

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:

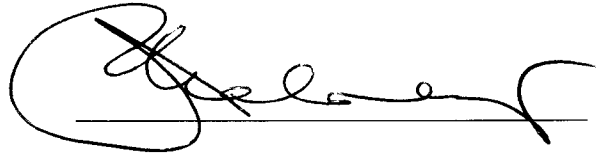
(1) Appellee's Brief contains, at page 6 thereof, statutorily confidential matter that is not germane to this appeal, and as such its continued submission amounts to the commission of a Class A misdemeanor under the provisions of subdivision 12 of § 422 of the New York Social Services Law and of subdivision 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*
33 Bayview Avenue
Port Washington, NY 11050
maritimelaw@nyu.edu
www.nunchakulaw.com

TO: The Honorable Kathleen M. Rice
Nassau County District Attorney
262 Old Country Road
Mineola, NY 11501

By Certified Mail No. 7004 2510 0000 5910 8970

C. Cecelia Chang, Esq.
Assistant Solicitor General
120 Broadway
New York, NY 10271

By Certified Mail No. 7004 2510 0000 5910 8987

Karen Hutson, Esq.
Deputy County Attorney
1 West Street
Mineola, NY 11501

By Certified Mail No. 7004 2510 0000 5910 8994

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

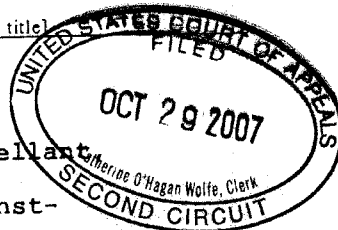
James M. Maloney,

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]

Law Office of James M. Maloney
33 Bayview Avenue, Port Washington, NY 11050
(516) 767-1395 maritimelaw@nyu.edu

Deputy County Attorney, Nassau County
1 West Street, Mineola, NY 11501
(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:

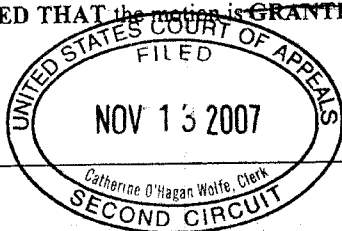
Date: 10/26/07

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

7004 2510 0000 5910 8970

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PORT WASHINGTON P.O.
 PORT WASHINGTON, New York
 110509998
 3568880038-0094
 11/19/2007 (800)275-8777 08:33:44 AM

Sales Receipt

| Product Description | Sale Unit Qty | Unit Price | Final Price |
|---------------------|---------------|------------|-------------|
|---------------------|---------------|------------|-------------|

| | | | |
|--------------------------|----------------------|--|--------|
| Mail Pickup | Delivered | | |
| Label # | 70062150000122142665 | | |
| # of Mail Pieces : | 1 | | |
| Mail Pickup Date: | 11/19/2007 08:30 AM | | |
| MINEOLA NY 11501 | | | \$0.97 |
| Zone-1 First-Class | | | |
| Large Env | | | |
| 1.50 oz. | | | |
| Return Rcpt (Green Card) | | | \$2.15 |
| Certified | | | \$2.65 |
| Label #: | 70042510000059108994 | | |

Issue PVI: \$5.77

| | | | |
|--------------------------|----------------------|--|--------|
| NEW YORK NY 10271 | | | \$0.97 |
| Zone-1 First-Class | | | |
| Large Env | | | |
| 1.50 oz. | | | |
| Return Rcpt (Green Card) | | | \$2.15 |
| Certified | | | \$2.65 |
| Label #: | 70042510000059108987 | | |

Issue PVI: \$5.77

| | | | |
|--------------------------|----------------------|--|--------|
| MINEOLA NY 11501 | | | \$0.97 |
| Zone-1 First-Class | | | |
| Large Env | | | |
| 1.50 oz. | | | |
| Return Rcpt (Green Card) | | | \$2.15 |
| Certified | | | \$2.65 |
| Label #: | 70042510000059108970 | | |

Issue PVI: \$5.77

Total: \$17.31

Paid by: Cash
 Change Due: \$20.00
 -\$2.69

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY |
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| <ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p><i>[Signature]</i></p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p><i>[Signature]</i> <i>1/15/07</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> |
| <p>1. Article Addressed to:</p> <p><i>THE HONORABLE KATHLEEN M. RICE NASSAU COUNTY DISTRICT ATTORNEY 262 OLD COUNTRY ROAD MINEOLA, NY 11501</i></p> | <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> |
| <p>2. Article Number (Transfer from service label) 7004 2510 0000 5910 8970</p> | |
| <p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p> | |

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| <ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p><i>[Signature]</i></p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p><i>[Signature]</i> <i>11/23/07</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> |
| <p>1. Article Addressed to:</p> <p><i>C. CECELIA CHANG, ESQ. ASSISTANT SOLICITOR GENERAL 120 BROADWAY NEW YORK, NY 10271</i></p> | <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> |
| <p>2. Article Number (Transfer from service label) 7004 2510 0000 5910 8987</p> | |
| <p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p> | |

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| <p>1. Article Addressed to:</p> <p><i>KAREN HUTSON, ESQ. DEPUTY COUNTY ATTORNEY 1 WEST STREET MINEOLA, NY 11501</i></p> | <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> |
| <p>2. Article Number (Transfer from service label) 7004 2510 0000 5910 8994</p> | |
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