replaced and Columbus Statues Taken Down?, 2021, <https://www.youtube.com/watch?v=8680Z-J5V3U>; COPOMIAO, Should We Continue to Celebrate Columbus Day?, 2021, <https://www.youtube.com/watch?v=2ZrsD7XO0WM>; COPOMIAO, Was Christopher Columbus Nothing but a Greedy Opportunist?, 2021, https://www.youtube.com/watch?v=m_e6ljzLYZg.

⁵ “The Columbus Project,” Conference of Presidents of Major Italian American Organizations.

11. The handouts cite one author: Rafael Ortiz.⁶ Both the books the NCEF’s handouts cite were published with Amazon’s “Create Space,” a paid self-publishing service.
12. To qualify as academic, research must be peer-reviewed by experts in the same subject to maintain a high standard of scholarship and so Ortiz’s books do not qualify.
13. COPOMIAO’s Brief falls into the same pitfalls of using limited and dubious sources. Throughout, the historical information in their brief relies on the words of two people: Stanford Professor Emeritus Carol Delaney and Robert Petrone, an attorney who belongs to COPOMIAO through member organization Filitalia International.
14. The Brief claims, “*Many scholars...believe the narrative of Columbus as a notorious villain is false and unfounded*” and, “*Overwhelming evidence in the primary sources and the effectively-anonymous consent among historians who have read those primary sources, firmly establish that Christopher Columbus was a righteous man, innocent of the accusations of the atrocities.*”⁷
15. However, it only cites Delaney and Petrone as the sum of the “*many scholars*” and “*effectively-anonymous consent.*”
16. Based on the use of Delaney as the only scholar, you would expect her to be one of the seminal Columbus scholars. However, she is not. Delaney’s work on Columbus’ religiosity is important in its own right, but she does not represent the field of Columbus studies. Based on how their work is cited in other scholarly works on Columbus, I would expect the work of Samuel Eliot Morison to be used in this way, but not Delaney.

⁶ “COLUMBUS AND NATIVE MUTILATION,” KnowColumbus.org, National Columbus Education Foundation, accessed February 18, 2023; “COLUMBUS AND SLAVERY,” KnowColumbus.org, National Columbus Education Foundation, accessed February 18, 2023; “COLUMBUS AND PEDOPHILIA,” KnowColumbus.org, National Columbus Education Foundation, accessed February 18, 2023; “COLUMBUS AND NATIVE MUTILATION,” KnowColumbus.org, National Columbus Education Foundation, accessed February 18, 2023; “COLUMBUS AND DISEASE,” KnowColumbus.org, National Columbus Education Foundation, accessed February 18, 2023; “COLUMBUS AND RACISM,” KnowColumbus.org, National Columbus Education Foundation, accessed February 18, 2023.

⁷ COPOMIAO brief; 9, 17.

17. Delaney states that she sees Columbus as a parable about good intentions gone awry. These intentions were religious according to Delaney’s writing, and COPOMIAO’s Brief also appears to use this argument, saying that Columbus was “*a devout religious man*” and “*a righteous man*” implying that his religious devotion makes him more likely to have behaved ethically.⁸ However, religious devotion does not guarantee ethical behavior and is often used as an excuse for violence.
18. Although Columbus expressed religious reasons for his voyages, he was also driven by making his fortune.⁹
19. Delaney also emphasizes that “*it was a different time*” and “*it was just policy*” when discussing Columbus’ actions.¹⁰ Similar arguments found on COPOMIAO’s website and NCEF’s resources claim that the presence of slavery amongst Indigenous peoples lessens the wrong-ness of Columbus’ enslavement of people.¹¹
20. This argument calls to mind the cliché, “two wrongs do not make a right.” Columbus’ enslavement of Indigenous peoples does not become ignorable by acknowledging that enslavement was a common practice.¹²
21. Robert F. Petrone as only other source scholar cited in COPOMIAO’s Brief. He is and attorney in Philadelphia and a history buff whom the Philadelphia City Council asked to do a write-up of Bartholemew de las Casas’s work.

⁸ COPOMIAO brief; 3, 17.

⁹ Samuel Eliot Morison, *Admiral of the Ocean Sea : A Life of Christopher Columbus* (Boston: Little, Brown, and Co, 1942), 54; for more on Columbus’ religious pursuits, see: Carol Lowery Delaney, *Columbus and the Quest for Jerusalem*, 1st Free Press Hardcover ed. (New York: Free Press, 2011).

¹⁰ Carol Delaney, (2011). *Columbus and the quest for Jerusalem* (1st Free Press hardcover ed.). Free Press, 141.

¹¹ “Would you be surprised to learn that thousands of enslaved Africans were owned by Native Americans” (“The Columbus Project,” Conference of Presidents of Major Italian American Organizations, August 6, 2022, <https://copomia.org/history/>); “Slavery during Columbus’s era was universal and practiced on every continent” (“COLUMBUS AND SLAVERY,” KnowColumbus.org, National Columbus Education Foundation, accessed February 18, 2023).

¹² For information on Columbus sending 500 Taino Indians as slaves to Spain see: Morison, *Admiral of the Ocean Sea*; 485-488, 569; Las Casas, *A Short Account of the Destruction of the Indies*, 25. For more on his kidnapping and transporting of Indigenous peoples to Spain to make them into translators, see: Morison, *Journals and Other Documents on the Life and Voyages of Christopher Columbus* (New York: Printed for the members of the Ltd. Editions Club, 1963), 68.

22. Lay person research is valuable, but COPOMIAO is relying on conclusions drawn for a City Council, not peer-reviewed research. In the eyes of a professional historian, his work would be considered unverified.
23. Petrone's claim that the single source on criticism of Columbus is Howard Zinn (10), is especially concerning since Zinn is a popular historian not a strictly academic one. Petrone plays fast and loose with citations and makes broad sweeping generalizations, and he is not a Columbus scholar specifically.
24. Samuel Eliot Morison is the seminal Columbus biographer, whose work is balanced and thoroughly investigates Columbus' religious motivations, attempts to better relations between Spaniards and Indians, and the violent ways he subjugated the Indians.
25. Morison's book: *Admiral of the Ocean Sea. A Life of Christopher Columbus* is so well-received as authoritative that it won the Pulitzer Prize.
26. This failure to present peer reviewed research and reliance on non-scholarly sources raises concerns about what sources the COPOMIAO is reading and how they obtained them, since history scholarly journals and publishing houses do not accept works with Zinn as their main source.
27. The claim of cannibalism amongst the Caribs fascinated Europeans, but no evidence for this mythical claim by Columbus exists. Scholars believe it is more likely that the ongoing trade conflicts between groups and the Arawak's rightful fear of their enemies resulted in Columbus receiving this information.¹³
28. Petrone claims Columbus did not impose an encomienda system, in which Spaniards were given land and the labor of the Indians who lived on it as a reward. However, Columbus actually did impose an encomienda system in 1499.¹⁴

¹³ Peter Hulme. "COLUMBUS AND THE CANNIBALS: A STUDY OF THE REPORTS OF ANTHROPOPHAGY IN THE JOURNAL OF CHRISTOPHER COLUMBUS." *Ibero-Amerikanisches Archiv* 4, no. 2 (1978): 120. <http://www.jstor.org/stable/43750588>.

¹⁴ Teresa Meade (19 January 2016). *A History of Modern Latin America 1800 to the Present*. Blackwell Publishing Ltd. p. 388. ISBN 978-1-118-77248-5.

Columbus' History in Peer-Reviewed Historical Accounts

29. Columbus made his first landing in the Americas in 1492. He returned to Spain with spoils from his voyage, including between five and ten Native men whom he abducted from Hispaniola and brought to the Spanish court.
30. In subsequent voyages, the treatment of Native peoples, which was either directed or condoned by Columbus, became more brutal.
31. Columbus instituted a form of *encomienda* in 1499, giving soldiers, priests, colonial officials, and other settlers the right to tribute and forced labor from Native peoples within specific regions. Many of the *encomedoras* or land holders used brutal tactics to enforce these rights.
32. Rather than holding the abusive Spanish settlers to account, Columbus reinforced their authority over the Native peoples. In one instance, Columbus set his forces against a Taino community that had risen up in protest of a particularly brutal *encomedora*. Fifteen hundred Tainos were captured in this action and Columbus sent 500 of them to Spain as slaves. Two hundred died on the voyage.
33. In 1500, on his third voyage to the Americas, Columbus had to ask for Spanish help to put down a Spanish rebellion on Hispaniola. Francisco de Bobadilla was sent to provide this support and was so appalled by Columbus' brutal treatment of these rebels that he shackled Columbus and sent him back to Spain in disgrace.
34. Other contemporaries of Columbus similarly saw his actions as unjustified and unethical. Bartholome de las Casas, who wrote a complete history of the Spanish colonization of the West Indies, condemned Columbus' contribution to the violent subjugation of Native peoples, writing that "whether he actually did it himself or allowed it to be done, it was an absurd and unrighteous thing. It is not too bold to presume that his own anguish and misfortune were sent as divine punishment."¹⁵

¹⁵ Bartholome de las Casas, *A History of the Indies* (Harper & Row, 1971), Book 2, Chap. 38.

What Columbus Represents

35. There is not dispute that Columbus was an important tool for Italian-Americans to normalize themselves in the white American mainstream as they worked against bigotry in the late nineteenth and early twentieth centuries.
36. More importantly about Columbus, as far as modern celebrations of him go, is what he currently represents, particularly after the past few decades of new and ground-breaking research on Columbus.
37. The association between Columbus and imperialism was always present, as Columbus was an arm of the Spanish monarchy. In the 1930s, Columbus represented Italian and Italian-American hopes of success in the world. Mussolini, Italy's fascist dictator, was called a "modern Columbus."¹⁶
38. Mussolini was invading Ethiopia at the time (1935-36), and Generoso Pope with the Knights of Columbus convinced Franklin D. Roosevelt to have the United States' official stance toward the invasion be neutral.¹⁷ Roosevelt also signed Columbus Day as a federal holiday due to Italian-American campaigns to maintain friendly relations with fascist Italy.¹⁸
39. COPOMIAO includes photos of the 1892 parade, so it is interesting to compare it to a later celebration: the 1935-37 wreath-laying ceremonies in NYC for Columbus Day. Pope and other supporters of fascism were active participants, and thousands of Fascist supporters attended these ceremonies, which "mimicked

¹⁶ F.B. Ventresco, 7, in Ben Davis, "Why the Columbus Monument Should Be Seen as a Monument to the Construction of Whiteness in the United States," *Artnet News*, June 12, 2020. <https://news.artnet.com/opinion/columbusmonument-whiteness-1886424>.

¹⁷ Ruberto and Sciorra, "'Columbus Might Be Dwarfed to Obscurity': Italian Americans' Engagement with Columbus Monuments in a Time of Decolonization," 77; Davis, "Why the Columbus Monument;" Christopher Silber, "Columbus Statue's Turbulent History Included State Funds, Design Feuds, Mussolini Message," *Block Club Chicago*, July 24, 2020. <https://blockclubchicago.org/2020/07/24/columbus-statuesturbulent-history-included-state-funds-design-feuds-mussolini-message/>. Pope contributed money toward this invasion (Edward Kosner, "Inquiring Minds Still Want to Know," book review, *Wall Street Journal*, August 12, 2008. <https://www.wsj.com/articles/SB121850446228131941>).

¹⁸ Davis, "Why the Columbus Monument."

Italian Fascist rallies” and featured men giving the Fascist salute and wearing Fascist military uniforms.¹⁹

40. Columbus represents overcoming immigrant hardship for some groups of Italian-Americans, but he represented imperialism to Italian-Americans in the 1930s—and was celebrated for it.
41. This link to imperialism is why Columbus represents the violence of colonialism to Indigenous peoples, and many non-Indigenous peoples, in the Americas and around the world. The historical connection between Columbus and imperialism, beyond his own imperialistic aims, is as follows:
42. Columbus’ voyages led the Pope to publish the papal bull *Inter Caetera* to capitalize off his discoveries, claiming that discovered land without Christians was “terra nullis” and could be claimed by the Catholic Church.²⁰
43. *Inter Caetera* built off the “*Romanus Pontifex*,” Pope Nicholas V’s 1455 papal bull, which authorized the enslavement of local peoples. Taken together, the Catholic church allowed that any resources of the land, including people, were thereafter the property of the Christian conqueror.²¹
44. Together, these papal bulls went into practice as the so-called Doctrine of Discovery and justified violent European imperialism through religion.
45. This discovery doctrine became part of American justification for the land colonists took from Indigenous peoples, as established in the 1823 *Johnson v. M’Intosh* case which underlined that the European discovery of the Americans

¹⁹ Jacey Fortin, “Columbus Day Has Drawn Protests Almost From Day 1,” *New York Times*, October 9, 2017. <https://www.nytimes.com/2017/10/09/us/columbus-day-protest.html>; Laura E. Ruberto and Joseph Sciorra, “‘Columbus Might Be Dwarfed to Obscurity’: Italian Americans’ Engagement with Columbus Monuments in a Time of Decolonization,” in Sabine Marschall, *Public Memory in the Context of Transnational Migration and Displacement* (Palgrave Macmillan, 2020), 77-78. This research originally done for: Grace Fritzke, “Columbus [as A] Circle And Skä•noñh As An Ellipsis: A Case Study On Shifting The Interpretive Center In Syracuse, New York” (2021). <https://surface.syr.edu/thesis/481>.

²⁰ “Doctrine of Discovery,” Upstander Project, accessed April 4, 2021. <https://upstanderproject.org/firstlight/doctrine>.

²¹ “Doctrine of Discovery,” Upstander Project, accessed April 4, 2021. <https://upstanderproject.org/firstlight/doctrine>; Grace Fritzke, “Columbus [as A] Circle And Skä•noñh As An Ellipsis: A Case Study On Shifting The Interpretive Center In Syracuse, New York” (2021), 27. <https://surface.syr.edu/thesis/481>.

transferred land title to the Europeans, whereas Indigenous peoples were merely occupants without rights to title.²²

46. Symbolism can be multiple, since symbols do not exist in a vacuum. Columbus variously represents acceptance, the trials of immigrating, and pride in one's ethnicity to some groups of Italian-Americans, while he represents colonial violence to many others.

47. Who Columbus "really" was or did isn't the argument; it is what he represents now that is important. We are not interested in whether Columbus himself was personally responsible for all atrocities. What we are concerned about is that Columbus has come to represent the beginning of European colonization in the New World.

How Memorials Communicate

48. Memorials of a person communicate using symbolism, composition, and placement. They do not neutrally "remind" their audience of a person. As American historian and memorials scholar Erika Doss states, because memorials "[mark] social and political interests and [claim] particular historical narratives, memorials possess enormous power and influence."²³

49. When a person is put high above the rest of the surrounding area, in the middle of a fountain, and between important places such as churches and courts, the memorial is celebrating that person. The Columbus memorial in Syracuse has all of these honorifics and implies to viewers that Syracuse celebrates whatever he represents.

50. I agree that we should not forget the role Columbus played in winning acceptance for Italian-Americans in the face of extreme bigotry. But, we can remember

²² "What Is the Doctrine of Discovery?" Indigenous Values Initiative, July 30, 2018. <https://doctrineofdiscovery.org/what-is-the-doctrine-of-discovery/>; Grace Fritzke, "Columbus [as A] Circle And Skä•noñh As An Ellipsis: A Case Study On Shifting The Interpretive Center In Syracuse, New York" (2021), 28. <https://surface.syr.edu/thesis/481>.

²³ Erika Doss, *Memorial Mania: Public Feeling in America* (Chicago: University of Chicago Press, 2010), 9.

Columbus' role in American history without celebrating Columbus and the imperialism he represents. A celebratory statue of Columbus is not the only way to remember his role in American lore, nor is it the only way to honor immigrant struggles and the Italian-American experience.

I have read the foregoing and swear that the facts recited herein are true to the best of my knowledge.

Sworn to before me

this 14th day of March, 2023



NOTARY PUBLIC


GRACE FRITZKE

ALONDRA COLIN-DIAZ
Notary Public
State of Washington
Commission # 21024932
My Comm. Expires Feb 6, 2025

Submitted by:
THANE JOYAL

New York Supreme Court
Appellate Division—Fourth Department

COLUMBUS MONUMENT CORPORATION, INDIV. AND AS SUCCESSOR
IN INTEREST TO THE COLUMBUS MONUMENT ASSOCIATION,
NICHOLAS J. PIRRO, BOB GARDINO, JOANNE GARDINO,
JAMES ALBANESE, MIKE ALBANESE, KATIE ALBANESE, MARY
EMILY ALIBRANDI, SILVIO AND LAUREN ASCENZO,
BRENDA WENDY LEE BOUSEFELD, ANGELO AND MARGARET
CHIODO, JOAN CHRISTENSEN, GABRIEL DIGENOVA,
PETER DIGENOVA, GENE FISCH, ANDRE GRASSO, KEVIN KANE,
SHANNON KENNEDY, BILL KINNE, JOE LEPIANI, TARKY LOMBARDI,
JR., RANDY POTTER, JOSEPH RUSSO, GERERADA SCUDERI,
CHARLES TREMPER, AND JOHN VIGLIOTTI,

Petitioners-Respondents,

– against –

CITY OF SYRACUSE,

Respondent-Appellant,

– against –

BEN WALSH AS THE MAYOR OF THE CITY OF SYRACUSE,

Respondent.

**BRIEF FOR *AMICUS CURIAE* WOMEN OF SYRACUSE
AND ITALIAN HERITAGE OF CENTRAL NEW YORK
AND NEIGHBORS OF THE ONONDAGA NATION**

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Onondaga County Clerk's Index No. 004586/2021

Docket No.:
CA 22-00380

**NEW YORK SUPREME COURT
APPELLATE DIVISION – FOURTH DEPARTMENT**

COLUMBUS MONUMENT CORPORATION, indiv.)
and as successor in interest to the COLUMBUS)
MONUMENT ASSOCIATION, NICHOLAS J. PIRRO,) **Docket No.**
BOB GARDINO, JOANNE GARDINO, JAMES) **CA 22-00380**
ALBANESE, MIKE ALBANESE, KATIE ALBANESE,)
MARY EMILY ALIBRANDI, SILVIO AND LAUREN)
ASCENZO, BRENDA WENDY LEE BOUSEFELD,)
ANGELO AND MARGARET CHiodo, JOAN)
CHRISTENSEN, GABRIEL DIGENOVA, PETER) Onondaga County
DIGENOVA, GENE FISCH, ANDRE GRASSO,) Supreme Court
KEVIN KANE, SHANNON KENNEDY, BILL) Index No.
KINNE, JOE LEPIANE, TARKY LOMBARDI, JR.,) 00456-2021
RANDY POTTER, JOSEPH RUSSO, GERARADA)
SCUDERI, CHARLES TREMPER, AND JOHN)
VIGLIOTTI,)
Petitioners-Respondents,)
v.)
CITY OF SYRACUSE)
Respondent-Appellant)
and)
BEN WALSH, as Mayor of the City of Syracuse,)
Respondent.)

BRIEF FOR AMICUS CURIAE

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PRELIMINARY STATEMENT

In October 2020, Mayor Ben Walsh announced that he intended to pursue the removal of the Columbus monument from St. Mary's Circle. This decision followed more than a decade of public protest around Columbus Day and the Columbus status, was informed by two years of discussion within community-based dialogue circles designed to be representative of the public, and considered the recommendations of a specially appointed Columbus Circle Action Committee. The New York State Office of Parks, Recreation and Historic Preservation, which had funded prior restoration work, approved the proposed change and the City began the internal review and approval process.

Despite this lengthy and carefully designed process, the approval of state authorities, and strong public support for the change, the Columbus Monument Corporation and individual petitioners (hereinafter collectively referred to as CMC) brought suit to block the proposed change. CMC argued that the City was barred from altering or removing the Columbus monument because of one provision of a grant agreement between the State of New York Office of Parks, Recreation, and Historic Preservation ("OPRHP") and the City of Syracuse ("the Preservation Covenant"). The lower court found that CMC was entitled to enforce the Preservation Covenant as a third-party beneficiary and then accepted CMC's

argument that the Preservation Covenant bans removal of or changes to the Monument. Neither position is correct.

WISH CNY and NOON support the City of Syracuse's arguments that the Preservation Covenant was terminated by agreement of the parties or, alternatively, ended by its own terms. In addition, WISH CNY and NOON argue that CMC does not represent the interests of the general public or of the Italian American community in Syracuse, who should be considered the third-party beneficiaries of the Preservation Covenant, if such exist; that the injunctive relief provided is not warranted based on the balancing of the equities between the parties and the harms that it creates to the public interest; and that the Columbus monument has reached the end of its useful life as a method of honoring Italian Americans.

**STATEMENT OF INTEREST OF AMICUS CURIAE WOMEN OF
ITALIAN AND SYRACUSE HERITAGE (WISH CNY) AND NEIGHBORS
OF THE ONONDAGA NATION (NOON)**

Women of Italian and Syracuse Heritage of Central New York (WISH CNY) was founded in July 2020 to promote historical truth-telling around Columbus, pride in their Italian-American heritage, and diversity within the community. To this end, WISH CNY has created a website with educational resources, conducted workshops, and promoted alternative Italian-American heroes through social media. Many of its members took part in the public dialogues around the Columbus monument.

The Neighbors of the Onondaga Nation (NOON) is a grassroots organization founded in mid-1990s to support the sovereignty of the Onondaga Nation and to educate the broader community about the Nation and its history, culture, and concerns. NOON has been deeply engaged in political action and community education around Columbus Day and the Columbus monument for over a decade. Many of its members were personally involved in the public dialogues around the future the Columbus monument.

NOON and WISH CNY seek amicus status to protect the interests of dialogue circle participants and of Italian-Americans and other area residents opposed to the continued heroization of Columbus through the Columbus monument. Both groups can provide first-hand information on public efforts to remove or alter the Columbus monument and an inside view of the public dialogues on the Columbus monument. WISH CNY and NOON can provide missing insight into the public interest around the Columbus monument and the limited scope of CMC's representation of Italian-American interests. Finally, WISH CNY and NOON can explicate the dominant academic understanding of Columbus in direct response to the ahistorical accounts of Christopher Columbus provided in the amicus brief submitted by the Conference of Presidents of Major Italian American Organizations (COPOMIAO).

THE EVOLVING HISTORICAL UNDERSTANDING OF COLUMBUS

In the late 1800s and early 1900s, Italian-Americans faced significant discrimination and even violence. In response to a particularly egregious incident, when 11 Italian laborers were murdered in New Orleans, then President Benjamin Harrison offered compensation to the families of the murdered men and issued a proclamation honoring Christopher Columbus, a familiar figure to most Americans whose history was central to the origin story of the United States.

In the wake of that official endorsement, Columbus celebrations of Columbus increased in number and intensity. In 1937, Columbus Day became a federal holiday. Italian Americans around the country embraced Columbus as a hero and a symbol of their integration into American society. Many Italian-American communities, including the community in Syracuse, funded or supported the erection of Columbus statues to commemorate this change and their hero.

However, as with many historical figures, the accepted story of Columbus was not complete or entirely accurate. While Columbus braved a voyage into unknown waters, he is also closely associated with the worst excesses of colonialism, subjugation of Native peoples, and the perpetuation of the slave trade. As a result, for many people today, Columbus is not an historic figure worthy of commemoration, but a painful reminder of past harms.

The seminal history of Columbus is told, not by Howard Zinn as suggested by COPMIAO, but by Samuel Eliot Morison, a Harvard-trained historian who won a Pulitzer Prize for his biography of Christopher Columbus, *Admiral of the Open Sea*, published in 1942. Some of the harms inflicted by Columbus are obvious. His voyages opened the Americas to conquest and exploitation by better armed and more mercenary European forces. The consequence of war, violent repression of Native populations, enslavements, removals and relocations, and disease has been labeled a “demographic collapse.” Russell Thornton, *American Indian Holocaust and Survival: A Population History since 1492* [1987]; David Michael Smith, *Counting the Dead: Estimating the Loss of Life in the Indigenous Holocaust, 1492-present*, Proceedings of the Twelfth Native American Symposium, Southeastern Oklahoma State University [2017], p. 10 (available on-line at <https://www.se.edu/native-american/wp-content/uploads/sites/49/2019/09/A-NAS-2017-Proceedings-Smith.pdf>).

On Hispaniola alone, where Columbus first entered the Americas, most of the Indigenous population of up to 4 million people were dead within a few decades of Columbus’ arrival. Smith, p. 10; Thornton, p. 41; David E. Stannard, *American Holocaust: The Conquest of the New World* [1992], p. x. Overall, scholars estimate that the Native population in the Americas was reduced by 90-

95% between Columbus' "discovery of the New World" and the early 1900s.

Smith, p. 12.

Columbus did not simply open the door to the decimation of Native populations. According to Morison, in his first voyage to the Americas, Columbus captured several Native men and transported them to Spain against their will. Fritzke Affidavit; Morrison, *Admiral of the Open Seas* [1942], pp. 485-488, 569. This incident is shown as a triumphant moment on one of the bronze plaques on Syracuse's Columbus monument, titled "Columbus Returning to Queen Isabella's Court." Like many such commemorations, the depiction does not explain that the Native men in the image were kidnapped.

Subsequent voyages to the Americas resulted in more brutal treatment of Indigenous peoples and more enslaved Natives carried back to Spain at Columbus' direction. Morison, p. 485-488. By 1499, Columbus had imposed an *encomienda* system, whereby colonial officials, conquistadors, priests, and other settlers were given land grants that included the right to tribute and to forced labor from Native peoples. Fritzke Affidavit; Teresa Meade, *A History of Modern Latin America 1800 to the Present* [2016], p. 388. Many of the *encomendos* set abusive work and tribute requirements, which sparked resistance. Fritzke Affidavit; Morrison, p. 95. The response of the Spanish colonizers was brutal.

Rather than reining in these abuses or punishing the abusers, Columbus joined in the forceful and violent efforts to put down any resistance. In one instance of brutality-sparked rebellion, Columbus sent forces who captured 1,500 Taino people, intending to send them to Queen Isabella as slaves despite her objections to the practice. Fritzke Affidavit; Morrison, p. 486, 569; Bartolomé de Las Casas, *A Short Account of the Destruction of the Indies* [Penguin Classics Ed. 1992], p. 25. Of these captives, 500 were actually sent to be sold as slaves in Spain; 200 of these souls died on the voyage. Fritzke Affidavit; Morrison, p. 485, 487-88. In 1500, Columbus was forcibly returned to Spain when Francisca de Bobadilla, who'd arrived in Hispaniola to help put down a Spanish rebellion, found Spanish "rebels" hanging from a gallows, an example of Columbus' violent policies. Fritzke Affidavit; Morrison, pp. 570-71.

These actions are certainly not those of the first civil rights advocate in the Americas, as COPMIAO claims. Even De las Casas, portrayed by COPOMIAO as defending Columbus, condemned Columbus' contributions to the violent oppression of Native peoples, writing that "whether he actually did it himself or allowed it to be done, it was an absurd and unrighteous thing." Fritzke Affidavit; Bartolomé De Las Casas, *A History of the Indies* [Harper & Row ed., 1972], Book 2 Chap. 38.

Columbus' story is also inextricably tied to damaging colonial practices and policies, such as the Doctrine of Discovery. Under two papal bulls, one issued in 1455 and one in 1493, the Catholic church endorsed the notion that lands held by non-Christians were "terra nullis" and could be rightfully claimed by Christian colonizers and explorers. Fritzke Affidavit, Upstander Project, Doctrine of Discovery (available on-line at upstanderproject.org/learn/guides-and-resources/first-light/doctrine-of-discovery). The second of these papal bulls was directly inspired by Columbus' voyage and issued to allow the Church to profit from his discoveries in the Americas. Fritzke Affidavit; Upstander Project.

The Doctrine of Discovery, as this second papal bull is known, has justified the subjugation and dehumanization of Native peoples across the world. The United States Supreme Court used the Doctrine to justify the dispossession of Native Nations from their lands. *Johnson v. M'Intosh*, 21 U.S. 543 (1823). The Doctrine of Discovery, which was sparked by and closely associated with Columbus, is grounded in notions of white supremacy and the inferiority of Native and non-Christian peoples. For many people, that association alone is enough to raise concerns about the continued heroization of Columbus.

THE HISTORY OF PUBLIC ENGAGEMENT ON THE FUTURE OF THE COLUMBUS MONUMENT

The Columbus monument has divided the Syracuse community for decades. Community activists, Native Nations, student groups and others have called for change through protests, demonstrations, and petition drives. After more than twenty years of direct action, the City of Syracuse responded with a series of dialogue circles and proposals for change.

In 1991, protestors called for removing particularly offensive elements of the Columbus monument, including the depiction of Columbus “presenting” Native Americans to the king of Spain, the inscription labeling Columbus “the Discoverer of America,” and the four bronze heads of Native Americans. R., pp. 1115-1117. Years of inaction prompted acts of vandalism in 1992, 1997, 2011, and 2020. R., pp. 1129-1131; Affidavit of Colleen Zawadzki. In 2017, more than 100 demonstrators attended an Indigenous People’s Day rally at Columbus Circle, where calls for changes to the Columbus monument were made. R., pp. 1133-1135; R., pp. 1137-1139. These demonstrations continued annually, drawing hundreds of participants every year. Affidavit of Andy Mager.

In response to these on-going and increasing protests, Mayor Walsh created a series of dialogue circles in 2018-2019. These small group discussion circles were designed to be representative of divergent views on the Columbus monument and to facilitate deep listening and discussion on the issues. Seventy-three people,

selected to be representative of the broader community, were invited to participate; thirty-four people took part in one of three dialogue circles, which met over several weeks. R., pp. 878-891. Participants reported that the dialogue circles were educational, well-facilitated, and allowed for open expression of concerns. Mager Affidavit, Affidavit of Hillary-Anne Coppola, Zawadzki Affidavit. Although a consensus was not reached, many recommendations for change were made, including removing the most offensive parts of the Columbus monument or removing the monument altogether. R., pp. 877-891.

Mayor Walsh continued his efforts to understand public sentiment, convening a “Common Ground Forum” in September 2019 to hear directly from dialogue circle participants R., pp. 908-910. He then created a Columbus Circle Action Committee, which was meant to include representatives of all affected interests, to help re-design St. Mary’s Circle as an inclusive educational space. R., pp. 908-910.

Italian Americans and CMC members participated or were invited to participate at every stage of this work. As demonstrated by the final report from the dialogue circles, their perspectives on Columbus, on the history of Italian Americans, and on the Columbus monument itself were heard with respect and carefully considered. R., pp. 877-891. Only after all perspectives were fully expressed and explored, Mayor Walsh and the City of Syracuse determined that the

public interest demanded removal of the Columbus monument and chose to pursue that option.

ARGUMENT

I. The Interests Put Forward by the Petitioners-Respondents Do Not Represent the Public Interest or the Interests of All Italian-Americans

In its original petition, CMC argued that the proposed removal of the Columbus monument will irreparably harm the City of Syracuse and its residents. They claimed to speak on behalf of all city residents at some points. R., p 482. In addition, they argued that CMC and other petitioners, as Italian Americans who helped to fund renovations of the monument in the 1990s, were the intended third-party beneficiaries of a Preservation Covenant adopted at that time by the State of New York’s Office of Parks, Recreation, and Historic Preservation (OPRHP) and the City of Syracuse. None of these arguments are accurate.

First, to the extent that the Preservation covenant was intended to benefit any non-party entities, it was intended to benefit the general public. As noted by both Petitioners and the lower court, the purpose of the Preservation Covenant was to “ensure that a public benefit is derived from the expenditure of public funds.” R., p. 66 (Opinion of the Court), p. 477 (Amended Notice of Petition), and p. 440 (Preservation Covenant). The primary contract for the grant funding for the renovations notes that historic preservation is intended to provide “us with a sense

of orientation, civic identity and a means of understanding our past.” R., p. 66 (Opinion of the Court), p. 416 (Contract) (emphasis added). The “us” referenced in this contract is the state as a whole, not the CMC or private donors or Italian Americans in particular. The benefits of the public funds expended and the contract related to those funds are meant to accrue to the general public, not to narrow segments of the population. The benefits to CMC of preserving the Columbus monument in its current form may, as the trial court noted, be obvious. The benefits to the public as whole are not.

As evidenced by the history of protests, the lengthy and carefully balanced public dialogues convened by the City of Syracuse, and the expert assessment of the benefits of the complete and truthful history of Columbus, the larger part of Syracuse do not share the sentiments of CMC regarding preservation of the monument in its current form. In fact, the multiple public dialogues, forums, and other outreach conducted by the City of Syracuse before deciding to pursue any course of action around the monument, indicate that the public is benefitted by the Mayor’s proposed action and that the Petitioners-Respondents do not speak for the public as a whole.

Many Italian Americans, including members of WISH CNY and participants in the dialogue circles, do not view Columbus or the Columbus monument positively. Having learned the full history of Columbus and his role in the violent

colonization of the Americas, the continued elevation of this figure as the representation of their Italian American heritage is painful for many. *See Coppola Affidavit, Zawadzki Affidavit, Squillace Affidavit.* Although almost half of the dialogue circle participants were Italian American, one of the three dialogue circles had no defenders of the Columbus monument and all three circles discussed changes to or removal of the statue. R., pp. 877 – 891.

The years of demonstrations and protests around the Columbus monument show that many members of the broader public similarly do not share a reverence for Columbus or the monument. While the participants in the dialogue circles recognized that the Columbus monument was important to older Italian Americans, participants also emphasized the importance of complete and truthful information regarding our history, rather than a one-sided view of the past. R, pp. 877-891. As currently designed and displayed, the Columbus monument does not allow for full and accurate accounting of this history. *Coppola Affidavit.* The failure to contextualize this history or to provide perspectives relevant to Syracuse’s diverse community can create a distorted and harmful view of the past. *Zawadzki Affidavit.*

Further, CMC failed to persuade the public to reject Mayor Walsh’s re-election in 2021, despite their vigorous efforts. Campaign signs, focused on the Columbus monument decision, were placed across Syracuse and CMC’s website

and Facebook page were full of anti-Walsh postings. These efforts were rejected by the voters, who re-elected the Mayor by a margin of 60 % in a three-way race, suggesting that the CMC's views on the issue are not widely shared within the City. Mager Affidavit.

II. The Trial Court Abused Its Discretion by Granting the Equitable Relief of Sought by the Petitioners-Respondents

A court may not grant injunctive relief unless a plaintiff can demonstrate four factors: (1) it has suffered irreparable harm; (2) monetary damages or other are not adequate to compensate for its injury; (3) the balance of hardships between plaintiff and defendant warrants an equitable remedy; and (4) the public interest would not be disserved by a permanent injunction. *E-Bay, Inc., et al, v. MercExchange, LLC*, 547 U.S. 388, 391 (2006). In New York law, the final two factors are often described as “balancing of the equities.” *See Quinn v. Cuomo*, 126 N.Y.S.3d 636, 641, (Sup. Ct. Queens County 2020), aff'd as modified by 183 A.D.3d 928 (2nd Dept. 2020) (“the factor that must be satisfied before injunctive relief can be granted is a balancing of the equities, including the public interest); *Fika Midwifery PLLC v. Independent Health Association*, 173 NYS3d 761, 766-767 (4th Dept. 2022); *21 Tech LLC v. GCOM Software LLC*, 161 N.Y.S.3d 755, 2022 NY Slip Op. 50162, *7 (Sup Ct, Albany County 2022); *Tenney v. Oswego County Board of Electors*, 142 N.Y.S.3d 323, 327 (Sup Ct, Oswego County 2021).

New York courts, and the courts in the 4th Department in particular, have emphasized that impacts on public interest must be carefully weighed before issuing an injunction. *Destiny USA Holdings LLC v. Citigroup Global Markets Realty Corp.*, 889 N.Y.S.2d 793, 802 (4th Dept. 2009); *Eastview Mall LLC v. Grace Holmes, Inc.*, 122 N.Y.S.3d 848, 851 (4th Dept 2020). The trial court did not even consider this test before granting its injunctive relief.

Without comment on the other factors in this test, the balancing of the equities alone weighs strongly against injunctive relief in this case. In addition to the limited damage that would be caused to CMC by alteration to or relocation of the Columbus monument and the significant harm to the City of Syracuse of being prohibited from responding to the expressed will of its constituents, the issued injunction is a deep disservice to the public interest.

A. The Balancing of the Equities Favors the City of Syracuse

The injunction issued by the lower court placed a sudden halt on years of community based planning by the City, which resulted in a carefully considered decision to move the Columbus monument. In addition, the injunction essentially forces the City to adopt speech with which it disagrees and to reject the broad-based recommendations from its constituents in favor of the promoting the views of a limited minority – a minority view which notably tried and failed, through

both its participation in the Columbus dialogue circles and broader electoral activities, to persuade the public to support its position.

The decision to erect or to remove monuments in a public park, and the messages that those decisions send, are quintessentially government speech, even when the monuments are privately funded and donated. *Pleasant Grove City, Utah v. Sumnum*, 555 U.S. 460, 470-471 (2022). See also *Am. Italian Women for Greater New Haven v. City of New Haven*, 2022 U.S. Dist. LEXIS 99305, *22 (finding that the City of New Haven was free to remove a Columbus statue as an exercise of its own speech). Governments have the right to choose their messages, even if some members of the public disagree, *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 208 (2015), and the electoral process is the primary and proper check on government speech, *id.* at 207. The lower court's decision in this case harms the City by forcing it to promote a message that it does not endorse and that is contrary to its own position. This harm outweighs any harm to CMC from the rejection of the injunction.

First and foremost, the City's proposal was simply to move the Columbus monument from St. Mary's Circle, not to destroy it or to prevent its display elsewhere. This change is not caused by or evidence of diminished respect for the Italian-American community. Italian-Americans, including some Petitioners, were part of all three committees created by Mayor Walsh to reimagine St. Mary's Circle

in a way that continues to honor the Italian-American community and to find a more appropriate location to continue to display the Columbus monument. R., pp. 893-907, 909-910, 912-913, 915-916. This structure ensures that Italian-Americans will continue to be honored in both the reimagined St. Mary's Circle and in the new location of the Columbus statute. The CMC can only claim to be harmed because the City is not honoring their heritage in the exact manner that they prefer.

B. The Public Interest Is Disserved by the Ban on Removing the Columbus monument

As noted in other pleadings before this Court, the City's decision to move the monument continues to be a matter of broad public interest in the Syracuse and Central New York community. As a result of this broad interest, the City established a series of committees to solicit input and views from as many sources as possible. Members of WISH CNY and NOON were active in these committees.

The court's injunction forces these members of the public to continue to endorse or endure a presentation of Columbus as hero, which as discussed in Section I, *supra*, is painful to many. Italian-Americans may feel bound to an historic figure that they view negatively. Native Americans are repeatedly reminded of their historic subjugation via colonizing forces unleashed by Columbus. African Americans may view the Columbus monument as honoring

someone associated with enslavement. The lower court's order mandates that these harms continue.

The public also has an interest in free expression and government speech not regulated by the courts separate from the interest of the City of Syracuse. First, the public has an interest in promoting free expression to ensure that they may receive new and updated information. *Salinger v. Colting*, 607 F.3d 68, 82 (2d Cir. 2010). That interest is disserved by a bar on the City's ability to respond to new or evolving information about an historical figure by making changes in public commemorations, which is an exercise of government speech. Second, the public has an interest in protecting its right to reject or support government speech via the ballot box. The lower court's order devalues the electoral process which resoundingly rejected CMC's argument for the preservation of the Columbus monument in its current location and format.

The mandate to continue to display the Columbus monument in its present form and location presents an incomplete and inaccurate picture of history. The version of history represented by this statue is, at best, uncontextualized and one-sided. Educators who wish to present a full picture of colonialism in the Americas must work to overcome the incomplete and false narratives that the Columbus monument represents. Coppola Affidavit; Zawadzki Affidavit. These hurdles to contextualized and complete understanding of the colonial era disserve the public.

Finally, the continued display of the Columbus monument may be perceived as demeaning to and devaluing of those groups that suffered under colonialism or whose ancestors were enslaved or whose stories are nullified or diminished by the insistence on Columbus as hero. As one dialogue circle noted “We currently display a monument that represents a single story. We want the truth to be told in a public space that represents all of us.” R., p. 883.

CMC suggests that removing the Columbus monument is not correcting a narrow and inaccurate history, but is, in fact, erasing history. There is, however, a difference between the presentation of history and the commemoration of historical figures. As described by the United States Naming Commission, charged with renaming military assets that commemorate the Confederacy or Confederate soldiers, history

describes the people and places of the past in all their greatness and grimness, achievements and failures, nobility and notoriety. Commemoration elevates an act, event, or individual by bestowing it with communal esteem and honor. The best histories present humans and their choices in the context of the complex and complicated days they live through. . . .The best commemorations highlight individuals, movements and moments that epitomize the highest values of our present and motivate us as we shape our societies of the future. . . . History is about who we were. Commemoration is about who we strive to be.

The Naming Commission, Final Report to Congress: Part I [August 2022], p. 4 (available on-line at <https://www.thenamingcommission.gov/report.>)

If the Columbus monument is meant as a representation of history, it fails to provide the contextualized story – the greatness and the grimness – that history requires. By design, the Columbus monument is intended not as history, but as a commemoration and a way to honor Italian Americans. The continued commemoration of Columbus, an individual steeped in violence, intimately connected with the subjugation of Native Nations, and tied to the enslavement of Native peoples, causes pain to many of those meant to be honored, estranges those descended from his victims, divides the community, and misleads many of those who are meant to be educated by the statue. Prohibiting the removal of this statue disserved the general public interest, as well as the interests of many Italian Americans.

III. The Removal of the Columbus monument is Not Prohibited by the Preservation Covenant

WISH CNY and NOON support the City's arguments that the Preservation Covenant, required under the state grant for rehabilitation of the Columbus monument and other parts of St Mary's Circle, does not preclude removing or changing the Columbus monument, either because the Preservation Covenant allows for changes with state approval or because the Preservation Covenant was terminated by agreement of the parties or by the force of time. In addition, WISH and NOON assert that the Preservation Covenant was terminated because the

Columbus monument can no longer serve the purpose for which it was created and has therefore reached the end of its useful life.

The Columbus statute was erected and subsequently maintained and repaired for one key purpose -- to honor and commemorate Italian Americans. When the statue was erected – and even in the 1990s when it was repaired – the public generally viewed Columbus positively, as an intrepid explorer, a master sailor and navigator who discovered a “new world.” R., p. 881. His role in history was considered commendable and his association with Italian-Americans elevated their social position and furthered their acceptance into American culture.

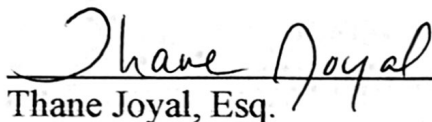
As discussed in detail in earlier sections of this brief, this view has changed. Columbus, whether viewed as the direct perpetrator of violent colonization of the Americas or simply the one to open the door for this historic human rights violation, the view of Columbus is no longer universally positive. As members of the public learn more about his role in history, this view becomes increasingly negative. Mager Affidavit. With this modern understanding of the actions and role of Columbus, the Columbus monument no longer serves its intended purpose of honoring and elevating Italian-Americans. Accordingly, the statue has reached the end of its useful life, triggering an end to the Preservation Covenant.

Conclusion

For all the reasons stated above, amicus curiae WISH CNY and NOON support the appeal of the City of Syracuse and ask that the decision of the trial court be reversed.

Respectfully Submitted,

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PRINTING SPECIFICATIONS STATEMENT

Pursuant to 22 NYCRR § 1250(f) and (j)

In accordance with 22 NYCRR § 1250, proposed Amicus Curiae WISH CNY and NOON provides this printing specification statement. The foregoing brief was prepared on a computer. A proportionally spaced typeface was used as follows:

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