

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF NEW YORK

JOHN CILAURO,

Plaintiff,

-against-

JOHN V. DUFF,

Defendant.

**STIPULATION AND
 ORDER PURSUANT TO
 RULE 41(a)**

06-CV-0498
 (NAM/DRH)

WHEREAS no party hereto is an infant or incompetent person for whom a committee has been appointed, and no person not a party has an interest in the subject matter of the action, and

WHEREAS the parties are desirous of settling and discontinuing this action,

IT IS HEREBY STIPULATED AND AGREED by and between the Plaintiff John Cilauro and the Defendant John V. Duff, through their respective attorneys, the above-entitled action be and the same hereby is settled on the particular circumstances of this case, on the following terms and conditions, which it is agreed are of and shall have no legal precedential value in any other case either between the parties to this case or any other parties:

1. Following the execution of this stipulation and its being so-ordered by the Court, the State of New York shall issue a check in the amount of \$6,000, payable jointly to "John Cilauro & Daniel Stewart" and sent to Plaintiffs' attorney at the following address:

Daniel Stewart, Esq.
 Brennan & White LLP
 163 Haviland Road
 Queensbury, NY 12804-8702

2. This lump sum payment will be made in full satisfaction of any and all claims for damages, attorney's fees, and costs, in this action and in the New York State Court of

Claims, particularly those claims set forth on behalf of Plaintiff in a Notice of Intention to Sue dated July 11, 2005 entitled John Cilauro v. State of New York.

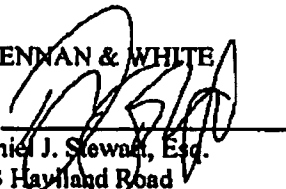
3. Payment by Defendant of the amount specified in paragraph 1 is conditioned on the approval of all appropriate state officials in accordance with the provisions for indemnification under section 17 of the New York Public Officers Law. In the event that this condition is not met, this stipulation will be rendered void and the action will be reinstated to the court's calendar.
4. Payment of the amount referenced in paragraph 1 will be made within 90 days after the approval of this stipulation by the Court and receipt by counsel of a copy of the so-ordered stipulation.
5. In the event that the terms of paragraph 3 are satisfied, but payment is not made within the applicable period set forth in paragraph 4, interest shall then begin to accrue on the outstanding principal balance at the federal statutory rate.
6. This settlement does not constitute a determination of, or admission by any party to any of the underlying allegations, facts or merits of their respective positions.
7. The Plaintiff hereby discontinues this action with prejudice, and discharges and releases Defendant John V. Duff, and the State of New York, including its agencies, subdivisions, employees, private contractors or assignees, of any and all claims, demands, or causes of action, known or unknown, now existing or hereafter arising, whether presently asserted or not, which relate in any way to the subject matter of this action, and further agrees to discontinue and/or not to commence or to pursue in any court, arbitration or administrative proceeding, any litigation or claims against the Defendant and others

released hereby pertaining to the underlying facts, circumstances or incidents that gave rise to the aforementioned action, or any results of the aforementioned facts, circumstances or incidents.

8. This action is hereby discontinued with prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.


Dated: August 25, 2009
Queensbury, NY

BRENNAN & WHITE


By: 
Daniel J. Stewart, Esq.
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Queensbury, NY 12804
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Dated: August 25, 2009
Albany, New York

ANDREW M. CUOMO
Attorney General of the State of New York
Attorney for Defendant Duff
The Capitol
Albany, New York 12224-0341

By: 
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Assistant Attorney General, of Counsel
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SO ORDERED:


HON. NORMAN A. MORDUE
Chief Judge, United States District Court
Northern District of New York

August 26, 2009