

STATE OF NEW YORK SUPREME COURT  
COUNTY OF ALBANY

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

*Petitioner,*

-against-

**NOTICE OF APPEAL**

Index No. 5435/09

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.*

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PLEASE TAKE NOTICE that thirty of the above Respondents/Appellants, to wit,

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.,  
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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 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.,  
Senator Catharine Young

hereby appeal 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 29, 2009, and they appeal from each and every part of said order which was adverse to appellants as well as the whole thereof.

DATED: June 29, 2009

Very truly yours,

JOHN T. CASEY, JR.  
47 Second Street  
Troy, NY 12180  
(518) 274-4830

**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

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**Pre-Calendar Statement**

In the matter of

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Senator David J. Valesky, Senator Dale M. Volker, Senator George H. Winner, Jr.,  
Senator Catharine Young.

Respondents.

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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
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 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., Senator Catharine Young.	Respondents.	Appellants

**Counsel for Appellant:**

JOHN T. CASEY, JR.  
*Attorney for Respondents above named*  
47 Second Street  
Troy, NY 12180 (518) 274-4830

**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

**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, 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.

Submitted by:

Date: June 29, 2009

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JOHN T. CASEY, JR.  
*Attorney for Defendant*  
47 Second Street Troy, NY 12180

Attachments:

1. Copy of order or judgment appealed from. \_\_\_\_\_ attached
2. Copy of opinion or decision. \_\_\_\_\_ attached  
\_\_\_\_\_ does not exist
3. Copy of notice of appeal or order granting leave to appeal \_\_\_\_\_ attached