

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

-----X  
MALCOLM A. SMITH, Temporary President and :  
Majority Leader of the New York State Senate, :  
: :  
Plaintiff, :  
: :  
-against- :  
: :  
PEDRO ESPADA, Jr., New York State Senator, :  
: :  
Defendant. :  
-----X

Index No. 4912-09

**AFFIRMATION OF DAVID EVAN MARKUS, ESQ.**

DAVID EVAN MARKUS, an attorney duly admitted to practice in this State,  
under penalties of perjury, deposes and affirms as follows:

1. My name is David Evan Markus, and I reside in the Town of New Castle, New York.
2. I am an attorney in good standing, licensed to practice law in the State of New York.
3. I have been continuously employed by the New York State Senate since March 9, 2009, as Special Counsel to the Majority.
4. My appointing authority is Senator Malcolm A. Smith.
5. As Special Counsel to the Majority, my duties include participation in litigation affecting the New York State Senate, including the above-captioned matter.
6. On Friday, June 12, 2009, at approximately 2:00 p.m., I personally served on the Office of the Attorney General a copy of all papers theretofore filed in the above-

captioned matter, including Plaintiff's Complaint and Memorandum of Law dated June 11, the Order to Show Cause signed by Justice Ceresia on June 11 bringing on Plaintiff's Complaint and prayer for injunctive relief, Plaintiff's Memorandum of Law at the Appellate Division in support of a Temporary Restraining Order dated June 11, and the Temporary Restraining Order signed by Justice Peters on June 11.

7. I delivered the abovelisted papers by hand to the secretary of Henry M. Greenberg, Counsel to the Attorney General, at the Department of Law, on the Second Floor of the State Capitol in Albany, who personally received them from me.

By:



DAVID EVAN MARKUS, ESQ.

Dated: June 13, 2009  
Chappaqua, New York