

From: Robert A. Ficalora [bobfic@montauk.com]
Sent: Sunday, January 30, 2005 6:11 PM
To: Gene Barr (GBARR@SUFFOLKLAW.NET)

Subject: Letter to Court

BY EMAIL

Re: Appellate Docket number 2005-339:Town of Montauk, Inc. v. Pataki

Dear Mr. Barr,

I send this email out of courtesy and with an invitation.

After you surprised us with your hasty departure as our attorney, I moved the court by notice and attempted intervention. As a result, on January 10th, 2005 the Appellate Division entered a decision upon our CPLR 5704 motion (http://www.montauk.com/legal/2004%20Pataki/AD_CPLR5704_Jan10_05.pdf).

I immediately notified clerk Ms. April Agostino that the Town of Montauk, Inc., would move to re-argue. The Appellate Division retained the record and assigned docket number 2005-339 (http://www.montauk.com/legal/2004%20Pataki/AD_FileNo2005-339.pdf). (I compiled the record from my complete set of the documents and served all parties by Efax distribution. I received the docket number on Jan. 27th due to forwarding.)

My attempts to bring on another attorney have, for now, failed. I need to send a letter to the Appellate Division to inform them of our status. In that letter I will need to discuss your status. I said before that the Rubicon had been crossed by your actions in refusing to represent our corporation. Should you overcome your fear, recover your previous enthusiasm and agree to comply with the obligations of the October 16th 2004, contract between us, maybe you can prove me wrong

All that is required from you at this point would be one appearance before the Appellate Division and the filing of some paperwork involving service and motion practice. I can prepare the paperwork and argument upon the motions and will fly to New York to be present in the court room for your argument. You are in possession of the record that is before them and your instructions are as before: **WE WANT AN IMMEDIATE RESTRAINING ORDER.**

PLEASE RSVP. I invite you to come back on board as our authorized representative. Either way, please let me know ASAP.

Robert A. Ficalora
CEO
MFOP/Montauk Trustee Corp.

cc: www.montauk.com