

**Supreme Court of the State of New York
Court of Appeals**

Town of Montauk, Inc.

Petitioner

-against-

Hon. George E. Pataki, Esq., Governor of the State of New York and, The People of the State of New York Met in Assembly, and The Town Board gov't of the Town of East Hampton, and The Trustees of the Freeholders and Commonalty of the Town of Easthampton, and The Suffolk County Water Authority, Inc., and The County of Suffolk, and The Brooklyn Historical Society, Inc., and 511 Equities, Inc., and The Nature Conservancy, Inc.

Respondents

NOTICE

Motion to Vacate

22 NYCRR Part 500.16(c)

Return Date: 1/28/08

All parties please take notice: petitioner Incorporated Township of Montauk will move this honorable court at the courthouse of the New York State Court of Appeals at 20 Eagle Street, Albany, New York 12207 on **January 28th, 2008** to review the court's order of December 18th, 2007, and to vacate said order in order that this matter may proceed upon the record presented.

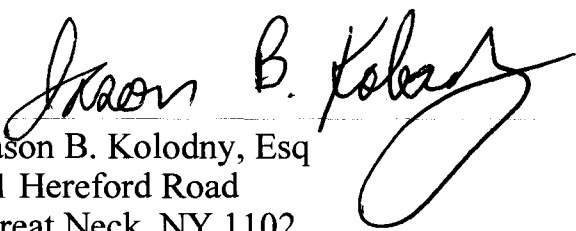
After the petitioner's original October 5th, 2007, filing with this court, the executive responsible for overseeing and directing counsel, Mr. Robert A. Ficalora, temporarily relocated his family's residence from Montauk to Florida. His purpose was to, among other things, take his ailing octogenarian father-in-law Robert Schneiderman to Palm Beach for convalescence. The transition was difficult, however, and after many troubled moments Mr. Schneiderman died at home with the Ficalora family on November 7th, 2007.

Personal, technical and logistical difficulties arising from the relocation prevented the timely prosecution of the instant appeal to the satisfaction of the court, defects that your petitioner does pray will be resolved with this filing.

This Appeal is of profound importance to the constitutional construction of the government of the People of the State of New York. With a hearing before this court, and the immediate legal and injunctive relief petitioned for, your petitioner believes this matter will be resolved to the court's satisfaction.

Your petitioner does pray that the court will vacate its order of December 18th, 2007, accept the attached papers, and allow this important matter to proceed before it.

January, 10, 2008


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State of New York, Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the.....eighteenth.....day of.....December..... 2007

Present, HON. JUDITH S. KAYE, *Chief Judge, presiding.*

2 No.
In the Matter of Town of Montauk,
Appellant,
v.
George E. Pataki, etc., et al,
Respondents.

Pursuant to section 500.16(a) of this Court's Rules of Practice, sixty or more days now having passed from the filing of the notice of appeal and appellant's papers not having been filed, it is

ORDERED, that the appeal to this Court is dismissed
for want of prosecution.

Stuart M. Cohen

Stuart M. Cohen
Clerk of the Court