

**Matter of Town of Montauk, Inc. v Pataki**

Motion No: 2005-10912

Slip Opinion No: 2006 NYSlipOp 73422

Decided on August 8, 2006

Appellate Division, Second Department, Motion Decision

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This motion is uncorrected and is not subject to publication in the Official Reports.

Supreme Court of the State of New York

Appellate Division: Second Judicial Department

M43044

T/sl

THOMAS A. ADAMS, J.P.

DAVID S. RITTER

ROBERT J. LUNN

JOSEPH COVELLO, JJ.

2005-10912

In the Matter of Town of Montauk, Inc.,  
appellant,v George E. Pataki, etc., et al.,  
respondents.

(Index No. 27553-04)

## DECISION &amp; ORDER ON MOTION

Motion by the respondent County of Suffolk to dismiss an appeal from an order of the Supreme Court, Suffolk County, dated June 20, 2005, on the ground that the appellant's brief and appendix do not comply with the CPLR and the rules of this court, and to impose sanctions upon the appellant and/or its attorney for pursuing a frivolous appeal. Separate motion by the respondent Town of Easthampton to enjoin the appellant from commencing any further CPLR article 78 proceedings in the Supreme Court without leave of court. Separate motion by the appellant, in effect, for summary reversal and to impose a sanction upon the

respondent County of Suffolk.

Upon the papers filed in support of the motions and the papers filed in opposition and relation thereto, it is

ORDERED that the branch of the motion of the County of Suffolk which is to dismiss the appeal is denied; and it is further,

ORDERED that the branch of the motion of the County of Suffolk which is to impose sanctions upon the appellant and/or its attorney and the motion of the respondent Town of Easthampton are referred to the bench hearing the appeal for determination upon the argument or submission of the appeal; and it is further,

ORDERED that the appellant's motion is denied.

ADAMS, J.P., RITTER, LUNN and COVELLO, JJ., concur.

ENTER:

James Edward Pelzer

Clerk of the Court