

RECEIVED

DIVISION OF LEGAL SERVICES

FEB 6 2020



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

OFFICE OF THE STATE COMPTROLLER
ALBANY

DIVISION OF STATE COUNSEL

LETITIA JAMES
ATTORNEY GENERAL

February 6, 2020

Caitlin Heim, Esq.
Associate Attorney
Office of State Comptroller
110 State Street
Albany, New York 12236

Re: **Public Officers Law §17 in connection with**
SAM Party v. Cuomo et al., USDC/SDNY, 20 CV 323

Dear Ms. Heim:

Pursuant to Public Officers Law Section 17(2)(b), this office has reviewed the presently available facts and circumstances relating to the above matter. Based on this review, we have determined for the purposes of representation only, and without any determination as to the ultimate merits, that representation by the Attorney General of defendants **NYS Board of Elections Co Chair Peter S. Kosiniski, NYS Board of Elections Co Chair Douglas Kellner, NYS Board of Elections Commissioner Andrew Spano, NYS Board of Elections Co-Executive Director Todd Valentine, NYS Board of Elections Co-Executive Director Robert Brehm, Speaker of the Assembly Carl E. Heastie, Senate Minority Leader John J. Flanagan, Assembly Minority Leader William A. Barclay, Senate President and Majority Leader Andrea Stewart-Cousin, and Governor Andrew M. Cuomo** would be inappropriate.

I, therefore, certify that **NYS Board of Elections Co Chair Peter S. Kosiniski, NYS Board of Elections Co Chair Douglas Kellner, NYS Board of Elections Commissioner Andrew Spano, NYS Board of Elections Co-Executive Director Todd Valentine, NYS Board of Elections Co-Executive Director Robert Brehm, Speaker of the Assembly Carl E. Heastie, Senate Minority Leader John J. Flanagan, Assembly Minority Leader William A. Barclay, Senate President and Majority Leader Andrea Stewart-Cousin, and Governor Andrew M. Cuomo** are entitled to be represented by **private counsel** in accordance with the provisions of Section 17 of the Public Officers Law.


The same private counsel is authorized to be retained for the following defendants:

NYS Board of Elections Co Chair Peter S. Kosiniski, NYS Board of Elections Co Chair Douglas Kellner, NYS Board of Elections Commissioner Andrew Spano, NYS Board of Elections Co-Executive Director Todd Valentine, and NYS Board of Elections Co-Executive Director Robert Brehm.

Separate private counsel is authorized to be retained for the following defendants:

Speaker of the Assembly Carl E. Heastie, Senate Minority Leader John J. Flanagan,
Assembly Minority Leader William A. Barclay, Senate President and Majority Leader
Andrea Stewart-Cousin, and Governor Andrew M. Cuomo.

Very truly yours,



MEGAN LEVINE
Deputy Attorney General

cc: Christine Ryan



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL
LITIGATION BUREAU

February 6, 2020

Via First Class Mail and Email

Brian L. Quail
Counsel
New York State Board of Elections
40 North Pearl Street, Suite 5
Albany, N.Y. 11207-2109

Re: *SAM Party of New York v. Cuomo, et al.*, No. 20-CV-00323 (S.D.N.Y.)

Dear Mr. Quail:

This Office has received your request for representation on behalf of Peter S. Kosinski, Douglas A. Kellner, Andrew J. Spano, Todd D. Valentine, and Robert A. Brehm ("State Board Defendants"), who are named as Defendants in their official capacities, in the above-referenced matter. Based on the facts and circumstances currently available to us, this Office has concluded that it would be inappropriate for the Attorney General to represent the State Board Defendants in this matter.

We are, however, certifying to the State Comptroller that the State Board Defendants are entitled to be jointly represented by private counsel under Public Officers Law § 17. Upon this certification, the State will pay for reasonable attorneys' fees and litigation expenses, subject to (1) certification by the head of your Agency that the State Board Defendants are entitled to representation under Public Officers Law § 17, and (2) the audit and warrant of the State Comptroller. We suggest that you share this letter with the attorney retained to represent the State Board Defendants and notify him or her that the person to contact in the Comptroller's Office is Caitlin Heim, Senior Attorney, at (518) 408-3139.

Your attention is called to subdivision (3)(a) of the statute, which provides that the State may indemnify the State Board Defendants in the amount of any judgment obtained against them in any Court, or in the amount of any settlement of any claim, if the act or omission from which the judgment or settlement arose occurred while they were acting within the scope of their public employment or duties and did not result from intentional wrongdoing on their part. Please note that any decision regarding indemnification is made only after a judgment is rendered against them or at the time that a settlement is proposed.

Brian L. Quail, Esq.
February 6, 2020
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Should you or the attorney retained on behalf of the State Board Defendants have any questions regarding the contents of this correspondence, please feel free to contact me at (212) 416-6133.

Very truly yours,


Jane R. Goldberg

Assistant Attorney General

THOMAS P. DINAPOLI
STATE COMPTROLLER



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

DIVISION OF LEGAL SERVICES
110 State Street – 14th Floor
Albany, NY 12236
Tel: (518) 474-3444
Fax: (518) 473-9104

March 9, 2020

Via electronic mail only (tgarry@harrisbeach.com)

Thomas J. Garry
Harris Beach PLLC
333 Earle Ovington Boulevard
Suite 901
Uniondale, New York 11553

Re: SAM Party of New York v. Cuomo, et al.
USDC/SDNY, 20-cv-00323

Dear Mr. Garry:

This is in response to your correspondence of February 25, 2020, requesting hourly rates in excess of the Comptroller's Schedule of Counsel Fees (Schedule) in connection with the representation of Peter S. Kosinski, Douglas A. Kellner, Andrew J. Spano, Todd D. Valentine, and Robert A. Brehm, defendants in the above-captioned litigation, who were members of the Board of Elections at the time in question.

In support of your request, you explain that this matter involves complex constitutional and election law issues. You further explain that your firm has extensive litigation experience in these areas of law and that you and partners Sleight and Sullivan have over 25 years of experience.

For the reasons you set forth in your request, this Office has approved hourly rates that exceed the Schedule. You and partner Karl J. Sleight will be compensated at a rate of \$550 per hour, partner Elliot A. Hallack will be compensated at a rate of \$525 per hour, partner Joan P. Sullivan will be compensated at a rate of \$510 per hour, partner Kelly S. Foss will be compensated at a rate of \$390 per hour, senior counsel Kyle D. Gooch will be compensated at a rate of \$380 per hour, associate Daniel R. LeCours will be compensated at \$360 per hour, and associate Stephanie L. Tanzi will be compensated at a rate of \$310 per hour. These rates will be applied to all legal services rendered in this case. Travel time will be compensated at 50% of these rates. All other rates, terms and conditions set forth in the Schedule will apply.

Thomas J. Garry
March 9, 2020
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It is expected Harris Beach LLC will exercise billing judgment, and conduct the litigation as efficiently as possible. In support of its billings, the firm will need to submit detailed time records to the General State Charges Unit, Bureau of Financial Administration, Office of the State Comptroller, 110 State Street, Albany, New York 12236. Billing and payment inquiries should be directed to the General State Charges Unit at (518) 486-1286. I may be reached at (518) 408-3139 should you have other concerns regarding this case.

Very truly yours,

A handwritten signature in cursive script that reads "Caitlin D. Heim".

Caitlin D. Heim
Associate Attorney

cc: Deputy Attorney General Megan Levine
General State Charges Unit

State
Of
New YorkSEE INSTRUCTIONS BEFORE COMPLETING
STANDARD VOUCHER

Voucher Number

① Originating Agency (limit to 30 spaces) General State Charges Unit				Orig. Agency Code		Interest Eligible (Y/N)		② P-Contract USDC/SDNY, 20-CV-00323			
Payment Date (MM/DD/YY)				OSC Use Only		Liability Date (MM/DD/YY)					
③ Payee ID [REDACTED]		Additional		Zip Code		Route		Payee Amount		MIR Date (MM/DD/YY)	
④ Payee Name (limit to 30 spaces) Harris Beach PLLC						IRS Code		IRS Amount			
Payee Name (limit to 30 spaces) 333 Earle Ovington Blvd., Ste 901 Address (limit to 30 spaces)						Stat. Type		Statistic		Indicator-Dept.	
Address (limit to 30 spaces) Uniondale → NY 11553 City (Limit to 20 spaces) (Limit to 2 spaces) State Zip Code						O Inv # 2365900		*Ref/Inv. No. (Limit to 20 spaces)			
						Ref/Inv. Date (MM/DD/YY)					

⑤ Purchase Order No. and Date	Description of Material/Service If items are too numerous to be incorporated into the block below, use Form AC 93 and carry total forward.	Quantity	Unit	Price	Amount
4/3/2020	SEE ATTACHED INVOICE FOR LEGAL SERVICES and COSTS REGARDING MATTER KNOWN AS: SAM PARTY of NY v. Cuomo, et.al. 20 CV 323 (JGK) (RWL) 812-5				

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APR 28 2020
OFFICE OF THE STATE COMPTROLLER
BUREAU OF FINANCIAL ADMINISTRATION

Payee Certification I certify that the above bill is correct; that no part thereof has been paid except as stated and that the balance is accurate and owing, and that taxes from which the State is exempt are excluded. → <u>Thomas J. Garry</u> Esquire Payee's Signature in Ink Title Date 4/6/2020 Name of Company Harris Beach PLLC		Total \$29,762.19 Discount % ----- Net \$29,762.19
--	--	---

FOR AGENCY USE ONLY						STATE COMPTROLLER'S PRE-AUDIT			
Merchandise Received Date _____ Page No. _____ By _____		I certify that this voucher is correct and just, and payment is approved, and the goods or services rendered or furnished are for use in the performance of the official functions and duties of this agency. _____ Authorized Signature in Ink Date _____ Title _____				Verified _____ Audited _____ Special Approval (as Required) _____ By _____		CERTIFIED FOR PAYMENT OF NET AMOUNT	

Expenditure							Liquidation				
Cost Center Code				Object	Accum		Amount	Orig. Agency	PO/Contract	Line	F/P
Dept	Cost Center Unit	Var	Yr		Dept	Statewide					

Distribution: Original to OSC with Copy to Agency/Department and Payee

☐ Check if Continuation form is attached.

HARRIS BEACH ^{PLLC}
ATTORNEYS AT LAW

SAM PARTY ET AL V. CUOMO
General State Charges Unit, Bureau of Financial Administrati
Office of the State Comptroller
110 State Street
Albany, NY 12236

File # **0065999 315943**
Inv # **2365900**
Atty **TJ GARRY**

APRIL 3, 2020

Matter Name **SAM PARTY ET AL V. CUOMO, ET AL, 20 CV 323 (JGK) (RWL)**

CURRENT TOTAL DUE

\$29,762.19

PLEASE SEND REMITTANCE TO:
*Remember to include your file and invoice
number on all remittances.*

HARRIS BEACH PLLC
The Omni
333 Earle Ovington Blvd, Suite 901
Uniondale, NY 11553
516-880-8484

TAX ID #: XXXXXXXXXX

SAM PARTY ET AL V. CUOMO
General State Charges Unit, Bureau of Financial Administrati
File # 0065999 315943
Invoice # 2365900

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APRIL 3, 2020

FOR PROFESSIONAL SERVICES RENDERED AND COSTS INCURRED AS FOLLOWS:

Matter Name: SAM PARTY ET AL V. CUOMO, ET AL, 20 CV 323 (JGK) (RWL)

<u>Date</u>	<u>Int</u>	<u>Description</u>	<u>Hours</u>	<u>Value</u>
02/21/20	EH	Review [REDACTED]	1.00	525.00
02/24/20	TJG	Review [REDACTED] and [REDACTED] calls [REDACTED]	5.00	2750.00
03/04/20	TJG	Multiple communications [REDACTED] review [REDACTED]	3.40	1870.00
03/06/20	KF	Review [REDACTED] [REDACTED]	.30	117.00
03/06/20	EH	Conference [REDACTED] [REDACTED] review [REDACTED] [REDACTED] prepare [REDACTED] [REDACTED] exchange [REDACTED] [REDACTED]	1.40	735.00
03/06/20	KG	Review [REDACTED] [REDACTED] Emails [REDACTED] [REDACTED] Office conference [REDACTED] [REDACTED] research [REDACTED]	1.50	570.00
03/09/20	KF	Review [REDACTED] [REDACTED] Conduct [REDACTED] research [REDACTED] [REDACTED] Review [REDACTED] [REDACTED] Review, revise, and provide comments [REDACTED] [REDACTED] is,	6.40	2496.00
03/09/20	EH	Review [REDACTED] consider [REDACTED] [REDACTED] review [REDACTED] [REDACTED] [REDACTED] update [REDACTED]	4.00	2100.00

SAM PARTY ET AL V. CUOMO

General State Charges Unit, Bureau of Financial Administrati

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APRIL 3, 2020

<u>Date</u>	<u>Int</u>	<u>Description</u>	<u>Hours</u>	<u>Value</u>
03/09/20	KG	Analysis [REDACTED] [REDACTED] Office conference [REDACTED] Draft [REDACTED] Review [REDACTED] [REDACTED] Revise [REDACTED]	3.50	1330.00
03/10/20	TJG	Draft [REDACTED] [REDACTED]	2.80	1540.00
03/10/20	KF	Conference call [REDACTED] [REDACTED]	1.20	468.00
03/10/20	EH	[REDACTED] discussion [REDACTED] [REDACTED] conference [REDACTED] [REDACTED]	2.20	1155.00
03/10/20	KG	Telephone conference [REDACTED] [REDACTED] Review [REDACTED] [REDACTED] [REDACTED] Telephone conference [REDACTED] [REDACTED] conference [REDACTED] [REDACTED]	2.00	760.00
03/11/20	TJG	Conference call [REDACTED]	.40	220.00
03/11/20	KG	Emails [REDACTED] [REDACTED] Emails [REDACTED] [REDACTED]	.30	114.00
03/12/20	TJG	Review [REDACTED]	.70	385.00
03/12/20	KF	Review and analyze [REDACTED] [REDACTED]	.50	195.00
03/12/20	EH	Review [REDACTED] review [REDACTED] [REDACTED]	1.00	525.00

SAM PARTY ET AL V. CUOMO

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APRIL 3, 2020

<u>Date</u>	<u>Int</u>	<u>Description</u>	<u>Hours</u>	<u>Value</u>
03/12/20	KG	Emails [REDACTED] conference [REDACTED]. Obtain and review [REDACTED] [REDACTED] Email same to team Telephone conference [REDACTED] [REDACTED] telephone conference [REDACTED]	1.10	418.00
03/13/20	TJG	[REDACTED] email communication [REDACTED] [REDACTED]s, receipt and review [REDACTED] [REDACTED]	2.70	1485.00
03/13/20	KF	Review [REDACTED] [REDACTED]	.10	39.00
03/13/20	KG	Email [REDACTED] [REDACTED]	.10	38.00
03/17/20	TJG	Conference call [REDACTED] email communications [REDACTED]	.70	385.00
03/18/20	TJG	Email [REDACTED]	.40	220.00
03/18/20	EH	Review [REDACTED] [REDACTED]	.80	420.00
03/18/20	KG	Check [REDACTED] Voicemails [REDACTED] [REDACTED]s. Emails [REDACTED] [REDACTED] Emails [REDACTED] [REDACTED] telephone conference [REDACTED] [REDACTED]	.60	228.00
03/18/20	G A	Review [REDACTED] [REDACTED] Review [REDACTED] [REDACTED] Prepare [REDACTED] [REDACTED]	5.90	973.50
03/20/20	TJG	Emails [REDACTED] call [REDACTED] [REDACTED]	.40	220.00
03/20/20	EH	[REDACTED] correspondence [REDACTED] [REDACTED]	.70	367.50

SAM PARTY ET AL V. CUOMO

General State Charges Unit, Bureau of Financial Administration

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APRIL 3, 2020

<u>Date</u>	<u>Int</u>	<u>Description</u>	<u>Hours</u>	<u>Value</u>
03/21/20	KG	Review [REDACTED] [REDACTED] Review [REDACTED] [REDACTED] drafting [REDACTED]	1.50	570.00
03/22/20	KG	Review [REDACTED] [REDACTED] Draft [REDACTED] review of [REDACTED]	2.20	836.00
03/23/20	EH	Exchange correspondence [REDACTED] [REDACTED]	.20	105.00
03/23/20	KG	Draft and revise [REDACTED] mail to [REDACTED] [REDACTED]	3.20	1216.00
03/24/20	TJG	Revisions [REDACTED] [REDACTED]	2.20	1210.00
03/24/20	EH	Work on [REDACTED] [REDACTED] prepare correspondence [REDACTED] [REDACTED]	2.70	1417.50
03/24/20	KG	Email [REDACTED] [REDACTED]	.10	38.00
03/25/20	TJG	Review [REDACTED]	.30	165.00
03/25/20	TJG	Communication [REDACTED] [REDACTED]	.50	275.00
03/25/20	TJG	Review [REDACTED]	.80	440.00
03/25/20	EH	Review [REDACTED] strategize [REDACTED] [REDACTED]	.30	157.50
03/25/20	EH	Prepare [REDACTED] attend [REDACTED] [REDACTED]	.40	210.00
03/25/20	KG	Emails [REDACTED] [REDACTED] Review [REDACTED] [REDACTED] Circulate [REDACTED]	.40	152.00
03/26/20	EH	Finalize [REDACTED] exchange [REDACTED] [REDACTED]	.40	210.00

SAM PARTY ET AL V. CUOMO

General State Charges Unit, Bureau of Financial Administrati

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APRIL 3, 2020

<u>Date</u>	<u>Int</u>	<u>Description</u>	<u>Hours</u>	<u>Value</u>
03/27/20	EH	Review [REDACTED] [REDACTED]	.10	52.50
SERVICES RENDERED				\$29,703.50
COSTS Westlaw Computer Research				58.69
				58.69
CURRENT INVOICE TOTAL				<u>\$29,762.19</u>

SAM PARTY ET AL V. CUOMO

General State Charges Unit, Bureau of Financial Administrati

File # 0065999 315943

Invoice # 2365900

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APRIL 3, 2020

SERVICE AND COST SUMMARY

<u>Professional</u>	<u>Rate</u>	<u>Hours</u>	<u>Value</u>
GARRY, TJ	550.00	20.30	\$11,165.00
HALLAK, E	525.00	15.20	\$7,980.00
FOSS, K	390.00	8.50	\$3,315.00
GOOCH, K	380.00	16.50	\$6,270.00
ADAMS, G	165.00	5.90	\$973.50
SERVICES		66.40	\$29,703.50

COSTS

\$58.69

CURRENT INVOICE TOTAL

\$29,762.19

From the Accounting Dept. of Harris Beach PLLC

As a courtesy to our clients we are providing our Wire & ACH instructions as an option of remittance.
Checks are still accepted or Credit Card payments as well.

Harris Beach PLLC
Wire Transfer Instructions
OPERATING A/C

ABA# [REDACTED]
Account # [REDACTED]
Harris Beach PLLC
OPERATING A/C

Bank BANK UNITED
MIAMI LAKES, FL

Harris Beach PLLC
ACH Instructions
OPERATING A/C

Bank Citizens Bank
Rochester, NY 14604

ABA# [REDACTED]
Account# [REDACTED]
Harris Beach PLLC Operating
Account

For Verification of WIRE/ACH instructions please contact: Damon L. Morgan at (516) 880 - 8488
Upon remittance, please reference **Client Name, Matter # or Bill #**
when initiating wire transfer with their bank.

PLEASE SEND REMITTANCE TO:

HARRIS BEACH PLLC
The Omni
333 Earle Ovington Blvd, Suite 901
Uniondale, NY 11553
516-880-8484

----RETURN WITH PAYMENT----