



February 6, 2005

To: Hon. A. Gail Prudenti and the court  
Appellate Division, Second Department  
45 Monroe Place  
Brooklyn, New York 11201  
BY FAX (718) 858-2446 (copy by mail)

Re: File no. 2005-339, Town of Montauk, Inc. v. Pataki, et. al.

Dear Judge Prudenti and the honorable magistrates of the court,

I humbly address this correspondence to you concerning our troubles with Mr. Gene D. Barr, Esq., and our attempts to discover and retain a new attorney. We are running a featured advertisement on LawJobs.com and have so far received two nibbles but ask the court to grant us time in this effort.

Mr. Barr has informed us that he will move this court for an order of discharge as the attorney authorized to represent our corporation. Problems erupted with him over his refusal to proceed upon the CPLR 5704 motion, but he was neither discharged by us nor released from the October 16<sup>th</sup>, 2004 retainer contract either verbally or in writing. No voice has ever been raised between us, yet he has shown deceit and clutches to our court records. We have never breached the Oct. 16<sup>th</sup> contract - purchased by us for \$7,500 cash - and we have no further obligation under it such as would constitute a lien (see attached).

We ask that the court act *sua sponte* to order the records in Mr. Barr's possession into court pursuant to CPLR 2701 for release to our upcoming substitute attorney. He has two copies of the record: 1.) the control copy stamped received by the Town of East Hampton on 11/23/2004 and the Suffolk County Clerk on 11/24/2004 (Suffolk index no. 04-27553), and 2.) a full copy of the record, including maps.

Personal service was made upon all respondents and the court has jurisdiction.

Yours,

Robert A. Ficalora  
Chief Executive Officer  
MFOP/Montauk Trustee Corp

Attachments. cc: Gene D. Barr, Esq. and all parties (see attached list).