STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

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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

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**ORDER AND JUDGMENT**
**Index No. 5435-09 / RJI No. 01-09-097124**
**Hon. Joseph C. Teresi**

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The above-captioned action having come on before this Court by Order to Show Cause dated June 26, 2009; and upon the reading of the Verified Petition, dated, verified and filed on the 26th day of June, 2009; the Affirmations of Thomas F. Gleason and Michael P. Ravalli dated June 29, 2009; Petitioner's Memorandum of Law dated June 29, 2009; the Motion to Dismiss/Affirmation of John T. Casey, Jr., Esq. dated June 28, 2009; the Memorandum of Law in Support of Motion to Dismiss dated June 28, 2009 (on behalf of the Respondents Alesi, et al.); the Motion to Dismiss/Affirmation of John Ciampoli, Esq. dated June 28, 2009; the Memorandum of Law in Support of Motion to Dismiss dated June 28, 2009 (on behalf of Respondent Espada); and the Verified Answer and Affirmation of Shelley B. Mayer, Esq., dated June 29, 2009; and the Petitioner having appeared by his attorneys Gleason, Dunn, Walsh & O'Shea (Thomas F. Gleason, Esq., of Counsel); and the Respondents Senator Eric Adams, Senator Joseph P. Addabbo, Jr., Senator Darrel J. Aubertine, Senator Neil D. Breslin, Senator Ruben Diaz, Sr., Senator Martin Malavé Dilan, Senator Thomas Duane, Senator Brian X. Foley, Senator Ruth Hassell-Thompson, Senator Shirley L. Huntley, Senator Craig M. Johnson, Senator Jeffrey D. Klein, Senator Liz Krueger, Senator Carl Kruger, Senator Hiram Monserrate, Senator Velmanette Montgomery, Senator George Onorato, Senator Suzi Oppenheimer, Senator Bill Perkins, Senator John L. Sampson, Senator Diane J. Savino, Senator Eric T. Schneiderman, Senator Jose M. Serrano, Senator Malcolm A. Smith, Senator Daniel L. Squadron, Senator William T. Stachowski, Senator Toby Ann Stavisky, Senator Andrea Stewart-Cousins, Senator Antoine M. Thompson and Senator David J. Valesky having appeared by Shelley B. Mayer, Esq., Chief Counsel to the Senate Majority; and Respondents Senator James S. Alesi, Senator John J. Bonacic, Senator John A. DeFrancisco, Senator Hugh T. Farley, Senator John J. Flanagan, Senator Charles J. Fuschillo, Jr., Senator Martin J. Golden, Senator Joseph A. Griffo,

Senator Kemp Hannon, Senator Owen H. Johnson, 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 Thomas P. Morahan, Senator Michael F. Nozzolio, Senator Frank Padavan, Senator Kevin S. Parker, Senator Michael H. Ranzenhofer, Senator Joseph E. Robach, Senator Stephen M. Saland, Senator James L. Seward, Senator Dean G. Skelos, Senator Dale M. Volker, Senator George H. Winner, Jr. and Senator Catharine Young, hereinafter collectively referred to as "Respondents Alesi, et al.") having appeared by John T. Casey, Jr., Esq., Counsel to the Republican Conference; and Respondent Espada having appeared by John Ciampoli, Esq., and due deliberation having been had,

**NOW THEREFORE**, on a motion by Gleason, Dunn, Walsh & O'Shea, counsel for Petitioner, it is

**ORDERED, ADJUDGED and DECREED**, that the motions to dismiss by Respondent Espada and Respondents Alesi, et al. are hereby denied; and it is further

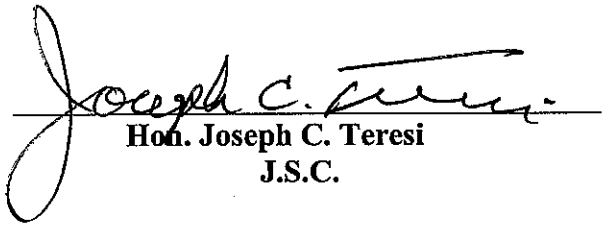
**ORDERED, ADJUDGED and DECREED**, that Petitioner be granted a judgment of *mandamus* against each Respondent ~~compelling~~ to convene into session as one group consistent with the Senate Rules on 6/30/09 10:00 AM ~~said respective Respondent's personal attendance in full assembly~~ at extraordinary sessions of the Senate called by Petitioner pursuant to Article 4, Section 3 of the Constitution; and it is further

**ORDERED, ADJUDGED and DECREED**, that Petitioner be granted a judgment of *mandamus* against Respondents compelling Respondents to convene in simultaneous full assembly with the capacity to conduct Senate business, consistent with the Senate Rules and it is further

**ORDERED, ADJUDGED and DECREED**, that service of a copy of this Order and Judgment on Respondents' counsel shall be sufficient to make this Order and Judgment fully enforceable, and it is further

**ORDERED, ADJUDGED and DECREED**, that no party shall recover any costs or disbursements against any other.

Dated: June 29, 2009
Albany, New York



**Hon. Joseph C. Teresi**
**J.S.C.**

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