

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JAMES L. ALEXANDER; ALEXANDER & CATALANO LLC; and  
PUBLIC CITIZEN, INC.,

Plaintiffs,

5:07-CV-0118

v.

(FJS)(GHL)

THOMAS J. CAHILL, in his official capacity as Chief Counsel for the Departmental Disciplinary Committee for the Appellate Division of the New York Court of Appeals, First Department; DIANA MAXFIELD KEARSE, in her official capacity as Chief Counsel for the Grievance Committee for the Second and Eleventh Judicial Districts; GARY L. CASELLA, in his official capacity as Chief Counsel for the Grievance Committee for the Ninth Judicial District; RITA E. ADLER, in her official capacity as Chief Counsel for the Grievance Committee for the Tenth Judicial District; MARK S. OCHS in his official capacity as Chief Attorney for the Committee on Professional Standards for the Appellate Division of the New York Court of Appeals, Third Department; ANTHONY J. GIGLIOTTI, in his official capacity as acting Chief Counsel for the Grievance Committee for the Fifth Judicial District; DANIEL A. DRAKE, in his official capacity as acting Chief Counsel for the Grievance Committee for the Seventh Judicial District; and VINCENT L. SCARSELLA, in his official capacity as acting Chief Counsel for the Grievance Committee for the Eighth Judicial District,

*Defendants.*

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**AFFIRMATION**

I, Patrick F. MacRae, under penalty of perjury do affirm the following:

1. I am an attorney at law, licensed to practice law in the State of New York. I am an Assistant Attorney General with the State of New York, of counsel to Andrew M. Cuomo, Attorney General of the State of New York, counsel for the Defendants in the above captioned matter. As such, I submit this Affirmation in support of defendants' motion in dismissal of the complaint and in opposition to plaintiffs' motion for a preliminary injunction.

2. Among the materials submitted by plaintiff was an Affidavit of Peter Catalano, attaching what purported to be a “true and accurate transcript” of presiding Justice Piggott’s comments at a forum held by the Monroe County Bar Association on August 17, 2006.

3. Defendant submits herewith a DVD of the actual forum referred to by Mr. Catalano. *Exhibit 1 filed traditionally, cover letter attached hereto.*

4. The DVD establishes that the transcript attached to Mr. Catalano’s Affidavit is neither a true nor accurate depiction of Justice Piggott’s comments at the forum.

5. Preliminarily, Justice Piggott’s comments were considerably more extensive than those set forth in what is purported to be a transcript.

6. Secondly, the “transcript” is so riddled with errors and misrepresentations of Justice Piggott’s comments as to create the appearance that the transcript was intended to present Justice Piggott in as unfavorable in a light as possible.

7. Conversely, the DVD submitted herewith not only completely sets forth his comments at the forum, but does so in an unbiased fashion.

8. Defendants submit this motion jointly in response to plaintiffs motion for a preliminary injunction and in response to plaintiffs Complaint, in lieu of an Answer.

Date: Syracuse, New York  
March 27, 2007

*S/Patrick F. MacRae*

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Patrick F. MacRae  
Assistant Attorney General