



Montauk's Trustee Corporation  
Township of Montauk  
Est. 1686/1852/2000

September 27 2006  
Montauk, NY

Michael H. Sussman, Esq.  
40 Park Place, P.O. Box 1005  
Goshen, N.Y. 10924  
BY FAX (845) 294-1623

Re: Town of Montauk, Inc. v. Gov. Pataki, et. al. (A.D. no. 05-10912)

Dear Mr. Sussman,

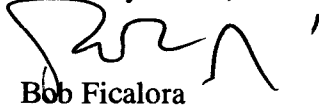
Thank you for your review and consideration of our matter before the Appellate Division. The summary review in the first paragraph of your fax to me today is correct. The "quite simple argument" is the best, and it is well supported and never found to be in error. We made no reliance on the high court's May 2004 order; as the primary force responsible for it, however, we simply interpret it for the court's consideration.

We moved the *Breakers* case to the high court in 1997 and have been petitioning and submitting papers to it since 2000. The language of its 2004 order in the *Vorpahl* case made clear to me that they "got it" and that the Appellate Division will too (It helps that I have personally appeared twice before them and was favorably treated both times.)

As you know, the Appellate Division issued decisions on motions on August 7<sup>th</sup>. After we filed our initial reply brief to the first answers that were filed, three others have come in to which we can – and should - reply. I think that there are other opportunities presented by your noticing substitution, especially a review affirmation of the case. I believe that the court will be relieved and act differently with you appearing for us.

I have been financing the case through the corporate accounts pursuant to resolutions by the board. There is no budget per se, but I will pay you a good retainer and at a reasonable fee rate to move this matter through the appeal process. We will stay focused on removing Montauk's taxes into court until they can be made available to us for litigation, etc., and delivered to Montauk Town meeting where they belong.

Sincerely Yours,



Bob Ficalora