

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

X

In the matter of
Hon. David A. Paterson, Governor of the State of New York,

Petitioner,

-against-

Albany County
Index No. 5435/09

NOTICE OF APPEAL

Senator Eric Adams, Senator Joseph P. Addabbo, Jr.,
Senator James S. Alesi, Senator Darrel J. Aubertine,
Senator John J. Bonacic, Senator Neil D. Breslin, Senator John
A. DeFrancisco, Senator Ruben Diaz, Sr., Senator Martin
Malave Dilan, Senator Thomas Duane, Senator Pedro Espada,
Jr., Senator Hugh T. Farley, Senator John J. Flanagan,
Senator Brian X. Foley, Senator Charles J. Fuschillo, Jr.,
Senator Martin J. Golden, Senator Joseph A. Griffo,
Senator Kemp Hannon, Senator Ruth Hassell-Thompson,
Senator Shirley L. Huntley, Senator Craig M. Johnson,
Senator Owen H. Johnson, Senator Jeffrey D. Klein, Senator
Liz Krueger, Senator Carl Kruger, Senator Andrew J. Lanza,
Senator William J. Larkin, Jr., Senator Kenneth P. LaValle,
Senator Vincent L. Leibell, Senator Thomas Libous,
Senator Elizabeth Little, Senator Carl L. Marcellino, Senator
George D. Maziarz, Senator Roy J. McDonald, Senator Hiram
Monserrate, Senator Velmanette Montgomery, Senator Thomas
P. Morahan, Senator Michael F. Nozzolio, Senator George
Onorato, Senator Suzi Oppenheimer, Senator Frank Padavan,
Senator Kevin S. Parker, Senator Bill Perkins, Senator Michael
H. Ranzenhofer, Senator Joseph E. Robach, Senator Stephen
M. Saland, Senator John L. Sampson, Senator Diane J. Savino,
Senator Eric T. Schneiderman, Senator Jose M. Serrano,
Senator James L. Seward, Senator Dean G. Skelos, Senator
Malcolm A. Smith, Senator Daniel L. Squadron, Senator
William T. Stachowski, Senator Toby Ann Stavisky,
Senator Andrea Stewart-Cousins, Senator Antoine M.
Thompson, Senator David J. Valesky, Senator Dale M. Volker,
Senator George H. Winner, Jr., Senator Catharine Young.

Respondents.

X

SIRS:

PLEASE TAKE NOTICE that Respondent/Appellant, Senator Pedro Espada, Jr. hereby appeals to the Appellate Division of the Third Department of the New York State Supreme Court from an Order of this Court (Teresi, J.), which granted relief to petitioner, which Order and Judgment was dated June 29, 2009 and entered in the office of the Albany County Clerk June 30, 2009, and he appeals from each and every part of said order which was adverse to appellant Senator Espada.

DATED: June 30, 2009

Yours etc.,

A handwritten signature in black ink, appearing to read "John Ciampoli". The signature is fluid and cursive, with a large, sweeping initial "J" and a long, horizontal tail.

JOHN CIAMPOLI
Attorney for Senator Pedro Espada, Jr.
677 Broadway, Suite 202
Albany, NY 12207
518-527-1217

STATE OF NEW YORK SUPREME COURT
COUNTY OF ALBANY

In the matter of
Hon. David A. Paterson, Governor of the State of New York,

Petitioner,

-against-

Albany County
Index No. 5435/09

NOTICE OF APPEAL

Senator Eric Adams, Senator Joseph P. Addabbo, Jr.,
Senator James S. Alesi, Senator Darrel J. Aubertine,
Senator John J. Bonacic, Senator Neil D. Breslin, Senator John
A. DeFrancisco, Senator Ruben Diaz, Sr., Senator Martin
Malave Dilan, Senator Thomas Duane, Senator Pedro Espada,
Jr., Senator Hugh T. Farley, Senator John J. Flanagan,
Senator Brian X. Foley, Senator Charles J. Fuschillo, Jr.,
Senator Martin J. Golden, Senator Joseph A. Griffo,
Senator Kemp Hannon, Senator Ruth Hassell-Thompson,
Senator Shirley L. Huntley, Senator Craig M. Johnson,
Senator Owen H. Johnson, Senator Jeffrey D. Klein, Senator
Liz Krueger, Senator Carl Kruger, Senator Andrew J. Lanza,
Senator William J. Larkin, Jr., Senator Kenneth P. LaValle,
Senator Vincent L. Leibell, Senator Thomas Libous,
Senator Elizabeth Little, Senator Carl L. Marcellino, Senator
George D. Maziarz, Senator Roy J. McDonald, Senator Hiram
Monserrate, Senator Velmanette Montgomery, Senator Thomas
P. Morahan, Senator Michael F. Nozzolio, Senator George
Onorato, Senator Suzi Oppenheimer, Senator Frank Padavan,
Senator Kevin S. Parker, Senator Bill Perkins, Senator Michael
H. Ranzenhofer, Senator Joseph E. Robach, Senator Stephen
M. Saland, Senator John L. Sampson, Senator Diane J. Savino,
Senator Eric T. Schneiderman, Senator Jose M. Serrano,
Senator James L. Seward, Senator Dean G. Skelos, Senator
Malcolm A. Smith, Senator Daniel L. Squadron, Senator
William T. Stachowski, Senator Toby Ann Stavisky,
Senator Andrea Stewart-Cousins, Senator Antoine M.
Thompson, Senator David J. Valesky, Senator Dale M. Volker,
Senator George H. Winner, Jr., Senator Catharine Young.

Respondents.

JOHN CIAMPOLI
Attorney for Senator Pedro Espada, Jr.
677 Broadway, Suite 202
Albany, NY 12207
518-527-1217

Pre-Calendar Statement in Appellate Division, Third Department-- Official Form
[Form--22 NYCRR § 800.24-a]

STATE OF NEW YORK SUPREME COURT
APPELLATE DIVISION - THIRD DEPARTMENT

Pre-Calendar Statement

In the matter of

Hon. David A. Paterson, Governor of the State of New York,
Petitioner,

Albany County
Index No. 5435/09

-against-

Senator Eric Adams, Senator Joseph P. Addabbo, Jr.,
Senator James S. Alesi, Senator Darrel J. Aubertine,
Senator John J. Bonacic, Senator Neil D. Breslin, Senator
John A. DeFrancisco, Senator Ruben Diaz, Sr., Senator
Martin Malave Dilan, Senator Thomas Duane, Senator Pedro
Espada, Jr., Senator Hugh T. Farley, Senator John J. Flanagan,
Senator Brian X. Foley, Senator Charles J. Fuschillo, Jr.,
Senator Martin J. Golden, Senator Joseph A. Griffo,
Senator Kemp Hannon, Senator Ruth Hassell-Thompson,
Senator Shirley L. Huntley, Senator Craig M. Johnson,
Senator Owen H. Johnson, Senator Jeffrey D. Klein, Senator
Liz Krueger, Senator Carl Kruger, Senator Andrew J. Lanza,
Senator William J. Larkin, Jr., Senator Kenneth P. LaValle,
Senator Vincent L. Leibell, Senator Thomas Libous,
Senator Elizabeth Little, Senator Carl L. Marcellino, Senator
George D. Maziarz, Senator Roy J. McDonald, Senator Hiram
Monserrate, Senator Velmanette Montgomery, Senator
Thomas P. Morahan, Senator Michael F. Nozzolio, Senator
George Onorato, Senator Suzi Oppenheimer, Senator Frank
Padavan, Senator Kevin S. Parker, Senator Bill Perkins,
Senator Michael H. Ranzenhofer, Senator Joseph E. Robach,
Senator Stephen M. Saland, Senator John L. Sampson,
Senator Diane J. Savino, Senator Eric T. Schneiderman,
Senator Jose M. Serrano, Senator James L. Seward,
Senator Dean G. Skelos, Senator Malcolm A. Smith, Senator
Daniel L. Squadron, Senator William T. Stachowski, Senator
Toby Ann Stavisky, Senator Andrea Stewart-Cousins, Senator
Antoine M. Thompson, Senator David J. Valesky, Senator
Dale M. Volker, Senator George H. Winner, Jr.,
Senator Catharine Young.

Respondents.

Albany County Index No. 5435/09

Date of Commencement: June 26, 2009

Parties Involved: Parties as above stated

<u>Party Name</u>	<u>Original Status</u>	<u>Appellate Status</u>
Gov. David A. Paterson	Petitioner	Respondent
Republican Conference Members	Respondent	Respondent
Democratic Conference Members	Respondent	(Appeal Expected) Appellant
Senator Pedro Espada, Jr.	Respondent	Appellant

Counsel for Appellant:

JOHN CIAMPOLI
Attorney for Senator Pedro Espada, Jr.
677 Broadway, Suite 202
Albany, NY 12207
518-527-1217

Counsel for Nonappealing Respondents:

Shelley Mayer
Senate Minority Counsel's Office
Room 335
New York State Capitol
Albany, NY 12224
(518) 455-2800

Counsel for Respondent:

Thomas Gleason
GLEASON, DUNN, WALSH & O'SHEA
40 Beaver Street
Albany, NY 12207
(518) 432-7511

Counsel for other Respondents

John T. Casey, Jr.
47 2nd Street
Troy, NY 12180
518 436 6165

Order Appealed from:

An order of the Albany County Supreme Court (Teresi, J.) granting petitioner a writ of mandamus to compel.

Nature and Object of Proceeding:

Petitioner, Governor of the State of New York, sought a writ of mandamus to compel to force all elected Senators to act on legislation he submitted pursuant to Article IV, § 3, extraordinary session.

Appellate Issue(s):

Whether the Governor can compel a quorum to attend and/or pass specific action on legislation once the New York State Senate convenes pursuant to a proclamation for extraordinary session.

Whether the speech or debate clause, separation of powers, mootness, and actual compliance with proclamations of extraordinary legislative sessions, precludes the relief sought.

Other Related Matters:

Winner and Flanagan v. Aponte (McNamara, J.)
Albany County Supreme Court, Index No. 5300/09

Submitted by:



JOHN CIAMPOLI
Attorney for Senator Pedro Espada, Jr.
677 Broadway, Suite 202
Albany, NY 12207
518-527-1217

Date: June 30, 2009

Attachments:

- | | | |
|---|-------|----------------|
| 1. Copy of order or judgment appealed from. | X | attached |
| 2. Copy of opinion or decision. | _____ | attached |
| | _____ | does not exist |
| 3. Copy of notice of appeal or order granting leave to appeal | X | attached |

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

X

In the matter of
Hon. David A. Paterson, Governor of the State of New York,

Petitioner,

-against-

Albany County
Index No. 5435/09

NOTICE OF ENTRY

Senator Eric Adams, Senator Joseph P. Addabbo, Jr.,
Senator James S. Alesi, Senator Darrel J. Aubertine,
Senator John J. Bonacic, Senator Neil D. Breslin, Senator John A.
DeFrancisco, Senator Ruben Diaz, Sr., Senator Martin Malave Dilan,
Senator Thomas Duane, Senator Pedro Espada, Jr., Senator Hugh T.
Farley, Senator John J. Flanagan,
Senator Brian X. Foley, Senator Charles J. Fuschillo, Jr.,
Senator Martin J. Golden, Senator Joseph A. Griffo,
Senator Kemp Hannon, Senator Ruth Hassell-Thompson,
Senator Shirley L. Huntley, Senator Craig M. Johnson,
Senator Owen H. Johnson, Senator Jeffrey D. Klein, Senator Liz
Krueger, Senator Carl Kruger, Senator Andrew J. Lanza, Senator
William J. Larkin, Jr., Senator Kenneth P. LaValle, Senator Vincent
L. Leibell, Senator Thomas Libous,
Senator Elizabeth Little, Senator Carl L. Marcellino, Senator George
D. Maziarz, Senator Roy J. McDonald, Senator Hiram Monserrate,
Senator Velmanette Montgomery, Senator Thomas P. Morahan,
Senator Michael F. Nozzolio, Senator George Onorato, Senator Suzi
Oppenheimer, Senator Frank Padavan, Senator Kevin S. Parker,
Senator Bill Perkins, Senator Michael H. Ranzenhofer, Senator
Joseph E. Robach, Senator Stephen M. Saland, Senator John L.
Sampson, Senator Diane J. Savino,
Senator Eric T. Schneiderman, Senator Jose M. Serrano, Senator
James L. Seward, Senator Dean G. Skelos, Senator Malcolm A.
Smith, Senator Daniel L. Squadron, Senator William T. Stachowski,
Senator Toby Ann Stavisky,
Senator Andrea Stewart-Cousins, Senator Antoine M. Thompson,
Senator David J. Valesky, Senator Dale M. Volker, Senator George
H. Winner, Jr., Senator Catharine Young.

Respondents.

X

SIRS:

PLEASE TAKE NOTICE that annexed hereto is a true copy of the order of the Supreme

Court, Teresi, J., dated June 29, 2009 and entered with the clerk on June 30, 2009.

DATED: June 30, 2009

A handwritten signature in black ink, appearing to read "John Ciampoli". The signature is fluid and cursive, with a small "r" at the end of the last name.

JOHN CIAMPOLI, ESQ.
Attorney for Senator Pedro Espada, Jr.
677 Broadway, Suite 202
Albany, NY 12207
518-527-1217

TO:

Shelley Mayer, Esq.
Counsel for Democratic Conference Members
Senate Minority Counsel's Office
Room 335
New York State Capitol
Albany, NY 12224
(518) 455-2800

Thomas Gleason, Esq.
GLEASON, DUNN, WALSH & O'SHEA
Counsel for Petitioner Paterson
40 Beaver Street
Albany, NY 12207
(518) 432-7511

John T. Casey, Jr.
Counsel for members of the Republican Conference
47 2nd Street
Troy, NY 12180
518 436 6165