
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. 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

**AFFIRMATION OF THOMAS F. GLEASON IN RESPONSE TO MOTION TO DISMISS OF
RESPONDENTS ALESI, BONACIC, DeFRANCISCO, FARLEY, FLANAGAN,
FUSCHILLO, GOLDEN, GRIFFO, HANNON, O. JOHNSON, LANZA, LARKIN LaVALLE,
LEIBELL, LIBOUS, LITTLE, MARCELLINO, MAZIARZ, McDONALD, MORAHAN,
NOZZOLIO, PADAVAN, RANZENHOFER, ROBACH, SALAND, SEWARD, SKELOS,
VOLKER, WINNER AND YOUNG**

Index No. 5435-09

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 "Petitioner"), 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 in response to the Motions to Dismiss of Respondents Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin Lavallo, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Morahan, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young (hereinafter "Republican Respondents"), and the motion of Respondent Pedro Espada, Jr. (hereinafter "Respondent Espada"). Collectively said Respondents are referred to as "Moving Respondents."

2. The essential point made by Moving Respondents is the argument that Respondents may arrange for less than a quorum of senators to assemble in the Senate Chambers, and thereby comply with the constitutional mandate of Article 4, Section 3 of the Constitution and the proclamations of the Petitioner.

3. Republican Respondents allege in their motion that "[b]y entering into the chamber and gaveling into Extraordinary Session calling up, and laying aside the calendar of the Extraordinary Session, the Senate convened as is required by the Constitution." (See, Affirmation of John T. Casey, Jr., dated June 28, 2009 [hereinafter "Casey Aff.], ¶7).

4. Respondent Espada's motion makes the same claim (see, ¶13 of the Affirmation of John Ciampoli, dated June 28, 2009 [hereinafter "Ciampoli Aff."]).

5. Moving Respondents do not dispute the allegation in the Petition that the separate entrances into the Senate Chamber was by agreement of some or all of the Respondents (see Verified Petition, ¶¶16 and 21).

6. For the reasons set forth in the Memorandum of Law submitted herewith, Petitioner requests that the motions to dismiss by the Respondents Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffio, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Morahan, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and the Respondent Espada be denied in all respects and that the Petition be granted, together with such other and further relief as to this Court seems just and proper.

DATED: Albany, New York
June 29, 2009



THOMAS F. GLEASON, ESQ