

In Albany County, except for Special Proceedings, original motion papers (and cross motion papers) shall be filed with the Supreme Court Clerk after paying the required motion filing fee to the Albany County Clerk. All answering papers shall be filed with the Supreme Court Clerk. Personal appearance on the motion is required.

At a Term of the Supreme Court of the State of New York, held in and for the County of Albany, at the Albany County Courthouse in Albany, New York on the 26 day of June, 2009.

P R E S E N T :

HON. JOSEPH C. TERESI, J.E.C. _____, Justice.

STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

HON. DAVID A. PATERSON, As Governor of the State of New York

Petitioner,

ORDER TO SHOW CAUSE

Index No. _____

- against -

RJI No. _____

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 MALAVÉ 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.; and SENATOR CATHARINE YOUNG,

Respondents.

FOR A JUDGMENT OF *MANDAMUS* PURSUANT TO CPLR ARTICLE 78

Upon the annexed Petition, verified the th 26 day of June, 2009, and the exhibits annexed thereto; and the affirmation of Thomas F. Gleason, Esq., dated June 26, 2009;

IT IS ORDERED that Respondents show cause at a term of this Court, to be held at the Albany County Courthouse, Columbia and Eagle Streets, Albany, New York, on the 29 day of June, 2009 at ~~10:00 AM~~ ^{4:00 PM} in the fore/afternoon, or as soon thereafter as counsel can be heard, why judgment of *mandamus* should not issue forthwith, compelling the personal attendance in full assembly of the Respondents at extraordinary sessions of the New York State Senate called by the Petitioner pursuant to Article 4, Section 3 of the Constitution; and it is further

ORDERED that service of a copy of this Order to Show Cause and the papers upon which it is based shall be deemed good and sufficient service on each Respondent if made by ^{NYS} ~~hand delivery~~ ^{to each office of Respondent at LOB and Capitol} email delivery to each Respondents on or before the 27 day of June and it is further

~~**ORDERED** that service of a copy of this Order to Show Cause and the papers upon which it is based shall be deemed good and sufficient service on the attorney general if made by hand delivery to an assistant attorney general at an office of the attorney general in the County of Albany, State of New York, on or before the ___ day of June; and it is further~~

ORDERED that answering papers, if any, shall be served so as to arrive at the offices of Petitioner's attorneys, Gleason, Dunn, Walsh & O'Shea, 40 Beaver Street, Albany, New York 12207, no later than the 29 day of June, 2009; ^{by 12:00 noon} ~~fore/afternoon~~ and Petitioner's reply papers shall be served and filed on or before the return date.

Dated: June 26, 2009
Albany, New York

Joseph C. ...
J. S. C.

ENTER:

* The New York State Police is to provide the process service with access to the LOB and Capitol so that service can be made timely.

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

HON. DAVID A. PATERSON, As Governor of the State of New York,

Petitioner,

- against -

SENATOR ERIC ADAMS; SENATOR JOSEPH P. ADDABBO, JR.; SENATOR JAMES S. ALESİ; SENATOR DARREL J. AUBERTINE; SENATOR JOHN J. BONACIC; SENATOR NEIL D. BRESLIN; SENATOR JOHN A. DeFRANCISCO; SENATOR RUBEN DIAZ, SR.; SENATOR MARTIN MALAVÉ 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.; and SENATOR CATHARINE YOUNG,

Respondents.

FOR A JUDGMENT OF *MANDAMUS* PURSUANT TO CPLR ARTICLE 78

**AFFIRMATION OF
THOMAS F. GLEASON, ESQ.**

Index No. _____ / RJI No. _____

THOMAS F. GLEASON, an attorney duly admitted to the practice of law before the Courts of the State of New York, hereby affirms under the penalty of perjury that:

1. I am a member of the law firm of Gleason, Dunn, Walsh & O'Shea, attorneys for Petitioner David A. Paterson, as Governor of the State of New York (hereinafter the "Governor"), and as such, I am fully familiar with the matters set forth herein. I make this Affirmation in support of Petitioner's *mandamus* proceeding and application for an order, pursuant to CPLR 7804(c) and/or 308(5), directing that Petitioner's papers be served upon Respondents via electronic mail.
2. On information and belief, the within proceeding involves a unique situation and a matter of significant urgency which makes traditional methods of service impracticable.
3. Specifically, the within proceeding involves the need to compel the personal attendance in full assembly of the Respondents at extraordinary sessions of the New York State Senate, called by the Governor pursuant to Article 4, Section 3 of the New York State Constitution.
4. Petitioner seeks to serve notice of the within application in as expeditious and effective a manner as is possible to allow all of the parties to respond forthwith.
5. The Governor's counsel has advised your affiant that notice of this application and the papers on which it is based can be sent to those email addresses regularly used by the Governor's Office to notify members of the New York State Senate of legislative matters. On information and belief, this method is regularly used by the Governor to communicate to legislators concerning legislative issues. On information and belief, this method is highly likely to provide notice of the within proceeding.

6. An alternate method of service is necessary in light of the time constraints involved; specifically, the need to provide notice to all Respondents of the within application and to provide any Senators time to attend the extraordinary sessions.

WHEREFORE, your affiant requests the issuance of the Order to Show Cause submitted herewith, including an authorization by this Court that service via electronic mail be deemed sufficient.

DATED: June 26, 2009


THOMAS F. GLEASON