



General Docket

US Court of Appeals for the Second Circuit

Second Circuit Court of Appeals

INDIV

DISPOSED

Court of Appeals Docket #: 07-0581-cv
 Nsuit : 3950 LOCAL QUESTION-Constitutional

Maloney v. Cuomo Filed 2/16/07

Appeal EDNY (CENTRAL ISLIP)
 from:

Case type information:

Civil

Private

None

Lower court information:

District: 03-cv-786

Trial Judge: Arthur D. Spatt

MagJudge: Michael L. Orenstein

Date Filed: 02/18/03

Date order/judgement: 1/17/2007

Date NOA filed: 2/16/2007

Fee status: Paid

Panel Assignment:

Panel: RSP SS RAK 500 Pearl

Date of decision: 1/28/09

Prior cases: NONE

Current cases NONE

Official Caption 1/

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Docket No. [s] : 07-0581 -cv

James M. Maloney,

Plaintiff-Appellant,

v.

Andrew Cuomo, in his official capacity as Attorney General of the State of New York, David Paterson, in his official capacity as Governor of the State of New York, Kathleen A. Rice, in her official capacity as District Attorney of the County of Nassau, and their successors,

Defendants-Appellees.

Authorized Abbreviated Caption 2/

Docket No. [s] : 07-0581 -cv

Maloney v. Cuomo

1/ Fed. R. App. P. Rule 12 [a] and 32 [a].
2/ For use on correspondence and motions only.

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Andrew M. Cuomo

Cecelia Chang Esq.

Defendant-Appellee

[n]
State of New York , Office of
the Attorney General
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New York , NY , 10271

212-416-6279

Eliot Spitzer

Cecelia Chang Esq.(See above)

Defendant-Appellee [n]
 Andrew M. Cuomo Dorothy Oehler Nese Esq.
 Defendant-Appellee [LD n]
 Attorney General of the State
 of NY
 200 Old Country Rd., Suite 460
 Mineola , NY , 11501
 516-248-3302
 Eliot Spitzer Dorothy Oehler Nese Esq. (See
 above)
 Defendant-Appellee [LD n]
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James M. Maloney James M. Maloney
 Plaintiff-Appellant n/a
 33 Bayview Ave.
 Port Washington , NY , 11050
 jmm80@earthlink.net
 Kathleen A. Rice Karen Hutson Esq.
 Defendant-Appellee [LD ret]
 County of Nassau Office of the
 County Attorney
 1 W. St.
 Mineola , NY , 11501
 516-571-2461
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2/16/07 Copy of notice of appeal and district court
 docket entries on behalf of APPELLANT
 James Maloney, filed. [Entry date Feb 28
 2007] [JP]

2/16/07 Copy of district court Memorandum of
 Decision and Order dated 1/17/2007 endorsed
 by Honorable Arthur D. Spatt, USDJ, RECEIVED.
 [Entry date Feb 28 2007] [JP]

- 2/20/07 Index in lieu of Record on Appeals Electronically Filed (Original documents remain in the originating court). [Entry date Feb 28 2007] [JP]
- 2/20/07 APPELLANT James Maloney, Form C filed, with proof of service. [Entry date Feb 28 2007] [JP]
- 2/20/07 APPELLANT James Maloney, Form D filed, with proof of service. [Entry date Feb 28 2007] [JP]
- 3/5/07 Scheduling order #1 filed. Record on appeal due 4/2/2007. Appellants brief due 4/9/2007. Appellees brief due 5/9/2007. Ready week 6/18/2007. [Entry date Mar 7 2007] [JP]
- 3/5/07 Pre-Argument Conference Notice and Order from Lisa Greenberg, Scheduled For: March 19, 2007, at 10 a.m., Filed. [Entry date Mar 7 2007] [JP]
- 3/6/07 Notice of appeal acknowledgment letter from James Maloney received. [Entry date Mar 7 2007] [JP]
- 3/19/07 FRAP 4(a) 4 stay order filed. The movant below is directed to inform this Court of the status of the post-judgment motion(s) in writing at 30 day intervals. [Entry date Mar 19 2007] [JP]
- 3/19/07 Notice to counsel in re: FRAP 4(a) 4 stay order filed 3/19/2007. [Entry date Mar 19 2007] [JP]
- 3/19/07 Certified copy of the FRAP 4(a) 4 stay order filed 3/19/2007 issued to the district court, [informational only]. [Entry date Mar 19 2007] [JP]
- 3/26/07 James M. Maloney, Esq., 30 day status report dated 3/21/2007, received. Motion still pending. [Entry date Mar 27 2007] [JP]

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- 4/20/07 James M. Maloney, Esq., 30 day status report dated 4/18/2007, received. Motion still pending. [Entry date Apr 23 2007] [JP]

- 5/21/07 Letter from James M. Maloney, Esq., dated 5/18/2007 in re: informing this Court that the motion from the court below has been denied. (please see Order dated 5/14/2007 endorsed by Honorable Arthur D. Spatt, USDJ) [Entry date May 23 2007] [JP]
- 5/21/07 Copy of district court Order dated 5/14/2007 endorsed by Honorable Arthur D. Spatt, USDJ, RECEIVED. [Entry date May 23 2007] [JP]
- 5/30/07 Copy of district court order received 5/21/2007 indicating disposition of 4(a)4 motion received, and the stay is now lifted.

Note: Please see District Court Order dated 5/14/2007 endorsed by Honorable Arthur D. Spatt, USDJ. [Entry date May 30 2007] [JP]
- 6/1/07 Scheduling order #1 filed. Record on appeal due 7/3/2007. Appellants brief due 7/10/2007. Appellees brief due 8/9/2007. Ready week 9/24/2007. [Entry date Jun 6 2007] [JP]
- 6/1/07 Telephonic Pre-Argument Conference Notice and Order from Lisa Greenberg, Scheduled For: June 19, 2007 at 10:00 am, Filed. [Entry date Jun 6 2007] [JP]
- 6/11/07 Index in lieu of Record on Appeals Electronically Filed (Original documents remain in the originating court). [Entry date Jun 12 2007] [JP]
- 6/11/07 Certified copy of the FRAP 4(a)4 stay Order filed 3/19/2007. receipt returned from the district court. [Entry date Jun 19 2007] [JP]
- 6/19/07 Copy of District Court Docket entries and AMENDED NOTICE OF APPEAL on behalf of APPELLANT James Maloney, filed. [Entry date Jun 19 2007] [JP]
- 6/20/07 Scheduling order #2 filed. Appellants brief due 8/9/2007. Appellees brief due 9/10/2007. Ready week 10/22/2007. [Entry date Jun 20 2007] [LY]
- 6/20/07 Notice to counsel in re: scheduling order 2 [Entry date Jun 20 2007] [LY]
- 6/25/07 Letter received from James M. Maloney dated

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6/21/2007 in re: advising the Court of the updated caption for this appeal. [Entry date Jun 26 2007] [JP]

8/2/07 Appellant James Maloney motion to extended time to file brief and appendix filed with proof of service. [Entry date Aug 8 2007] [AM]

8/23/07 Notice to counsel in re: Motion Order dated 8/23/2007. [Entry date Aug 23 2007] [BM]

8/23/07 Order FILED GRANTING motion extended time by Appellant James Maloney, endorsed on motion dated 8/2/2007 Extended Appellants brief due is 9/24/2007. Extended Appellees brief due is 10/24/2007. Extended Ready week is 12/3/2007. Before: Hon. Ralph K. Winter, Circuit Judge. (MAG) [Entry date Aug 23 2007] [BM]

9/24/07 APPELLANT James Maloney, brief FILED with proof of service. [Entry date Sep 26 2007] [BM]

9/24/07 APPELLANT James Maloney, joint appendix filed w/pfs. [Entry date Sep 26 2007] [BM]

9/24/07 Anti-Virus Certificate on behalf of APPELLANT James Maloney, Brief, Received. [Entry date Sep 26 2007] [BM]

10/25/07 APPELLEE Andrew Cuomo, Eliot Spitzer, Kathleen Rice, brief filed with proof of service. [Entry date Oct 25 2007] [LY]

10/29/07 Appellant James Maloney motion strike appellee's brief filed with proof of service. [Entry date Oct 30 2007] [LY]

11/5/07 Appellee's opposition to motion strike document filed with proof of service. [Entry date Nov 6 2007] [LY]

11/7/07 Appellant's reply to Appellee's opposition filed with proof of service. [Entry date Nov 7 2007] [LY]

11/13/07 Notice to counsel in re: Order referring motion to strike appellee's brief to merits

panel [Entry date Nov 13 2007] [LY]

11/13/07 Order FILED REFERRING motion strike document
by Appellant James Maloney, endorsed on
motion dated 10/29/2007

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IT IS HEREBY ORDERED that the motion is
REFERRED to the merits panel.

JF [Entry date Nov 13 2007] [LY]

12/11/07 Appellant James Maloney motion to stay
appeal pending outcome of Supreme Court
decision in District of Columbia v. Heller
(cert. granted) filed with proof of service.
[Entry date Dec 12 2007] [LY]

12/14/07 Appellee Kathleen Rice, declaration in
opposition to motion for stay filed with
proof of service. [Entry date Dec 17 2007
] [AM]

12/18/07 Appellant's declaration in support of the
motion stay filed with proof of service.
[Entry date Dec 19 2007] [LY]

1/9/08 Order FILED DENYING motion to postpone
argument and/or stay hearing until the
Supreme Court has decided District of
Columbia v Heller, by Appellant James
Maloney, endorsed on motion dated 12/11/2007.
[Entry date Jan 10 2008] [TM]

1/10/08 Notice to counsel re: Motion Order filed on
1-09-08 denying appellants motion to
postpone or stay argument. [Entry date Jan
10 2008] [TM]

7/21/08 APPELLANT James Maloney, 28(J) letter
received. [Entry date Jul 24 2008] [YS]

7/31/08 APPELLEE Andrew Cuomo, Eliot Spitzer,
Kathleen Rice, 28(J) letter, received.
[Entry date Aug 7 2008] [YS]

7/31/08 APPELLEE Kathleen Rice, 28(J) letter in
response to Appellant`s 28(j) letter, dated
7/16/08, received. [Entry date Aug 7 2008
] [YS]

8/4/08 APPELLANT James Maloney, motion to strike
material in 28J letter, received. Note:

awaiting PDF. [Entry date Aug 4 2008]
[AO]

8/4/08 Court`s request for the pdf (e-document)
version of motion to strike dated August 4,
2008 sent to James Maloney. [Entry date
Aug 4 2008] [AO]

8/4/08 Request for address change for Appellee
Kathleen Rice to One West Street, Mineola,
NY and for Appellees Cuomo and Spitzer add
120 Broadway, New York NY.

[Entry date Aug 4 2008] [AO]

8/4/08 Appellant James Maloney motion to strike
material in Appellee Rice 28J letter, filed

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with proof of service. [Entry date Aug 7
2008] [AO]

8/8/08 Letter received from James M. Maloney, Esq.
on behalf of himself, the
Plaintiff-Appellant in re: dates unavailable
for oral argument. (cc: Calendar) [Entry
date Aug 12 2008] [CI]

8/11/08 Notice to counsel in re: Order filed
8/11/2008 REFERRING the motion to strike
material in 28(j) letter to the merits panel.
[Entry date Aug 11 2008] [CI]

8/11/08 Memorandum of law in opposition to
Appellant's motion to strike Appellee's 28J
letter from APPELLEE Kathleen Rice,
received. Waiting for PDF. [Entry date
Aug 14 2008] [AO]

8/11/08 Order FILED REFERRING motion to strike
material in 28(j) letter by Appellant James
Maloney, endorsed on motion dated 8/4/2008.
"Motion is referred to the merits panel."
For the Court: JP, Motions Staff Attorney.
[Entry date Aug 11 2008] [CI]

8/11/08 Appellee Kathleen Rice memorandum of law in
opposition to motion to strike 28J letter,
filed with proof of service. [Entry date
Aug 21 2008] [AO]

8/14/08 Court`s request for the pdf (e-document)

version of Karen Hutson memorandum of law in opposition to motion to strike 28j letter, on behalf of Appellee Rice, sent. [Entry date Aug 14 2008] [AO]

- 9/25/08 Proposed for argument the week of 12/15/08. [Entry date Sep 25 2008] [DC]
- 10/2/08 APPELLANT James Maloney, 28(J) letter received. [Entry date Oct 6 2008] [YS]
- 10/6/08 Court`s request for the pdf (e-document) version of James Maloney 28(1) Letter, dated 9/27/08, sent. [Entry date Oct 6 2008] [YS]
- 10/17/08 Letter received from James Maloney advising the Court of unavailable dates. [Entry date Oct 22 2008] [EJ]
- 10/30/08 Set for argument on 12/15/08 at 10am [Entry date Oct 30 2008] [DC]
- 11/4/08 Calendar argument notice mailed to attorneys/parties. [Entry date Nov 4 2008] [LY]

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- 11/19/08 Order FILED. IT IS HEREBY ORDERED THAT the motion is DENIED without prejudice to renewal at or after oral argument. [Entry date Dec 4 2008] [DC]
- 11/19/08 IT IS HEREBY ORDERED THAT the motion is DENIED without prejudice to renewal at or after oral argument. [Entry date Dec 4 2008] [DC]
- 12/1/08 Record on appeal filed. (Original papers of district court.) Volume(s) (1) [Entry date Dec 1 2008] [VM]
- 12/15/08 Case heard before: POOLER, SOTOMAYOR, KATZMANN, C.JJ. [Entry date Dec 15 2008] [DC]
- 12/16/08 Oral argument Cd sent to James Maloney [Entry date Dec 16 2008] [LY]
- 12/17/08 Letter dated 12/16/08 received from James Maloney, Esq. requesting that his motions be renewed per the 11/19/08 orders. [Entry

date Dec 18 2008] [EJ]

12/17/08 Letter dated 12/17/08 received from Karen Hutson, Esq. requesting that the Court consider appellee's original submission in opposition to both motions dated 10/27/07 and 8/04/08. [Entry date Jan 5 2009] [ML]

1/28/09 Judgment of the district court is AFFIRMED by published unsigned PER CURIAM opinion filed. [Entry date Jan 28 2009] [ML]

1/28/09 Judgment filed. [Entry date Jan 28 2009] [ML]

1/28/09 Notice to counsel in re: Opinion filed 01/28/2009. [Entry date Jan 28 2009] [ML]

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PACER Service Center			
Transaction Receipt			
01/31/2009 13:20:09			
PACER Login:	jml148	Client Code:	
Description:	dkt report	Case Number:	07-0581-cv
Billable Pages:	9	Cost:	0.72