## UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

-----Х

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

07-0581-cv

Defendants-Appellees.

**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 Cert

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

e 2:03-cv-00786-PKC-AYS\_Document 133-2\_Filed 03/20/14\_Page 3 of 5 PageID #: 1201\_

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

	Caption [use short title]
07-0581-cv Docket Number(s):	FILED
Motion for:	James M. Maloney, Plaintiff-Appellant, - against- - against-
Set forth below precise, complete statement of relief sought:	agazine e <u>in circuit</u>
Strike brief as violative of Local Rule	- Andrew Cuomo et al., e - Defendants-Respondents.
28(1) and of NY Social Services Law; re	
to Committee on Admissions and Grievand	ces.
MOVING PARTY: James M. Maloney	OPPOSING PARTY:
MOVING FARTT:        Plaintiff     D Defendant       Appellant/Petitioner     D Appellee/Respondent	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	Deputy County Attorney, Nassau County
3 Bayview Avenue, Port Washington, NY 11050	1 West Street, Mineola, NY 11501
(516) 767-1395 maritimelaw@nyu.edu	(516) 571-2461 khutson@nassaucountyny.gov
Eastern District o	of New York - Hon. Arthur D. Spatt
Court-Judge/Agency appealed from:	
Please check appropriate boxes:	FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:
Has consent of opposing counsel:	Has request for relief been made below?  Ves No
A. been sought? 🗆 Yes 🖌 No	Has this relief been previously sought
	in this Court?
Is oral argument requested? 🗆 Yes 🖌 No (requests for oral argument will not necessarily be granted)	Requested return date and explanation of emergency:
Has argument date of appeal been set?	
Signature of Moving Attorney: Date: 10/26/03	Has service been effected? ✓ Yes □ No [Attach proof of service]
	RDER Motion is referred to the merits pane
IT IS HEREBY ORDERED THAT THE COURT IS GRANTE	<del>D-DE</del> NIED.
DSIN FILED TRA	FOR THE COURT:
S NOV 1 3 2007	Catherine O'Hagan Wolfe, Clerk of Court
Date:	By: In Falle
Catherine O'Hagan Wolfe, Clerth	Joy Kallek, Administrative Attorney
SECOND CIRCULT	
Form T-1080 (Revised 10/31/02).	
Form 1-1080 (Revised 10/31/02).	

## Case 2:03-cv-00786-PKC-AYS Document 133-2 Filed 03/20/14 Page 4 of 5 PageID #: 1202

U.S. Postal Service           CERTIFIED MAIL. RECEIPT           Milecular Vision           Milecular Vision           Product Vision </th <th></th> <th>Case 2:03-cv</th> <th>v-00786-PKC</th> <th>-AYS Documen</th> <th>t 1</th>		Case 2:03-cv	v-00786-PKC	-AYS Documen	t 1
HINEGLA NY 11501 Protect Product S \$0.97 0038 Protect Product S \$2.65 07 Protect S \$2.15 Protect S \$5.77 11/19/2007 Protect S \$5.77 11/19/2007 Protect S \$5.77 11/19/2007 Protect S \$5.77 11/19/2007 Protect S \$0.97 0038 Protect S \$0.97 0038 Protect S \$0.97 0038 Protect S \$0.97 0038 Protect S \$0.97 11/19/2007 Protect S \$0.97 0038 Protect S \$0.97 0038 Protect S \$0.97 11/19/2007 Protect S \$0.97 0038 Protect S \$0.97 0038 Protect S \$0.97 0038 Protect S \$5.77 11/19/2007 Protect S \$0.97 0038 Protect S \$0.97 0038 Protect S \$0.97 0038 Protect S \$5.77 11/19/2007 Protect S \$5.77 11/19/20	8970	U.S. Postal S CERTIFIED (Comostic Mail On	MAIL N REC	EIPT overage Provided) at www.uspa.come	
$\frac{1}{100} \frac{1}{100} \frac{1}$		A CONTRACTOR OF CALLS OF CALLS OF CALLS OF CALLS	an a		
$ \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c}$	ц) Г	Protade :	s <b>\$0.97</b>	0038	-
$ \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c} \begin{array}{c}$		Certified Feo	\$2.65	07	
1000000000000000000000000000000000000		Renim Receipt Fee	\$2.15		
$\frac{1}{10} = \frac{1}{100} 1$	110	- Report of Content For P (Event output Reported) (	\$0.00		
$\frac{1}{100} = \frac{1}{100} $	п	Treal Postage & Front 1	\$ <b>\$5.77</b>	11/19/2007	
CERTIFIED MALL. RECEIPT (Commenter Mall Comparison Comparison Provided)Extended of Mall Comparison Comparison Provided)Extended of Mall Comparison Comparison Provided)NEW YORK NY 10271Pristage 5Pristage 5Pristage 5Pristage 5Pristage 6StatePristage 7Pristage 7	4002	HON. KATH Sheet AT NO 26: MINEDLA	, NY	NTRY ROAD	
Provide S\$0.97 $6038$ Certilingo Free\$2.6507Provide Free\$2.15Provide Free Free S\$2.15Provide Free Free S\$5.77Provide Free Free S\$5.77Provide Free S\$5.77Provide Free S\$5.77Provide Free S\$5.77Provide Free S\$5.77Provide Free S\$5.77Provide S\$6.77Provide S <td></td> <td>USS Postal CERTIFIE Commenter Mell C Forderwerker Mell C Forderwerker Mell C</td> <td>D MAIL or RE May: No Insurance effen viet our undefe</td> <td>CEIPT Coverage Provided) Eat leads laps conte</td> <td></td>		USS Postal CERTIFIE Commenter Mell C Forderwerker Mell C Forderwerker Mell C	D MAIL or RE May: No Insurance effen viet our undefe	CEIPT Coverage Provided) Eat leads laps conte	
HINEOLA NY 11501  Here the state of the second and the second a		P-istage	s <b>\$0.97</b>	0038	
HINEOLA NY 11501  Here the state of the second and the second a			\$2.65		
$\frac{1}{1000} = \frac{1}{1000} = \frac{1}{10000} = \frac{1}{10000} = \frac{1}{10000000000000000000000000000000000$		(Endriseininn Heidul Ac)	\$2.15		
$\frac{11}{19/2007}$ $\frac{11}{19/2007}$ $\frac{C. CECEL (A CHANG, SSQ.)}{C. CECEL (A CHANG, SSQ.)}$ $\frac{C. CECEL (A CHANG, SSQ.)}{CERTIFIED MALL, NY (0.241)}$ $\frac{US POSTAL Service}{CERTIFIED MALL, RECEIPT}$ $\frac{US POSTAL Service}{State Service} \\ Secenary Development of the out we belie at very supercomposed of the out of the out we belie at very supercomposed of the out of the out we belie at very supercomposed of the out of the out$	51		\$0.00		
C. CECEL IA CHANG, 55Q. Street Art No. 120 BROADWAY NEW YORK, NY 10271 PS Form 35000, Huns 3002 U.S. Postal Service on CERTIFIED MAIL, RECEIPT (Domeetic Mail Only: No Instruction Coverage Provided) For delivery Information visit our website of www.deepe.com HINEOLA NY 11501 Pustage \$ \$0.97 0038 Cartified Fee \$2.65 07 Postmark Hore Products Children Visit our website of www.deepe.com HINEOLA NY 11501 Pustage \$ \$0.97 0038 Cartified Fee \$2.65 07 Postmark Hore Products Children Visit our website of www.deepe.com HINEOLA NY 11501 Pustage \$ \$0.97 0038 Cartified Fee \$2.65 07 Postmark Hore Producted Physics \$ \$0.00 Test Postage \$ \$0.00 Send To KAREN HUTSON, SSQ. Street Apt. No: 1 WEST STREET Children MineOLA, NY 11501	Ŧ	144 Postnach Land	\$ <b>5.77</b>	11/19/2007	
Image: Second State State       Image: Second State       Image: Second State         Image: Second State       Second State       Second State         Image: Second S		C. CEC State Art No. State Art No. State Art No. Congene State NEW	O BROAL	INAY	
$\begin{bmatrix} & P_{USTage} & \$0.97 & 0038 \\ Cartified For & \$2.65 & 07 \\ Postmar's \\ Here & \$2.15 \\ Posture (Pequire) & \$2.15 \\ Posture (Pequire) & \$2.15 \\ Posture (Pequire) & \$0.00 \\ Total Postage & $10.00 \\ Total Postage & Pres & $10.00 \\ Total Postage & Pres & $11/19/2007 \\ \end{bmatrix}$ $\begin{bmatrix} Sant Fo \\ KAREN HVT SON, SSP, \\ Streed Apt No; & 1 WEST STREET \\ Chy hate Posta & SUM (1150) \\ MINEOLA, NY (1150) \end{bmatrix}$	6	U.S. Postal S CERTIFIED (Bomeetic Mail O For delivery Information Half Di A NY, 11	ervicen MAILin REO hty; No insurance o Non visit our website	CEIPT Coverage Provided) at www.uspe.come	
Cartified For Cartified For Poture Receipt For (Endersement Required: East relation Press East relation Required: East Postage & Press Sant To KAREN HUTSON, ESP. Streed App. No. 1 WEST STREET City Kints 7000A, NY (1150)	5	Construction of the second sec	and a second	0078	'
Production and Mediana PLITS Production of Mediana \$ \$0.00 Total Postana A Pract \$ \$0.00 Total Postana A Pract \$ \$5.77 11/19/2007 Sent To KAREN HUTSON, ESP. Streed Apt NO. 1 WEST STREET Chy high 2004 NEOLA, NY 11501			and the second	07	
Restrated Children Pres Endersement Registrers \$0.00 Tetsi Postance & Pres \$\$\$,77 11/19/2007 Sent To KAREN HUTSON, SSQ. Streed Apt. No. 2 WEST STREET Chy Shate 2003 MINEOLA, NY 11501		Berurn Receipt Fee (Engrasement Required)	a and in a subsection of the state of the st		
Sent TO KAREN HUTSON, ESQ. MINEOLA, NY 11501 MINEOLA, NY 11501	10	Restorted Celivery Fee (Endotsement Required)		49 	
Breed Apt. No. 2 WEST STREET On State MOLA, NY 11501 MINEOLA, NY 11501		thesi Postaine & Free	\$ \$5.77	11/19/2007	
MINEOLA, NY 11501	7004	KAR	in a second s	TON, ESQ.	
N(NEO SI)			WEST S	1 11501	
		PS Form 3800, June 20	92	See Reverse for Instruction	

•

PORT	WASHINGTON P.O WASHINGTON, New 110509998 3568880038-0094 (800)275-8777 OE	York 3:33:44 ам
	= Sales Receipt	
Description	Sale Unit Qty Price	Final Price
# of Mail P	Date: 11/19/2007 11501	5
Return Rcpt Card) Certified	Green	\$2.15
Label #:	7004251000005	\$2.65 9108994 =======
Issue PVI:		\$5.77
NEW YORK NY i Zone-1 First- Large Env 1.50 oz.	Class	<b>\$</b> 0.97
Return Rcpt Card) Certified Label #:	(Green 70042510000059	\$2.15 \$2.65
Issue PVI:		=======
ISSUE PVI:		<b>\$</b> 5.77
MINEOLA NY 115 Zone-1 First-C Large Env 1.50 oz.	01 lass	\$0.97
Return Rcpt (( Card)	Green	\$2.15
Certified Label #:	7004251000005910	
Issue PVI:		\$5.77
Total: Paid by:		17.31
Cash Change Due:		20.00 \$2.69

e 2:03-	CVENDERSCEIKALEA Press Exortament 133-	2 complete Dails Seldtion Brageror 5 PageID			
	Complete items 1, 2, d 3. Also complete	A. Signature			
	item 4 if Restricted Delivery is desired.	Agent			
	Print your name and address on the reverse so that we can return the card to you.	B. Received by (Printed Name) C. Date of Delivery			
	Attach this card to the back of the mailpiece,	B. Received by (Printed Name) C. Date of Delivery			
	or on the front if space permits.	D. Is delivery address different from item 1?			
	1. Article Addressed to:	If YES, enter delivery address below:  No			
	THE HONORABLE				
j	KATHERN M. RICE				
	NASSAU COUNTY DISTRICT				
7	ATTURNEY	3. Service Type			
	262 OLD COUNTRY ROAD	Certified Mail Express Mail			
	Makenin ha littal	Registered     Return Receipt for Merchandise     Insured Mail     C.O.D.			
y de	MINEOLA, NY 11501	4. Restricted Delivery? (Extra Fee)			
3	2. Article Number	2510 0000 5910 8970			
	(Transfer from service label) 7004	2510 0000 5910 8970			
	PS Form 3811, February 2004 Domestic Re	turn Receipt 102595-02-M-1540			
_					
	SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY			
	Complete items 1, 2, 3. Also complete	A. Signature			
	item 4 if Restricted Delivery is desired. Print your name and address on the reverse	X WTVY Agent			
	so that we can return the card to you. Attach this card to the back of the mailpiece,	B. Received by (Printed Name) C. Date of Delivery			
	or on the front if space permits.	112307			
	1. Article Addressed to:	D. Is delivery address different from item 1? Des			
	A AGO - A OLI	If YES, enter delivery address below:			
1	C. CECELIA CHANG, ESQ. ASSISTANT SOLICITOR GENERAL				
5	ASSISTANT SOLICITAL GARGER				
	120 BROADWAY	3. Service Type			
	BULK- BU MILL LEDDI	Registered Return Receipt for Merchandise			
1	NEW YORK, NY 10271				
-		4. Restricted Delivery? (Extra Fee) Yes			
	2. Article Number 7004 2510 0000 5910 8987				
-	PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540				
1					
T					
	SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY			
,	Complete items 1, and 3. Also complete	A. Signature			
	item 4 if Restricted Delivery is desired.  Print your name and address on the reverse	X Agent			
	so that we can return the card to you.	B. Received by (Rrinted Name) C. Date of Delivery			
	Attach this card to the back of the mailpiece, or on the front if space permits.				
	1. Article Addressed to:	D. Is delivery address different from item 1?			
	KARMI HATEAL EED	IT LO, enter delivery address below. E Ho			
	KAREN HUTSON, ESQ.				
	DEPUTY COUNTY ATTORNEY	and the second			
		ic.			
	I WEST STREET 2007 A	3. Service Type			
	I WEST STREET 2007 M	Certified Mail			
	I WEST STREET 2007 MINEOLA, NY 11501	Certified Mail Express Mail Registered Ø/Return Receipt for Merchandise			
	I WEST STREET 2007 M	Certified Mail			
	2. Article Number (Transfer from service label) 7004 251	Certified Mail Express Mail Registered Insured Mail C.O.D.  A. Restricted Delivery? (Extra Fee) Yes			