

*State of New York*  
*Court of Appeals*

*Stuart M. Cohen*  
*Clerk of the Court*

*Clerk's Office*  
*Albany, New York 12207-1095*  
August 9, 2005

Jason B. Kolodny, Esq.  
21 Hereford Road  
Great Neck, New York 11021

Re: Town of Montauk, Inc. v. Palaki, et al.

Dear Mr. Kolodny:

The Court has received your Rule 500.2 jurisdictional statement and will examine its subject matter jurisdiction sua sponte with respect to whether there is a jurisdictional predicate for a direct appeal pursuant to CPLR 5601(b)(2) and whether there is a proper party appellant for this appeal. This examination of jurisdiction shall not preclude the Court from addressing any jurisdictional concerns in the future.

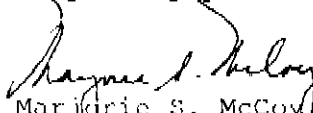
This communication is without prejudice to any motion any party may wish to make. If you conclude that the order is not appealable as of right, please arrange for the execution of a stipulation signed by all counsel consenting to a dismissal of the appeal (see section 500.16 of the Court's Rules of Practice) and transmit that paper to my office. If a stipulation is forthcoming, please inform the Clerk's office immediately.

On the other hand, if you wish to persevere in the appeal, you should serve and file within ten days after this letter's date your comments in letter format justifying the retention of subject matter jurisdiction. Also please enclose a copy of each brief filed by each party in the Appellate Division, as well as a copy of the record on appeal or appendix filed in that court.

By copy of this letter, your adversary is likewise afforded the opportunity to comment in writing on the subject matter jurisdiction within the same ten day period after this letter's date.

The times within which briefs on the merits must be filed are held in abeyance during the pendency of this jurisdictional inquiry. If this sua sponte inquiry is terminated by the Court, the Clerk will notify counsel in writing and set a new schedule for the perfecting of the appeal. If you have any questions regarding this letter, you may contact James Costello (518-455-7702) or Susan Dautel (518-455-7701).

Very truly yours,

  
Marjorie S. McCoy  
Deputy Clerk

cc: (see attached)

cc: Greg Allen, Esq.  
Cahn & Cahn, LLP  
John Courtney, Esq.  
Christine Malafi, Esq.  
Cullen & Dykman, LLP  
John T. McCarron, Esq.  
511 Equities Corp.  
Jonathan Kaledin, Esq.  
Hon. Eliot Spitzer  
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