

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

RECEIVED

MAY - 6 2009

TIMOTHY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER

In the Matter of an Article 78 Proceeding

CAMILLO M. SANTOMERO,

Petitioner,

- against -

BOARD OF EDUCATION OF THE
BEDFORD CENTRAL SCHOOL DISTRICT,
SUSAN ELION WOLLIN,
as President of the BOARD OF EDUCATION
OF THE BEDFORD CENTRAL SCHOOL DISTRICT,
CAROLE LACOLLA,
as District Clerk of the BOARD OF EDUCATION
OF THE BEDFORD CENTRAL SCHOOL DISTRICT
and DR. DEBRA JACKSON,

Respondents.

Index No. 25405-2008

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Petitioner CAMILLO M. SANTOMERO ("Petitioner"), appeals to the Supreme Court of the State of New York, Appellate Division, Second Department, from the Decision & Order of the Supreme Court, County of Westchester (Hon. Barbara Gunther Zambelli, A.J.S.C.), entered in the office of the Clerk of this Court on March 31, 2009, and from each and every part of said Decision & Order, as well as from the whole thereof.

Dated: New York, New York
May 5, 2009



Law Office of ROBERT A. STERNBACH
Attorneys for Petitioner
274 Madison Avenue, Suite 1303
New York, New York 10016
(212) 661-4040

TO: Westchester County Clerk

KEANE & BEANE, P.C.
Attorneys for Respondents
445 Hamilton Avenue
White Plains, New York 10601
(914) 946-4777

FILED
AND
ENTERED
ON 3/31, 2009
WESTCHESTER
COUNTY CLERK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
In the Matter of the Application of
CAMILLO M. SANTOMERO,

Petitioner,

For a Judgment and Order Pursuant to Article 78
of the Civil Practice Law and Rules,

-against-

BOARD OF EDUCATION OF THE BEDFORD
CENTRAL SCHOOL DISTRICT, SUSAN ELION
WOLLIN, as President of the BOARD OF
EDUCATION OF THE BEDFORD CENTRAL
SCHOOL DISTRICT, CAROLE LACOLLA, as
District Clerk of the BOARD OF EDUCATION OF
THE BEDFORD CENTRAL SCHOOL DISTRICT
and DR. DEBRA JACKSON,

Respondents.
-----X

DECISION & ORDER

Index No. 08-25405

ZAMBELLI, J.A.

The following papers numbered 1-9 read on this petition for relief pursuant to CPLR

Article 78:

PAPERS NUMBERED

Notice of Petition, Verified Petition, Exhibits A - F & Memorandum of Law	1-4
Verified Answer, Jackson Affidavit, Wollin Affidavit, Memorandum of Law	5-8
Reply Memorandum of Law & Santomero Affidavit	9

Upon the foregoing papers it is ordered and adjudged that the petition is disposed of as follows:

Petitioner Camillo M. Santomero ("petitioner"), a resident of Bedford, New York, brings this Article 78 proceeding against respondents Board of Education of the Bedford Central School District ("Board"), Susan Elion Wollin, as President of the Board of Education of the Bedford Central School District ("President"), Carole LaColla, as District Clerk of the Board of Education of the Bedford Central School District ("Clerk") and Dr. Debra Jackson ("Jackson"), (collectively, "respondents"), seeking an annulment of respondents' final determination of August 7, 2008 which denied petitioner's request for access to records he requested on June 12, 2008 pursuant to Public Officers Law Article 6 (Freedom of Information Law ("FOIL")) and seeking an order directing respondents to provide petitioner with such records. Petitioner also seeks an order directing respondents to pay his reasonable attorney's fees and costs in this proceeding.

Pursuant to an Employment Agreement dated July 10, 2006, the Board hired Jackson as Superintendent of the Bedford Central School District to serve from July 1, 2006 through June 30, 2011. Less than a year later, in June of 2007, the Board and Jackson entered into a Settlement Agreement and Mutual Release ("Settlement") (Verified Petition, Exhibit B). Pursuant to the Settlement, the parties agreed, inter alia, that Jackson would tender her registration effective June 30, 2008 and until that date the terms of the Employment Agreement would remain in full force and effect (Settlement, ¶¶ 2, 3); that in addition to Jackson's salary and benefits payable through June 30, 2008, the Board agreed

to pay her \$650,000 no later than June 30, 2007 and further agreed to provide her and her family with continued health care coverage (medical and dental) for the remainder of her life at no cost to her (Id., ¶ 4(a), (b)), and that the Board would provide Jackson with “good references” and “reasonably assist her in connection with her efforts to find a new position” (Id., ¶10). The Agreement also contained indemnity and confidentiality clauses (Id., ¶14, 15).

As to why the parties were entering into a Settlement culminating in Jackson’s resignation, the Settlement itself only states that “Whereas, a certain dispute has arisen between the Superintendent and the Board with regard to the superintendent’s performance of her duties, and Whereas, the Board desires to terminate the services of the Superintendent” (Id., p. 2)¹.

Apparently having obtained a copy of the Settlement, petitioner sent an email to the Clerk on June 12, 2008 with the subject “FOIL Request” requesting “any and all records relating to the ‘certain dispute’ between the Bedford Central Board of Education and Superintendent of Schools, Dr. Debra Jackson that resulted in her termination agreement.” (Verified Petition, Exhibit C). By letter dated July 10, 2008, the Clerk denied petitioner’s request stating, “the release of these records constitutes an unwarranted invasion of privacy and your request implicates a confidential matter.” (Verified Petition, Exhibit D). By email

¹Petitioner’s papers refer to the September, 2007 arrest of the Principal of Bedford Hills Elementary School on charges accusing the Principal of failing to report allegations of the rape of a nine year-old-girl. The Principal was allegedly made aware of the allegations in December, 2006 or January, 2007 but failed to notify then Superintendent Jackson or state officials (Verified Petition, ¶ 8, Exhibit A). Petitioner does not expressly allege a connection between the Agreement and this incident; however, by the otherwise unexplained inclusion of this incident in his motion papers, he implicitly suggests, without support, that one exists.

dated July 18, 2008, petitioner notified the clerk that he was appealing her decision (Verified Petition, Exhibit E). Thereafter, by letter dated August 7, 2008, the President notified petitioner that his appeal was denied on the grounds that disclosure of the requested documents would constitute an unwarranted invasion of privacy, citing Public Officers Law §§ 87(2)(b); 89(2)(b)(i) (Verified Petition, Exhibit F).

Petitioner argues that he is entitled to the production of the documents because respondents have failed to establish that the documents are exempt from disclosure under FOIL. As to respondents' contention that providing the records would result in an unwarranted invasion of privacy, petitioner submits that this contention is conclusory and insufficient to meet respondents' burden to demonstrate that the requested material qualifies for exemption. Petitioner notes that the Board failed to claim that charges were ever threatened or filed against Jackson and argues that disclosure is justified due to countervailing public policy considerations involving expenditure of substantial taxpayer funds and the conduct of the Board as well as Jackson. Petitioner also disputes respondents' argument that the documents are exempt from disclosure as intra-agency material.

Respondents argue that the documents are exempt from disclosure because they reasonably interpreted petitioner's request as seeking disclosure of the draft disciplinary charges that were the basis of the "certain dispute" between the Board and Jackson. Because those charges were never formally served and no final determination was ever rendered on them, respondents submit that as a matter of law, records relating to non-final or non-substantiated disciplinary charges against a public employee may be withheld from disclosure under FOIL based upon that statute's intra-agency and privacy exemptions.

Respondents offer to submit the draft disciplinary charges to this Court for in camera inspection.

In reply, petitioner argues that while respondents allege that draft disciplinary charges exist, they failed to aver that no other relevant records existed. Petitioner submits that he was a former member of the Board of Education, and in his experience, when disciplinary charges are considered, more documents are created than just the draft charges and the Settlement Agreement. Petitioner also submits that respondents need to make clear what the draft disciplinary charges are and argues that he should be granted leave to conduct discovery to determine whether other materials exist.

FOIL imposes a broad duty of disclosure upon governmental agencies (see Public Officers Law §84; Matter of Mothers on the Move, Inc. v. Messer, 236 A.D.2d 408, 409 (2d Dept. 1997)). All agency records are presumptively available for public inspection and copying unless they fall within one of the enumerated exceptions which permit agencies to withhold certain records (Matter of Mothers on the Move, Inc. v. Messer, supra). The provisions of FOIL are to be liberally construed, and exemptions narrowly interpreted so as to ensure maximum public access to the records of government (Id.). The agency bears the burden of demonstrating that the requested material qualifies for exemption (Id.).

An initial matter is the scope of the documents covered by petitioner's request. Respondents assert that one responsive document - the draft disciplinary charges - exists. Petitioner asserts that based upon his experience as a former Board of Education member that other documents must exist; but while describing general categories of documents, such as "notes, memoranda, etc." on the settlement relating to its cost/benefits, petitioner

does not refer to any specific document by name. However, respondents did not deny the existence of other documents aside from the draft disciplinary charges. Accordingly, this Court interprets the request as broader than just the draft disciplinary charges. The request encompasses all documents, including but not limited to, the draft disciplinary charges, notes, memorandum and/or correspondence (including e-mail) regarding the same as well as any document referring to the incident referred to by the phrase "certain dispute" in the Settlement. Consistent with the spirit of FOIL, the phrase should be broadly construed in considering whether a particular document falls within its ambit, with the presumption being on the side of inclusion. To the extent that the draft disciplinary charges is in fact the only responsive document, respondents should certify that fact in their response (see Public Officers Law §89(3)(a)).

Turning to respondents' arguments regarding applicable exemptions, respondents assert two basis for why the requested documents are exempt from disclosure - as intra-agency materials and as materials if, which disclosed, would constitute an unwarranted invasion of personal privacy. Public Officers Law §87(2)(g) exempts from disclosure intra-agency materials which are not (i) statistical or factual tabulations or data; (ii) instructions to staff that affect the public; (iii) final agency policy or determinations or (iv) external audits. The exemption applies only to deliberative materials, ie. communications exchanges for discussion purposes not constituting final policy decisions (Matter of NY 1 News v. Office of the President of Borough of Staten Island, 231 A.D.2d 524, 525 (2d Dept. 1996)). Factual observations are not exempt from disclosure even in documents issued before final decision (Id.). Opinion and recommendations prepared by agency personnel may be

exempt from disclosure as pre-decisional material which was prepared to assist an agency decision maker to arrive at a decision (Matter of Mothers on the Move, Inc. v. Messer, supra). Exempting such material serves the purpose of protecting the deliberative process of government by ensuring that persons in an advisory role can freely express their opinions to agency decision makers (Id.).

Also exempt from disclosure under FOIL are records which if disclosed would constitute an unwarranted invasion of personal privacy (Public Officers Law §87(2)(b)). In determining whether documents can be disclosed while preserving an individual's right to privacy, the Court may consider whether redaction of identifying information would protect that interest (see Matter of Gould v. N.Y.C. Police Dept., 89 N.Y.2d 267, 275 (1996); Matter of N.Y. Civil Liberties Union v. N.Y. Police Dept., 20 Misc.3d 1108 (Sup. Ct. N.Y. Co. 2008)).

As to the draft disciplinary charges, as these charges were never formally filed and proven against Jackson, they are exempt from production pursuant to FOIL as their disclosure would constitute an unwarranted invasion of privacy as defined by Public Officers Law §87(2)(b) (see Matter of LaRocca v. Bd. of Ed. of the Jericho Union Free School District, 220 A.D.2d 424, 427 (2d Dept. 1995); Matter of Western Suffolk Bd. Of Coop. Ed. Svcs. v. Bay Shore Union Free Sch. Dist., 250 A.D.2d 772, 773 (2d Dept. 1998)). Such documents containing unproven disciplinary charges are also exempt as intra-agency memoranda which contain non-final agency determinations (see Sinicropi v. Co. of Nassau, 76 A.D.2d 832, 833 (2d Dept. 1980)). Accordingly, respondents properly denied petitioner's

FOIL request as to the draft disciplinary charges.²

However, to the extent that petitioner's request is not limited to the draft disciplinary charges, if such other records do not exist, respondents must provide a certification to that effect pursuant to Public Officers Law §89(3)(a). Otherwise, if other records exist that are responsive to petitioner's request, the records must be produced unless a FOIL exemption applies. In the event respondents' possess other responsive documents for which they claim a FOIL exemption applies, the parties' attorneys are directed to appear for a conference in this matter on Tuesday, April 14, 2009 at 10:00 am at Courtroom 203 of the Westchester County Courthouse, 111 Martin Luther King Jr. Blvd., White Plains, New York 10601.

Lastly, the Court denies petitioner's request for discovery in this matter. The general rule is that discovery is antithetical to the purposes of a special proceeding (see Cox v. J.D. Realty Assocs., 217 A.D.2d 179, 184 (1st Dept. 1995)). In this case, the respondents have been directed to certify whether the draft disciplinary charges are the only documents responsive to the request and to produce any other responsive documents unless they are protected by a FOIL exemption. There is no reason to believe that respondents will not comply with this directive of the Court.

²As the Court has found that respondents had a reasonable basis for denying petitioner access to these records, petitioner's request for attorney's fees in this matter is denied (Public Officers Law §89 (4)(c)(i)).

This decision constitutes the Order and Judgment of the Court.

Dated: White Plains, New York
March , 2009


BARBARA G. ZAMBELLI
A.J.S.C.

Robert A. Sternbach, Esq
Attorney for the Petitioner
274 Madison Avenue - Suite 1303
New York, New York 10016

Keane & Beane, P.C.
Attorneys for the Respondents
445 Hamilton Avenue - Suite 1500
White Plains, New York 10601
Attn: Edward J. Phillips, Esq.

Donna Minort,
Chief Clerk

Elizabeth Pace,
Deputy Chief Clerk

**Supreme Court of the State of New York
Appellate Division : Second Judicial Department**

Form A - Request for Appellate Division Intervention - Civil

See § 670.3 of the rules of this court for directions on the use of this form (22 NYCRR 670.3).

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.

In the Matter of an Article 78 Proceeding
CAMILLO M. SANTOMERO, Petitioner,
 - against -
**BOARD OF EDUCATION OF THE BEDFORD CENTRAL SCHOOL DISTRICT,
 SUSAN ELION WOLLIN, as President of the BOARD OF EDUCATION
 OF THE BEDFORD CENTRAL SCHOOL DISTRICT,
 CAROLE LACOLLA, as District Clerk of the BOARD OF EDUCATION
 OF THE BEDFORD CENTRAL SCHOOL DISTRICT and DR. DEBRA JACKSON,**
 Respondents.

For Court of Original Instance
RECEIVED

MAY - 6 2009
 Date Notice of Appeal Filed

TIMOTHY G. IDONI
 For Appellate Division
 COUNTY OF WESTCHESTER

Case Type <input type="checkbox"/> Civil Action <input type="checkbox"/> CPLR article 75 Arbitration		<input checked="" type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding		Filing Type <input type="checkbox"/> Appeal <input type="checkbox"/> Original Proceeding		<input type="checkbox"/> Transferred Proceeding <input type="checkbox"/> CPLR 5704 Review	
Nature of Suit: Check up to five of the following categories which best reflect the nature of the case.							
A. Administrative Review <input checked="" type="checkbox"/> 1 Freedom of Information Law <input type="checkbox"/> 2 Human Rights <input type="checkbox"/> 3 Licenses <input type="checkbox"/> 4 Public Employment <input type="checkbox"/> 5 Social Services <input type="checkbox"/> 6 Other		D. Domestic Relations <input type="checkbox"/> 1 Adoption <input type="checkbox"/> 2 Attorney's Fees <input type="checkbox"/> 3 Children - Support <input type="checkbox"/> 4 Children - Custody/Visitation <input type="checkbox"/> 5 Children - Terminate Parental Rights <input type="checkbox"/> 6 Children - Abuse/Neglect <input type="checkbox"/> 7 Children - JD/PINS <input type="checkbox"/> 8 Equitable Distribution <input type="checkbox"/> 9 Exclusive Occupancy of Residence <input type="checkbox"/> 10 Expert's Fees <input type="checkbox"/> 11 Maintenance/Alimony <input type="checkbox"/> 12 Marital Status <input type="checkbox"/> 13 Paternity <input type="checkbox"/> 14 Spousal Support <input type="checkbox"/> 15 Other		F. Prisoners <input type="checkbox"/> 1 Discipline <input type="checkbox"/> 2 Jail Time Calculation <input type="checkbox"/> 3 Parole <input type="checkbox"/> 4 Other		I. Torts <input type="checkbox"/> 1 Assault, Battery, False Imprisonment <input type="checkbox"/> 2 Conversion <input type="checkbox"/> 3 Defamation <input type="checkbox"/> 4 Fraud <input type="checkbox"/> 5 Intentional Infliction of Emotional Distress <input type="checkbox"/> 6 Interference with Contract <input type="checkbox"/> 7 Malicious Prosecution/Abuse of Process <input type="checkbox"/> 8 Malpractice <input type="checkbox"/> 9 Negligence <input type="checkbox"/> 10 Nuisance <input type="checkbox"/> 11 Products Liability <input type="checkbox"/> 12 Strict Liability <input type="checkbox"/> 13 Trespass and/or Waste <input type="checkbox"/> 14 Other	
B. Business & Other Relationships <input type="checkbox"/> 1 Partnership/Joint Venture <input type="checkbox"/> 2 Business <input type="checkbox"/> 3 Religious <input type="checkbox"/> 4 Not-for-Profit <input type="checkbox"/> 5 Other		G. Real Property <input type="checkbox"/> 1 Condemnation <input type="checkbox"/> 2 Determine Title <input type="checkbox"/> 3 Easements <input type="checkbox"/> 4 Environmental <input type="checkbox"/> 5 Liens <input type="checkbox"/> 6 Mortgages <input type="checkbox"/> 7 Partition <input type="checkbox"/> 8 Rent <input type="checkbox"/> 9 Taxation <input type="checkbox"/> 10 Zoning <input type="checkbox"/> 11 Other		H. Statutory <input type="checkbox"/> 1 City of Mount Vernon Charter §§ 120, 127-f, or 129 <input type="checkbox"/> 2 Eminent Domain Procedure Law § 207 <input type="checkbox"/> 3 General Municipal Law § 712 <input type="checkbox"/> 4 Labor Law § 220 <input type="checkbox"/> 5 Public Service Law §§ 128 or 170 <input type="checkbox"/> 6 Other		J. Wills & Estates <input type="checkbox"/> 1 Accounting <input type="checkbox"/> 2 Discovery <input type="checkbox"/> 3 Probate/Administration <input type="checkbox"/> 4 Trusts <input type="checkbox"/> 5 Other	
C. Contracts <input type="checkbox"/> 1 Brokerage <input type="checkbox"/> 2 Commercial Paper <input type="checkbox"/> 3 Construction <input type="checkbox"/> 4 Employment <input type="checkbox"/> 5 Insurance <input type="checkbox"/> 6 Real Property <input type="checkbox"/> 7 Sales <input type="checkbox"/> 8 Secured <input type="checkbox"/> 9 Other		E. Miscellaneous <input type="checkbox"/> 1 Constructive Trust <input type="checkbox"/> 2 Debtor & Creditor <input type="checkbox"/> 3 Declaratory Judgment <input type="checkbox"/> 4 Election Law <input type="checkbox"/> 5 Notice of Claim <input type="checkbox"/> 6 Other					

Appeal

Paper Appealed From (check one only):

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> Amended Decree | <input type="checkbox"/> Determination | <input checked="" type="checkbox"/> Order | <input type="checkbox"/> Resettled Order |
| <input type="checkbox"/> Amended Judgment | <input type="checkbox"/> Finding | <input type="checkbox"/> Order & Judgment | <input type="checkbox"/> Ruling |
| <input type="checkbox"/> Amended Order | <input type="checkbox"/> Interlocutory Decree | <input type="checkbox"/> Partial Decree | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Decision | <input type="checkbox"/> Interlocutory Judgment | <input type="checkbox"/> Resettled Decree | |
| <input type="checkbox"/> Decree | <input type="checkbox"/> Judgment | <input type="checkbox"/> Resettled Judgment | |

Court: <u>Supreme</u>	County: <u>Westchester</u>
Dated: <u>March 2009</u>	Entered: <u>March 31, 2009</u>
Judge (name in full): <u>Barbara Gunther Zambelli</u>	Index No.: <u>25405-2008</u>
Stage: <input checked="" type="checkbox"/> Interlocutory <input type="checkbox"/> Final <input type="checkbox"/> Post-Final	Trial: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury

Prior Unperfected Appeal Information

Are any unperfected appeals pending in this case? Yes No. If yes, do you intend to perfect the appeal or appeals covered by the annexed notice of appeal with the prior appeals? Yes No. Set forth the Appellate Division Cause Number(s) of any prior, pending, unperfected appeals:

Original Proceeding

Commenced by: <input type="checkbox"/> Order to Show Cause <input checked="" type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus	Date Filed: <u>11-17-08</u>
Statute authorizing commencement of proceeding in the Appellate Division: <u>CPLR 5501</u>	

Proceeding Transferred Pursuant to CPLR 7804(g)

Court:	County:
Judge (name in full):	Order of Transfer Date:

CPLR 5704 Review of Ex Parte Order

Court:	County:
Judge (name in full):	Dated:

Description of Appeal, Proceeding or Application and Statement of Issues

Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of the proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.

The appeal is from a Decision & Order of the Supreme Court of the State of New York, County of Westchester (Hon. Barbara Gunther Zambelli, A.J.S.C.), entered March 31, 2009, which disposed of Petitioner's Article 78 Petition, pursuant to the Freedom of Information Law, by ruling that Respondents' properly denied Petitioner's request for certain alleged "draft disciplinary charges"; directed Respondents to provide a certification that no other records responsive to Petitioner's request exist and to produce any other responsive non-exempt documents; denied Petitioner's request for attorneys' fees; and denied Petitioner's request for discovery.

Amount: If an appeal is from a money judgment, specify the amount awarded.
Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review.

The issues to be raised on Appeal include: whether the Court properly disposed of the Petition by denying Petitioner's request for access to the draft disciplinary charges, particularly without in camera review; and whether the court properly denied Petitioner's request for attorneys' fees before obtaining a certification from Respondents that no other responsive documents exist; and whether the Court properly disposed of the Petition before obtaining such a certification.

Issues Continued:

Use Form B for Additional Appeal Information

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

Examples of a party's original status include: plaintiff, defendant, petitioner, respondent, claimant, defendant third-party plaintiff, third-party defendant, and intervenor. Examples of a party's Appellate Division status include: appellant, respondent, appellant-respondent, respondent-appellant, petitioner, and intervenor.

No.	Party Name	Original Status	Appellate Division Status
1	Camillo M. Santoro	Petitioner	Appellant
2	Bd. of Ed. of Bedford Cent. Sch. Dist.	Respondent	Respondent
3	Susan Elion Wallin	Respondent	Respondent
4	Carol La Colla	Respondent	Respondent
5	Dr. Debra Jackson	Respondent	Respondent
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Attorney Information

Instructions: Fill in the names of the attorneys or firms of attorneys for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: *Law Office of Robert A. Sternbach*
 Address: *274 Madison Ave. #1303*
 City: *NY* State: *NY* Zip: *10016* Telephone No.: *212 661-4040*

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice
 Party or Parties Represented (set forth party number(s) from table above or from Form C):

1																			
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Attorney/Firm Name: *Keane & Beane, P.C.*
 Address: *445 Hamilton Av.*
 City: *White Plains* State: *NY* Zip: *10606* Telephone No.: *(914) 946-4777*

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice
 Party or Parties Represented (set forth party number(s) from table above or from Form C):

2	3	4	5																
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Attorney/Firm Name:
 Address:
 City: State: Zip: Telephone No.:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice
 Party or Parties Represented (set forth party number(s) from table above or from Form C):

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Attorney/Firm Name:
 Address:
 City: State: Zip: Telephone No.:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice
 Party or Parties Represented (set forth party number(s) from table above or from Form C):

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Attorney/Firm Name:
 Address:
 City: State: Zip: Telephone No.:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice
 Party or Parties Represented (set forth party number(s) from table above or from Form C):

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Attorney/Firm Name:
 Address:
 City: State: Zip: Telephone No.:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice
 Party or Parties Represented (set forth party number(s) from table above or from Form C):

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Use Form C for Additional Party and/or Attorney Information

The use of this form is explained in § 670.3 of the rules of the Appellate Division, Second Department (22 NYCRR 670.3). If this form is to be filed for an appeal, place the required papers in the following order: (1) the Request for Appellate Division Intervention (Form A, this document), (2) any required Additional Appeal Information Forms (Form B), (3) any required Additional Party and Attorney Information Forms (Form C), (4) the notice of appeal or order granting leave to appeal, (5) a copy of the paper or papers from which the appeal or appeals covered in the notice of appeal or order granting leave to appeal is or are taken, and (6) a copy of the decision or decisions of the court of original instance, if any.

AFFIRMATION OF SERVICE

ROBERT A. STERNBACH, an attorney duly admitted to practice in the courts of New York, affirms under the penalties of perjury as follows:

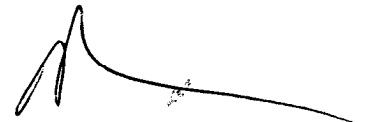
That deponent is a principal of the Law Office of Robert A. Sternbach, is over 18 years of age, is not a party to the within action, and resides in the State of New York. And that, on May 6, 2009, he served the within

NOTICE OF APPEAL and Request For Appellate Division Intervention – Civil on

KEANE & BEANE, P.C.
Attorneys for Respondents
445 Hamilton Avenue
White Plains, New York 10601
(914) 946-4777

the foregoing address having been designated for such purpose by the preceding papers in this action, by depositing a true and correct copy of the same, enclosed in properly addressed post-paid wrapper, in an official depository maintained and exclusively controlled by the United States Post Office in New York City.

Dated: New York, New York
May 6, 2009



ROBERT A. STERNBACH

RECEIVED
MAY - 6 2009
TIMOTHY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER

Index No. 2008-25405

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER**

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- against -

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OF THE BEDFORD CENTRAL SCHOOL DISTRICT
and DR. DEBRA JACKSON,**


Respondents.

NOTICE OF APPEAL

Law Office of ROBERT A. STERNBACH
Attorneys for Petitioner
274 Madison Avenue
Suite 1303
New York, New York 10016
(212) 661-4040

CERTIFICATION

I hereby certify pursuant to 22 NYCRR § 130-1.1-a(b)
that, to the best of my knowledge, information and belief,
formed after an inquiry reasonable under the circumstances,
the presentation of the papers contained herein, or the contentions therein,
are not frivolous as defined in 22 NYCRR § 130-1.1-(c).



Robert A. Sternbach