

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
JAMES M. MALONEY,

Plaintiff-Appellant,

- against -

ANDREW CUOMO, in his official capacity as Attorney
General of the State of New York,
ELIOT SPITZER, in his official capacity as Governor of
the State of New York, and
KATHLEEN A. RICE, in her official capacity as District
Attorney of the County of Nassau, and their successors,

Defendants-Appellees.
-----X

07-0581-cv

**NOTICE OF ENTRY
AND
DEMAND FOR
RETRACTION OF
APPELLEE'S BRIEF**

PLEASE TAKE NOTICE that attached hereto is a true copy of an Order entered by the Clerk of the Court on November 13, 2007, referring Appellant's motion to strike Appellee's Brief to the Merits Panel.

PLEASE TAKE FURTHER NOTICE that formal demand is hereby made of KATHLEEN A. RICE, individually and in her official capacity as District Attorney of the County of Nassau, that Appellee's Brief, dated October 24, 2007, be retracted forthwith because:

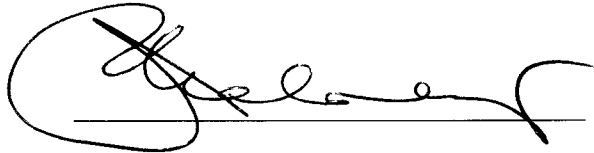
(1) Appellee's Brief contains, at page 6 thereof, statutorily confidential matter that is not germane to this appeal, and as such its continued submission amounts to the commission of a Class A misdemeanor under the provisions of subdivision 12 of § 422 of the New York Social Services Law and of subdivision 1 of § 195.00 of the New York Penal Code; and

(2) Continued submission of Appellee's Brief, which will allow said statutorily confidential matter to be reviewed by the Merits Panel, their staff, and possibly additional persons, increases the harm suffered by Appellant *Pro Se*.

PLEASE TAKE FURTHER NOTICE that this Notice of Entry and Demand for Retraction of Appellee's Brief is being served directly on KATHLEEN A. RICE, individually and in her official capacity as District Attorney of the County of Nassau, in addition to counsel for all parties, because Appellant is an attorney at law subject to the ethical codes applicable to the profession, and accordingly may not *threaten* criminal prosecution in order to advance his position in a civil matter, but *may* report a criminal act and/or demand that it be remedied.

PLEASE TAKE FURTHER NOTICE that the within is intended to serve as notice, report and complaint to the District Attorney of the County of Nassau of the commission of a Class A misdemeanor by one or more public servants under the provisions of subdivision 12 of § 422 of the Social Services Law and of subdivision 1 of § 195.00 of the Penal Code.

Dated: November 19, 2007
Port Washington, New York



JAMES M. MALONEY
Appellant *Pro Se*
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TO: The Honorable Kathleen M. Rice
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Deputy County Attorney
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Mineola, NY 11501

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UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Thurgood Marshall U.S. Courthouse at Foley Square 40 Centre Street, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 07-0581-cv

Caption [use short title]

Motion for: strike appellee's brief

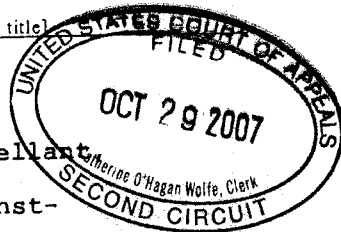
James M. Maloney,

Plaintiff-Appellant

-against-

Andrew Cuomo et al.,

Defendants-Respondents.



Set forth below precise, complete statement of relief sought:

Strike brief as violative of Local Rule
28(1) and of NY Social Services Law; refer
to Committee on Admissions and Grievances.

MOVING PARTY: James M. Maloney
 Plaintiff Defendant
 Appellant/Petitioner Appellee/Respondent

OPPOSING PARTY: Kathleen A. Rice
Nassau County District Attorney

MOVING ATTORNEY: James M. Maloney, Esq.
[name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY [Name]: Karen Hutson, Esq.
[name of attorney, with firm, address, phone number and e-mail]

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Deputy County Attorney, Nassau County
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(516) 571-2461 khutson@nassaucountyny.gov

Court/Judge/Agency appealed from: Eastern District of New York - Hon. Arthur D. Spatt.

Please check appropriate boxes:

Has consent of opposing counsel:
A. been sought? Yes No
B. been obtained? Yes No
Is oral argument requested? Yes No
(requests for oral argument will not necessarily be granted)
Has argument date of appeal been set? Yes No
If yes, enter date _____

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below? Yes No
Has this relief been previously sought in this Court? Yes No
Requested return date and explanation of emergency:

Signature of Moving Attorney:

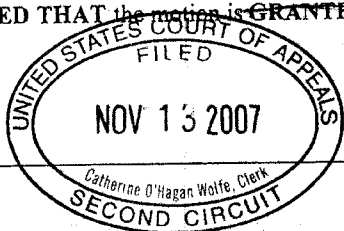
Date: 10/26/07

Has service been effected? Yes No
[Attach proof of service]

ORDER

Motion is referred to the merits panel.

IT IS HEREBY ORDERED THAT the motion is ~~GRANTED~~ DENIED.



Date: _____

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

By: Joy Fallik
Joy Fallik, Administrative Attorney