STATE OF NEW YORK SUPREME COURT
APPELLATE DIVISION THIRD DEPARTMENT

Stephen Phillip Romine
Plaintiff/Appellant

v

James P. Laurito and Steven V. Lant
Defendants/Respondents

MOTION FOR Leave of Court to Appeal to NYS Court of Appeals & Reargument

Appellate Division Case No. 528147

PLEASE TAKE NOTICE that, upon the annexed affidavit, sworn to the 3rd day of September, 20 20, a motion will be made at a term of this Court to be held in the City of Albany, New York, on the 21st day of September, 20 20, for an order (*Specify relief which you seek.*):

To reverse, annul or vacate Third Department August 6th, 2020 Order; reverse lower court's February 14, 2018 decision/order; remand case back to lower court and order completion of discovery including depositions; grant Leave of court to Appeal to N.Y.S. Court of Appeals

Dated: September 3rd, 2020

(Signature) Stephen Phillip Romine

(Print Name) Stephen Phillip Romine

(Address) P.O. Box 657 Woodstock, New York, 12498

(Telephone) 845-532-5120

PLEASE TAKE NOTICE that, pursuant to section 1250.4 (a) (7) and (8) of the Practice Rules of the Appellate Division, this motion will be submitted on the papers, and the personal appearance of counsel or the parties is neither required nor permitted.

AFFIDAVIT IN SUPPORT OF MOTION

STATE OF NEW YORK

COUNTY OF ULSTER ss.:

Stephen Phillip Romine , being duly sworn, deposes and says:

1. I am the Plaintiff/Appellant in the above-entitled action.

I have appealed to the Appellate Division from an order or judgment of the Supreme Court of Ulster County, dated February 14, 2018 .

(*Specify the status of the appeal.*)

The Third Department affirmed Ulster County Supreme Court's August 6th, 2020 decision/order

2. By this motion I seek the following relief:

To reverse, annul or vacate the lower court's August 6th, 2020 decision/order; remand case back to the lower court; grant an order for the completion of discovery including depositions; grant a "leave of court" for plaintiff/appellant to appeal to the N.Y.S Court of Appeals.

3. The grounds for the motion and reasons the relief should be granted are:

(*Attach additional documentation, if necessary)*

Facts and law were overlooked and misapprehended requiring"reargument" to reverse or annul order & questions of law requiring appeal to N.Y.S Court of Appeals-Practice Rules 1250.16(d)(1)(2)(3) & CPLR 2221(d)(1)(2) & U.S. Constitution 14th Amendment "due process and equal protection under the law" rights. Sworn affidavits with more grounds and reasons attached with exhibits A through U

(Signature) Stephen Phillip Romine

(Print Name) Stephen Phillip Romine

Sworn to before me this 3rd

day of September , 20 20 .

Notary Public

ZACHARY DERNISON
Notary Public, State of New York
Reg. #01DE6292736
Qualified in Ulster County
Commission Expires 11-4-21

STATE OF NEW YORK SUPREME COURT
APPELLATE DIVISION THIRD DEPARTMENT

STEPHEN PHILLIP ROMINE

Plaintiff/Appellant,

Appellate Division
Case: #528147

Vs.

AFFIDAVIT OF FACTS IN SUPPORT OF REARGUMENT MOTION

JAMES P. LAURITO and STEVEN V. LANT

Defendants/Respondents,

I, Stephen Phillip Romine, flesh and blood natural man, pro se, pro per, sui juris plaintiff/appellant litigant and affiant, am familiar with the facts in appeal case #528147, appealing case #16-1351 of the Honorable Supreme Court of Ulster County, N.Y. (hereafter called the "lower court") and using my inalienable rights, protected by the U.S Constitution, to represent my self in these proceedings of the Honorable Appellate Division, Third Judicial Department, (hereafter called the " Third Department"). This affidavit, pursuant to the Practice Rules of the Appellate Division section 1250.16 (d)(2), is in

support of a motion for "Reargument" that sets forth the following six points (VI), detailing overlooked and misapprehended facts and law by the lower court in their February 14, 2018 Decision/Order (see exhibit P. pages R10-20) and by the Third Department in their August 6th, 2020 "Memorandum and Order" (see exhibit A, pages 1-5).

Plaintiff/appellant initially affirms to this Honorable Court and makes it be known to all parties involved:

Federal Law and U.S. Supreme case law apply to State Court cases, (Howlett v Rose 496 U.S 356 (1990).

"Where rights secured by the U.S Constitution are involved, there can be no rulemaking or legislation which would abrogate them" (Miranda v Arizona 384 U.S. 426, 491, 86, S. Ct. 1608).

"To take away all remedy for the enforcement of a right is to take away the right itself. But that is not within the power of the State" (Poindexter v Greenhow, 114 U.S. 270. 303 (1805).

Furthermore a court cannot confer jurisdiction where none existed and cannot make a void proceeding valid,
(Old Wayne Mut, l. Assoc, v McDonough, 204 U.S. S. 8 27, S, Ct, 236 (1907)

"Facts appearing in the movant's papers which the opposing party does not controvert, may be deemed to be admitted."
Laye v Shepard 48 Misc. 2d 478, affd 25 AD2d 498

Summary of Points of Arguments I-VI

Point I- Documents the lower court overlooked plaintiff/appellant had less than 9 months with which to complete discovery due to granting summary judgment that was argued as premature by plaintiff/appellant. Third Department case law held less than a year is *"not afforded* a *reasonable opportunity to complete discovery."*

[Timothy K. Fultz v. Benvenuti Properties 155 A.D. 2d 794,548 N.Y.S. 2d 72 (1989)

Also in 1989 Court of Appeals ruled when regarding summary judgment:

*"would clearly be an injustice to grant * * * defendants' motion, when plaintiff has had no *571 disclosure at all."*
Gallagher v Lambert
Court of Appeals of New York December 14, 1989 74 N.Y.2d 562549 N.E.2d 136

Point II- Documents that the Third Department overlooked that at 54 of the plaintiff/appellants 152 interrogatories questions could have been answered by the defendant/respondent James P. Laurito, including 36 questions accessing his past emails, which he had control of by virtue of privacy laws and password codes. The Third Department misapprehended that Central Hudson Gas and Electric Corp. and Fortis Inc. were part of the same company group; That James P. Laurito did not leave Central Hudson Gas and Electric Corp. but was promoted to become a vice president of

Fortis. Inc. the parent company and had control of the information sought; that the lower court had no idea what questions were to be asked in depositions to be able to say defendants could not answer plaintiff/appellant's questions.

Point III- Documents the Third Department misapprehended the NYS Public Service Commission lost primary jurisdiction over the plaintiff's issues when their Informal Hearing Officer communicated in an official letter: *" an informal hearing officer is without the power to grant you the relief requested."*

The Third Department overlooked the claims of the plaintiff/appellants 2nd amended complaint are civil matters which are not issues in the jurisdiction of the PSC utilities realm.

Point IV- Documents that the Third Department overlooked that there are exemptions to the exhaustion of administrative remedies rule and that plaintiff/appellant met the criteria for two of them.

Point V- Documents that the Third Department overlooked that res judicata and collateral estoppel are not applicable to plaintiff/appellants

case being no actual litigation ever took place between him and the N.Y.S. Public Service Commission and the subject issues are not identical.

Point VI- Documents that the Third Department overlooked or misapprehended that plaintiff/appellant's issues in his 2nd amend complaint were never brought up to the N.Y.S Public Service Commission to be resolved or ever litigated and were certainly not identical. The Third Department overlooked the specifics of the claims made in the lower court and that it is not reasonable to say they were a "*rebranding of the same claims made to the PSC*" as lawful documents in the record on appeal were prepared and served on the defendants/respondents before the N.Y.S. Public Service Commission made their determination and were not dependent on or central to a PSC decision . The Third Department overlooked that the claims fraud and the international human right to not be experimented on were certainly not identical to the claims made to the PSC claims or dependent on any PSC determination.

*NOTE: Annexed with this motion and affidavit are exhibits containing the notice of entry and Third Department decision and specific pages of exhibits from the plaintiff/appellant's appeal-brief, reply-brief and record on appeal and defendants/respondents reply. The Third Department and the defendants/respondents have in their possession the complete aforementioned documents from the prior appeal.

DETAILS OF POINTS OF ARGUMENT

Point I

The Third Department August 6, 2020 Order with regard to the issues of the plaintiff/appellant "waiting eleven months to do discovery" (exhibit A, page 3, par. 3), of reasonable opportunity to complete discovery and premature summary judgment, overlooked important facts and misapprehended law:

a). Overlooked the fact that when an issue is joined, in this case July 12th, 2016, when the defendants/respondents served their first answer to plaintiff/appellants complaint (see exhibit B, page R23, par.2), is when most professional litigants begin discovery, let alone a pro se litigant.

b). Overlooked the fact that the defendants/respondents Notice of Motion for Summary Judgment (see exhibit C pages R21), dated February 6th, 2017, stayed all discovery from that point as affirmed by the lower court in a sign-same order in defendants/respondents April 11, 2017 letter

(see exhibit D page R687 par. 3, R688):

"it is my understanding that pursuant to CPLR Rule 3214(b), all discovery in this matter is stayed pending a decision on the motion unless the court directs otherwise."

c). Overlooked the fact that the February 6th, 2017 Notice of Motion (see exhibit C, pages R21), staying all discovery, allowed plaintiff/appellant with only 6 months and 18 days opportunity to complete discovery, from when the issue was joined on July 12, 2016 (see exhibit B page R23, par. 2) or 8 months and 25 days from the commencement of the action, May 19. 2016, (see exhibit E, page R54).

d). Overlooked the fact that plaintiff/appellant is a pro se litigant, who works full time and is not a professional attorney with an office of secretaries and legal associates with which to do research, answer and produce documents quickly.

e). The present Third Department, misapprehended what "reasonable opportunity to complete discovery is, considering what the past Third Department and the Court of Appeals previously held in 1989:

> *"Moreover the actions against all the defendants except Benvenuti had been pending for less than a year at the time of filing, thus in our view, defendants were not afforded a reasonable opportunity to complete discovery "(Timothy K. Fultz v Benvenuti Properties 155 A.D. 2d 794, 548 N.Y.S. 2d 72 (1989).*

The third Department allowed seven (7) years for discovery in another case:

"Under the circumstances of the case, which was commenced over seven years ago, the appellant had ample time to complete discovery"
Polsinelli v Hanover Ins. Co., 62 AD2d 376

Most importantly The N.Y. S. Court of Appeals held:

*"For nearly a year defendants conducted discovery of plaintiff--including a very extensive deposition--and then sought summary judgment; plaintiff had no discovery whatever. The trial court denied defendants' motion, noting factual issues concerning defendants' motive for firing plaintiff, and that it "would clearly be an injustice to grant * * * defendants' motion, when plaintiff has had no *571 disclosure at all."*
Gallagher v Lambert
Court of Appeals of New York December 14, 1989 74 N.Y.2d 562549 N.E.2d 136

Furthermore the present Third Department overlooked the fraud aspect of this case and in 2008 ruled:

"Moreover, no discovery has yet taken place; plaintiff moved to amend just five months after filing the action. Where material facts are exclusively within the knowledge of those charged with fraud, "it would work a potentially unnecessary injustice to dismiss a case at an early stage where any pleading deficiency might be cured later in the proceedings" (Pludeman v Northern Leasing Sys., Inc., 10 NY3d at 491-492)

f). That the Third Department overlooked plaintiff/appellant's appeal brief 12 citations of supporting case law (see exhibit F, page 20) that affirmed:

> *"A party should be afforded a reasonable opportunity to conduct discovery prior to the determination of a motion for summary judgment" Harvey v Neals 61 AD3d 935 [2009], etc.*

C ONCLUSION: Considering the plaintiff/appellant clearly documented overlooked facts by the Third Department in their August 6, 2020 Order (see exhibit A), plaintiff/appellant by all accounts had

significantly less than a year with which to complete discovery. According to the aforementioned Third Department's two aforementioned 1989 case law, less than a year to complete discovery left plaintiff/appellant being not *"afforded a reasonable opportunity to complete discovery,"* especially considering the aforementioned Third Department case law was regarding professional attorneys and the plaintiff/appellant is a pro se litigant, who works full time, and is not a professional lawyer. The Third Department decision is not in harmony with the aforementioned Court of Appeals case law cited in item "e)".

The Third Department in deliberating their August 6th, 2020 overlooked the precept of fundamental fairness and the controlling and binding nature of U.S Supreme Court case law, which held:

"Discovery must be a two way street."
"Reciprocal discovery is required by fundamental fairness"
"Wardius v Oregon" 412 U.S. 470, 475, 37 L.E.D. 2d 82, 93 S.Ct. 2208 (1973)
Weatherford v Bursey 429 US 545 97 S 837, 51 L.
Ed. 2d 30- U.S Supreme Court (1977)

Considering the apparent inconsistency in the August 6, 2020 decision regarding discovery (see exhibit A page 3, par. 3 &4) with it's own previous rulings in 1989 (quoted in item "e") and relevant

case law, including the binding and controlling case law of the N.Y.S. Court of Appeals supporting some discovery and U.S Supreme Court supporting required opportunity for reciprocal discovery, should be cause for the Third Department to reverse the August 6, 2020 decision, the subject case be remanded back to the lower court and an order issued permitting the completion of discovery, including the taking of depositions.

Point II

The Third Department overlooked and misapprehended the facts for answerable interrogatory questions and depositions submitted by the plaintiff/appellant.

a). The Third Department ruling "the majority of the plaintiff's demands were more appropriately addressed to a nonparty – defendant's previous employer" (exhibit A, page 3, par. 2) misapprehends the intent of the interrogatory demands and that it is the defendants/respondents who are being alleged as, liable in this lawsuit for, *inter alai*, their actions and lack of action, not Central Hudson Gas and Electric Corporation (Hereafter called "CenHud"). Plaintiff/appellant has another lawsuit filed against CenHud in the lower court currently "stayed" that will be dealing with the liabilities of CenHud.

The lower court overlooked and the Third Department misapprehended the fact that Defendant/respondents claiming they did not receive lawful notices (see exhibit P, page 19, par. 1) whose contents were imputed to them by the Doctrine of Imputed Notice (see exhibit F, pages R58 "Discussion" through R61) warning "policymakers" during the time of the events adversely affecting

plaintiff/appellant (see exhibit K, page R661, par. 4) they would be liable to the plaintiff/appellant for monetary damages, and as such they were the proper persons to be asked the interrogatory questions. The lower court misapprehends that to make plaintiff/appellant prove demands exist before discovery would be granted, deprived him of due process and was one of the reasons summary judgment should have been denied and declared premature.

The Third Department misapprehended that plaintiff/appellant should have had reasonable opportunity to request information and documents without first having to prove it exists just as the defendants/respondents were able to do, to be in accord with fundamental fairness mandates of U.S. Supreme Court:

"Discovery must be a two way street."
"Reciprocal discovery is required by fundamental fairness"
"Wardius v Oregon" 412 U.S. 470, 475, 37 L.E.D. 2d 82, 93 S.Ct. 2208 (1973)
Weatherford v Bursey 429 US 545 97 S 837, 51 L.
Ed. 2d 30- U.S Supreme Court (1977)

b). The Third Department also overlooked the claim by the defendants/respondents and affirmed by the lower court that they could not produce discovery demands because "they were not employed by Central Hudson at the time of this action was commenced, they are not in possession of any of the information the

plaintiff seeks" (see exhibit P, page R14 top of page, page R14, bottom of page, page R15 top of page). What the lower court and the Third Department overlooked is that when the defendants/respondents needed any information from Central Hudson for their defense they had no trouble getting that information such as sworn affidavits of CenHud executives like Daniel Harkenrider, copies of CenHud work log documents and a copy CenHud"s Credit and Collection Inquiry documents of plaintiff/appellant's accounts (see exhibit Q, page R46-52, R78-79, R90-97). None of the preceding records were available to the public online. It should be obvious that defendants/respondents have access to whatever records they need from Central Hudson even though they are not literal employees any longer and the lower court overlooked this as well as the Third Department.

c). Furthermore the lower court overlooked and the Third Department misapprehend that James P. Laurito did not leave Central Hudson, when the lower court states he "left for other employment" (see exhibit P, page R13, par, 1), but was promoted to become vice president of the parent company Fortis Inc. as detailed in his sworn affidavit (see exhibit C, R32, par. 3). Central Hudson

and Fortis are of the same company group. It would be unreasonable to think as a vice president of the parent company he would not have access to his own emails from CenHud, under his control by virtue of privacy laws and password codes, CenHud being " a Fortis Company" as stated in their logo.

b). The Third Department overlooked the requests of the plaintiff/appellants discovery demands. A closer examination of the demands reveals that there were 36 questions that asked for emails from defendant/respondent James P. Laurito which are in their exclusive possession due to privacy laws and password codes (see exhibit R, questions # 8-11, 13, 19, 28, 36, 51-78, 89, 101, 102, 106, 135) that could have been produced, including #51 & #52 of all emails between defendant/respondent and Steven V. Lant regarding being sued by plaintiff/appellant.

There were 6 yes or no questions (see exhibit R, questions # 17, 126, 128, 132-134)

There were 22 questions answerable by defendant/respondents specifically about them and their understanding (see exhibit R, question # 20- 22, 82- 84, 86, 91. 92, 104, 109-112, 119, 125, 130,

131, 138, 139, 144, 145, 147, 150, 152 that both could have been submitted.

The total aforementioned answerable questions was 56 questions, that although in the minority of the 152 interrogatory questions submitted, is still a significant amount of questions to be denied in the statement by the Third Department that "the majority of the plaintiff's demands were more appropriately addressed to a nonparty – defendant's previous employer" (exhibit A, page 3, par. 2). Then there was the depositions questions that the lower court had no idea of that were denied with the statement:

> *"they were not employed by Central Hudson at the time of this action was commenced, they are not in possession of any of the information the plaintiff seeks" (see exhibit P, top of page 4)*

The lower court repeats the quote (see exhibit P bottom of page R14, top of page R15) as though it is true, misapprehending that *"any information the plaintiff seeks"* would include information in depositions, which the lower court had no knowledge of what would be asked. The Third Department overlooked the reality of a deposition request that was demanded of defendants/respondents also (see exhibit D, page R687, par. 4) and the fact that no one knew what questions would be asked for which the lower court could not

use its rationale as quoted above (see exhibit T, page 18 par. 2). The lower court overlooked this important point as well as the Third Department.

CONCLUSION: The Third Department and the lower court apparently overlooked some very important points that laid the rationale when denying plaintiff//appellant any discovery as result of a summary judgment motion. The problem is though that the foundation of that rationale is based on misrepresentations by the defendant/respondents statements about information access as detailed in this chapter.

In view of the points made in this chapter it should be clear summary judgment was premature and 56, being a significant number of discovery interrogatory questions, should have been allowed as well the demand for depositions by the plaintiff/appellant. Considering the aforementioned overlooked facts, the Third Department should reverse the August 6, 2020 decision, the subject case be remanded back to the lower court and an order issued permitting the completion of discovery, including the taking of depositions

POINT III

The Third Department with regard to the issue of primary jurisdiction stated on page 3, par.3, and page 4 of their August 6th, 2020 Order (see exhibit A) overlooked facts and misapprehended law:

a). The Third Department overlooked the official March 3rd, 2014 letter of the N.Y.S Public Service Commission (hereafter called 'PSC") from Informal Hearing officer Ramona Munoz (see exhibit G, page R677 par. 1), which stated clearly and unambiguously:

> *" I am denying your request as an informal hearing officer is without the power to grant the relief you are requesting. "*

The Third Department curiously overlooks these important jurisdiction-defining words of PSC officer Ramona Munoz of the quasi-judicial Informal Hearing Department, who officially states the PSC *" is without power to provide the relief requested. "*

b). The Third Department misapprehends law by misconstruing primary jurisdiction. The legal definition of "jurisdiction" of which primary jurisdiction is a type, clearly defined in Blacks Law - Fifth Edition page 766 (see exhibit H) is present in a case with the following conditions:

"It exists when the court has cognizance of a class of cases involved, proper parties are present, and point to be decided is within powers of the court."

PSC Ramona Munoz admitted the Informal hearing office is without the power to decide the plaintiff/appellants two aforementioned issues, thus there was no jurisdiction according to Blacks Law.

What the lower court and the Third Department also misapprehend in law and overlooked in the facts in chapter V of plaintiff/appellants appeal brief (see exhibit F pages, 43,44, 45) is that primary jurisdiction is not "exclusive jurisdiction" let alone any kind of jurisdiction.

2Richard J. Pierce Jr. Administrative Treatise section 14.1 at 1162 (sed. 210).

When PSC Hearing Officer Ramona Munoz officially admitted the informal hearing officer was *"without power to grant relief requested"*, it rendered primary jurisdiction doctrine inapplicable. Therefore the lower court's argument, affirmed by the misapprehension of the law by the Third Department, stating that primary jurisdiction has precedence is not relevant or applicable in the plaintiff/appellant's case.

c). The Third Department overlooked another important fact in the official PSC March 3rd, 2014 letter (see exhibit G, page 678, par.1), that PSC Informal Hearing Officer Ramona Munoz in accordance with cited regulation16NYCRR12.5 (a)(2) (see exhibit G, page R678, par. 3), directed the plaintiff/appellant away from the jurisdiction of the PSC Informal Hearing Department and to the jurisdiction of the FCC or the jurisdiction of his local government (see exhibit G, page 678, par. 1), which would include the Ulster County Supreme Court, where the latter, plaintiff/appellant has been seeking remedy.

CONCLUSION: The Third Department overlooked the facts that plaintiff/appellant observed the PSC claim of purported primary jurisdiction and filed a request with them for a quasi-judicial informal hearing (see exhibit I, R676), after a July 16, 2013 PSC administrative determination, that had none of the elements of due process, had ruled against him (see exhibit J, R673-675).

The Third Department overlooked the facts articulated in the aforementioned PSC Informal Hearing Officer Ramona Munoz letter (see exhibit G, R677-679) and misapprehended the law on primary jurisdiction.

The primary jurisdiction doctrine does not apply to require prior resort to an administrative agency where the relief sought is not within the jurisdiction of the agency, or the question is one that the agency has no power to decide, even though it may consider the question in reaching a determination that is within its jurisdiction. [Turedi v. Coca Cola Co., 460 F. Supp. 2d 507 (S.D.N.Y. 2006)]. Furthermore the plaintiff/appellant's claims of breach of contract, fraud, etc. of the 2nd amended complaint (see exhibit S, page R55-57), being civil matters are not in the jurisdiction of the PSC, let alone "*primary jurisdiction,*"

"The PSC is an administrative agency vested with the authority to investigate and adjudicate disputes involving billing, service or termination of service." (defendant/respondents-"Reply" see exhibit U. page 13, par. 1)

There is no discretion to ignore lack of jurisdiction, Joyce v U.S. 474 F2d 215

Considering the argument that the doctrine of primary jurisdiction applies to plaintiff/appellants case has been shown to be without merit. The fact the plaintiff/appellant has in clear detail documented this court overlooked facts, misapprehended law and has included binding and controlling case law to support his points of arguments, should cause the Third Department Order to be reversed, the subject

- case be remanded back to the lower court and an order issued permitting the completion of discovery, including the taking of depositions.

POINT IV

The Third Department, with regard to the issue of Exhaustion of Administrative Remedies stated on page 3, par.1 of their August 6, 2020 Order (see exhibit A), overlooked facts and misapprehended law:

a). The Third Department overlooks the facts detailed on pages of plaintiff/appellant's appeal brief (see exhibit F, pages, 45-49) that documents "exhaustion of administrative remedies" doctrine comes with several exemptions to the rule that make it inapplicable in certain situations.

b). The Third Department overlooked that plaintiff/appellant was denied an informal hearing by the PSC based on the fact that

"an informal hearing officer is without the power to grant the relief requested" (see exhibit G, page, R677, par. 1).

c). The Third Department overlooked the fact in plaintiff/appellant's appeal brief (see exhibit F, page 48) that New York Appellate Division, First Judicial Department ruled the exhaustion of administrative remedies rule need not be followed when an:

"action of an agency is wholly beyond it's grant of power."
Coleman v. Daines 79A.D. 3d 554, 913 N.Y.S. 2d 83 (2010)

d). The Third Department overlooked the fact of its own prior decision cited in appeal-brief (see exhibit F, page 49) when it stated an exemption to the exhaustion rule is when:

"resort to an administrative remedy would be futile."
Matter of Ford v Snashall 275 A.D. 2d 493 712 N.Y.S. 2d 458 (200)

e). The Third Department apparently was not cognizant of the fact that the Appellate Division, Second Judicial Department also held a litigant need not comply with the exhaustion rule when:

"requiring plaintiff to pursue the asserted administrative remedy would be an exercise in futility."
Oyster Bay v Kirkland 81 A.D. 3d 812 917 N.Y.S. 2d 236 (2011) (see exhibit F, page 49)

f). The Third Department overlooked the fact that the PSC Informal hearing officer was in accordance with 16*NYCCR 12.5 (a)(2)* (exhibit G page, R678 par. 3):

"A request for an informal hearing may be denied if the relief sought by customer or utility is beyond the power of the informal hearing officer to provide."

g). The Third Department overlooked the fact that the Informal Hearing Officer was following exactly New York Codes Rules and Regulations cited in her official March 3rd. 2014 letter (see exhibit G, page R678 par. 3), The citation of 16NYCRR 12.5(a)(2) by Ramona

Munoz did not provide any grounds to appeal to the PSC pursuant to the appeal procedure detailed in her aforementioned official letter (see exhibit G, page 678, item 1 of "appeal procedure"). The Third Department overlooks that at the top of "appeal procedure" it states:

"If you believe this decision is wrong you may appeal to the commission."

Plaintiff/appellant did not believe the decision to deny a hearing was wrong and was prepared to go to Supreme Court as there were no apparent grounds to believe the PSC official Munoz's decision was wrong as she cited 16NYCRR12.5 (a)(2). To go through an appeal with no grounds to work with would have been an exercise in futility.

h). The Third Department decision misapprehends law when it claims plaintiff/appellant should have filed an Article 78 (see exhibit A, page 4, bottom of page) as PSC Informal Hearing Officer Ramona Munoz followed 16NYCRR 12.5 (a)(2) exactly when she rendered her decision. For the Third Department to say the plaintiff/appellant should have filed an article 78 is to misapprehend the law that requires an Article 78 petitioner to prove PSC Informal Hearing officer's decision to deny plaintiff/appellant an informal hearing was "capricious, arbitrary or an abuse of discretion" pursuant to CPLR 7803. To try to prove that in a Supreme Court

Judicial Review, as the lower court and Third Department maintain, when Informal Hearing officer Ramona Munoz was following the law guided by 16NYCRR 12.5 (a)(2), would have been be an exercise in futility, wasting Albany Supreme Court and plaintiff/appellant's valuable time and resources.

CONCLUSION: The August 6th, 2020 decision of the Third Department completely overlooked facts and law pertaining to The plaintiff/appellant qualifying for and meeting the criteria for Having multiple exemptions to the exhaustion of administrative Remedies rule. The Court of Appeals of New York held:

"The exhaustion rule, however, is not an inflexible one. It is subject to important qualifications. It need not be followed, for example, when an agency's action is challenged as either unconstitutional or wholly beyond its grant of power, or when resort to an administrative remedy would be futile or when its pursuit would cause irreparable injury" (Watergate II Apts. v Buffalo Sewer Auth., 46 NY2d 52, 57 [1978])

Considering that plaintiff/appellant has in clear detail documented this court overlooked facts, misapprehended law and has included binding and controlling case law to support his arguments, the Third Department should reverse their August 6th, 2020 decision, remand the subject case back to the lower court and issue an order

- permitting the completion of discovery, which includes the taking of deposition.

POINT V

The Third Department August 6, 2020 Order, with regard to the issue of claim preclusion/collateral estoppel on page 4, overlooked facts and misapprehended law.

a). The Third Department overlooked the citation in plaintiff/appellant's appeal brief (see exhibit F, page 52) that proclaims:

"(c)ollateral estoppel is a flexible doctrine [that] need not be applied automatically just because it's formal prerequisites are met. (people v Fagan, 66 NY2d at 816; People v Aguillera, 82,N.Y. 2d at 30; Ashe v Swenson, 397 U.S. 436 444 (1970)

b). The Third Department overlooked the fact that the July 16, 2013 PSC determination (see exhibit J, pages R673-675) was an Administrative-action, by consumer specialist Karen Anderson, who was not an officer of a quasi-judicial court like PSC official Ramona Munoz, and as such collateral-estoppel is not applicable. Furthermore no adjudication took place when applied for as the PSC Informal Hearing officer Ramona Munoz denied plaintiff/appellant's application/request (see exhibit I, page R676) for an Informal Hearing with the PSC, so no litigation took place (see exhibit G, pages R677-679).

c). The Third Department overlooking the aforementioned facts misapprehends collateral estoppel is inapplicable to plaintiff/appellants case because these 3 criteria must be met:

1- The issue must been actually decided (it wasn't). What was decided was that an informal hearing proceeding with due process was denied.

2- The issue must have been fully litigated (it wasn't). An administrative decision that is not quasi-judicial is not litigation.

3- The issue must have been vigorously litigated (it wasn't). A few brief phone calls and several emails is not litigation and neither is a denial for an informal hearing.

The Third Department misapprehends that the issue against which collateral estoppel is claimed must be identical to an issue already litigated in the earlier case and must have been fully litigated at that time. There was no actual litigation and the issues were not identical. In addition, the court must have actually decided the issue. The decision on the issue must have been integral in the outcome of the original lawsuit. This last requirement assures the issue was vigorously litigated so that it is fair to prevent its re-litigation in a second action because there is little

likelihood that the results will be different the second time.

d). The Third Department misapprehended the July 16, 2013 & March 3rd, 2014 decisions of consumer specialist Karen Anderson (exhibit J, pages R673-675) and Informal Hearing officer Ramona Munoz (see exhibit G, pages R677-679) to be litigation when as explained in detail in the appeal brief, no "actual litigation" with the elements of due process took place in a quasi-judicial full hearing with the plaintiff/appellant and the PSC, therefore collateral estoppel does not apply to the issues of the plaintiff/appellant.

"res judicata and collateral estoppel are applicable to the quasi-judicial determinations of an administrative agency"
Matter of Evans v Monaghan 306 N.Y 312, 323, 324
Parklane Hospital Co. v Shoe 439, U.S. 322 99 Ct. 645 (1953)

CONCLUSION: The Third Department in overlooking important facts in plaintiff/appellants appeal brief as detailed in this chapter and overlooking the law regarding the exemptions to the exhaustion of administrative remedies rule, detailed in chapter IV, falsely concludes collateral estoppel takes effect, when plaintiff/appellant's submitted case law proves otherwise.

"An administrative action other than adjudication cannot be considered res judicata"
Venes v Community School Bd 43 NY 2d 450 402 N.Y.S. 2d 807

373 N.R 2d 987Court of Appeals of the State of New York
United States v Utah Constr. Co 384 U.S. 394 86 S Ct. 1545 U.S Supreme Court (1966)]

" Collateral estoppel only applies when the party to who it is asserted "had a full and fair opportunity to litigate in the prior suit." Quoted in Lawlwer v National Screen Service 349 US 322 75 S.Ct, 865 US Supreme Court (1955)]

Considering the plaintiff/appellant has clearly documented this court and the lower court overlooked important facts, misapprehended or overlooked law, and has included binding and controlling case law to support his arguments, the Third Department should reverse their August 6th, 2020 decision, remand the subject case back to the lower court and issue an order permitting the completion of discovery, which includes the taking of depositions.

POINT VI

The Third Department egregiously overlooks or misapprehends the facts that document the other causes of action in plaintiff/appellants appeal brief such as breach of contract, fraud, International human rights violations, not to be experimented on, were not part of any complaint filed with the PSC and who do not have jurisdiction of those issues, so cannot be called a "*rebranding of his PSC claims*" or effected by collateral estoppel (see exhibit A, page 4, bottom of par. 1).

a). The Third Department overlooks the existence of and certified delivery of plaintiff/appellant's lawful notice documents called "Notice of Demand" and "Warning of Liability," dated March 20, 2013 & April 4, 2013 containing terms and conditions of an agreement/contract (see exhibit K, pages R660-668 & exhibit L, pages R668.5-671) that was sent to the defendants/respondents before the initial PSC determination was made on July 16, 2013 (see exhibit J, R673-675). This proves that a contrived "rebranding of the same claims" that according to the Third Department purportedly came after the aforementioned PSC determinations is fiction. The Third Department overlooked "Notice of Entry into Evidence" on page R667 par. 35 of exhibit

K, clearly states a civil action will be taken if the terms and conditions of contract/agreement are not met. Then again on page R670 par. 8 of exhibit L clearly states a civil action will be taken if the terms and conditions are not fully complied with. So together with the lawful notices containing the contract/agreement annexed with the plaintiff/appellants letters (see exhibits K, R660-668 & L, R668,5-671), the April 9th letter (see exhibit M, R315-316), and the June 25th, 2013 letter (see exhibit N, R436-438), warning the defendants/respondents as "policymakers" (see exhibit K, page R661 , par. 4 bold letters), along with Central Hudson, were liable and civil action would be taken (see exhibit N, page 438, last paragraph)

The Third Department misapprehends the communications annexed with the lawful notices of March 20th, April 4th and June 25th, all in 2013, was before the July 16th, 2013 and March 3rd, 2014 PSC determinations, and the purported event of "rebranding of the same claims." These overlooked facts show very clearly through precise words, tone and format of plaintiff/appellants lawful notices (see exhibit K & L) that a civil lawsuit regarding breach of contract was brewing and being planned by the

plaintiff/appellant if the terms and conditions of contract agreement were not met, happened before the aforementioned PSC determinations. The issue of contract violations or breach of contract was never was never brought up in the PSC complaint (exhibit I, page R676), and cannot now be precluded because the issue of not being given an analog meter as an opt out choice is not the same issue as alleged contract violations, also called breach of contract, aside from the fact that plaintiff/appellant's issues were never actually ever litigated.

The Third Department's claim that breach of contract is a "*rebranding of the same claims*" made to the PSC is a misapprehension of the documented facts presented in appeal.

b). The Third Department overlooks the details in the actual PSC complaint (see exhibit I, R676) that nowhere is any mention of "breach of contract" due to a contract/agreement (see exhibit K, R677-679 and exhibit L, R668.5-671) established by the plaintiff/respondent using the legal principles outlined in chapter 69 of the classic legal reference of The Restatement of Law/Contracts 2nd edition.

c). The Third Department overlooks the facts that the only two issues being deliberated on by the PSC was the medical need to have an analog utility meter installed on plaintiff/appellants home and to have his electric service turned back as can be seen in the July 16. 2013 PSC consumer specialist determination (see exhibit J, pages R673-675) and the March 3rd PSC Informal hearing officer determination (see exhibit G, pages R677, par. 1) and the application/request for an Informal Hearing (see exhibits I, page R 676. The plaintiff/appellant did not ever litigate with the PSC the issues of having fraud committed by CenHud of having his international human rights violated by being experimented with untested electronic transmitting devices as claimed in his appeal brief (see exhibit F, R52-53). These are completely different issues and have nothing to do with the plaintiff/appellants complaint made to the PSC that resulted with no litigation happening.

- Mcgeev J. Dunham Constr. Corp. 54 AD3d 1009-1010 [2008]; Chisolm-Ryder Co. v Sommer & Sommer, 78 AD2d 143,144 [1980]

CONCLUSION: The lower court egregiously misapprehends that the plaintiff/appellant was purportedly litigating the issues around

breach of contract and fraud with the PSC. The evidence in the details of plaintiff/appellants contract/agreement lawful notices, documents the contract violations alleged are different issues and not central to any PSC determination, article 78 or no article 78 (see exhibit K, R677-679 & L, R668.5-671) .

The plain fact is the PSC with their administrative decision of July 16, 2013 (see exhibit J, page 673-675) and their denial of a request for an Informal Hearing (see exhibit G, page R677, par.1), did not litigate in a quasi-judicial hearing any claims or issues of the plaintiff/appellant, let alone breach of contract or fraud (see exhibit G, page 678, par.1) which the Third Department misapprehends. The doctrine of collateral estoppel or issue preclusion has no effect because the other issues of the plaintiff/appellant's 2nd amended complaint regarding breach of contract, fraud, International Human Rights violations of not being experimented on (Nuremberg Code), etc. (see exhibit S, page R55-57), were not identical to the issues requested to be resolved by the PSC as stated in the March 3rd, 2014 PSC Informal hearing Officer Ramona Munoz denial of a hearing (page R677 par. 1) as follows:

"I am denying your request as an informal hearing officer is without power to grant the relief you are requesting, specifically, to

direct the utility to install an analog type meter in your home or allow you to use your own analog meter."

The PSC uses the word "*specifically*" to zero in on what the actual requested relief issue being requested by the plaintiff/appellant of the PSC to resolve was, being the installation of an analog type utility meter and the restoration of electrical service. The 2nd amended complaint issues of breach of contract, fraud, violation of international human rights to not be experimented on (Nuremberg Code), etc. (see exhibit S, pages R55-57) was never brought up to the PSC, let alone litigated (page R677 par. 1) and the issues are not identical to the PSC complaint so collateral estoppel is inapplicable. Furthermore the PSC Call Log [(see exhibit O, page R741 ("Resolution Sought")] also identified what the plaintiff/appellant requesting issue was, as follows:

"Resolution Sought":
"We would like our power restored and a written guarantee of a safe analog meter installed in our home. We also do not feel we should pay for the disconnection fee as everything was operating properly (as our DVD proves) before Central Hudson disconnected us by clipping the wires at the pole."

The plaintiff/appellant's two request to the PSC being misconstrued by the lower court as having litigated in "prior proceedings" (see exhibit P, page18, par. 1) the issues of breach of contact, fraud,

Nuremberg Treaty violations, etc. (see exhibit P, pages bottom of page R17-19) is a gross misrepresentation that plaintiff/appellants appeal brief explained in great detail (see exhibit F, pages R50-56) but the Third Department overlooked. They also overlooked the call log of all the telephone conversations between the plaintiff/appellant's significant other and himself with consumer specialist Karen Anderson that was the basis for the July 16, 2013 administrative decision (see exhibit J, pages 673-675) records no discussions about breach of contract, Nuremberg Code international human right violations or fraud (see exhibit O, pages R740-770). Regarding collateral estoppel, The Court of Appeals of New York held:

"The doctrine of collateral estoppel (or issue preclusion) is rooted in principles of fairness. It is well settled that the doctrine "may be invoked in a subsequent action or proceeding to prevent a party from re-litigating an [identical] issue decided against that party in a prior adjudication" (Staatsburg Water Co. v Staatsburg Fire Dist., 72 NY2d 147, 152 [1988]).

(The plaintiff/appellant never litigated or "adjudicated" anything with the PSC, let alone an "identical " issue, as detailed previously.)

"In Capital Tel. Co. v Pattersonville Tel. Co. (56 NY2d 11 [1982]), we reaffirmed the principle that collateral estoppel applies to an administrative proceeding (id. at 17). In the context of administrative agency determinations, we have recognized that the doctrine of collateral estoppel "is applied more flexibly, and additional factors must be considered by the court" (Allied Chem. v

*Niagara Mohawk Power Corp., 72 NY2d 271, 276 [1988]). "These additional requirements are often summed up in the beguilingly simple prerequisite that the administrative decision be 'quasi-*10 judicial' in character" (id., citing Ryan v New York Tel. Co., 62 NY2d 494, 500 [1984]).*

[The July 16, 2013 PSC administrative determination was decided by consumer specialist Karen Anderson of the "*office of consumer affairs*", and was not an officer of a quasi-judicial court (see exhibit J, R675.]

An administrative decision is quasi-judicial in character when it is " ' "rendered pursuant to the adjudicatory authority of an agency to decide cases brought before its tribunals employing procedures substantially similar to those used in a court of law" ' " (Matter of Jason B. v Novello, 12 NY3d 107, 113 [2009], quoting Ryan, 62 NY2d at 499).

[The July 16, 2013 PSC administrative determination (see exhibit J, pages R673-675) was based on several telephone calls and some correspondence in emails (see exhibit O, pages R740-770) and no actual hearing was held with the elements of due process required of a court of law.]

Thus, for collateral estoppel to be triggered, not only must the identity of the issue decided in the prior action or proceeding have been the same, but also "there must have been a full and fair opportunity to contest the decision now said to be controlling" (Gilberg v Barbieri, 53 NY2d 285, 291 [1981], quoting Schwartz v Public Adm'r of County of Bronx, 24 NY2d 65, 71 [1969]; see also Capital Tel. Co., 56 NY2d at 17)."

As demonstrated in point IV of this affidavit, the plaintiff/appellant documented he had multiple valid exemptions to the exhaustion of administrative remedies rule and was not required to file an appeal or an article 78, so there was no need to contest the prior decision. Plaintiff/appellant lawfully filed and submitted his claims and issues to the lower court for initial litigation.

Finally, the Third Department when reconsidering their August 6, 2020 Order should reconsider with a view what the U.S. Supreme Court has held regarding a pro se plaintiff and the court issuing or affirming a summary judgment order:

"No doubt that the plaintiff can prove no set of facts in support of his claim," Haines v Kramer, et al. 404 U.S. 519,92, s. Ct. 594, 301 L, Ed 2d 652

[Plaintiff/appellant has documented everything he has affirmed with hard copy evidence and relevant case law, many of which is controlling and binding and none of his supporting facts were challenged as false.]

"We cannot say with assurance that under the allegations of the pro se complaint, which we hold to less stringent standards than formal pleadings drafted by lawyers, it appears 'beyond a reasonable doubt that plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v Gibson 355 U.S., 41. 45.46 (1957); Dioguardi v Duening, 139 F. 2d 774(CS2 1944).

Furthermore the Third Department overlooked that un-rebutted affidavits are admitted as fact on the record (see exhibit F, pages 61-63), and that plaintiff/appellants reply-brief rebutted every argument defendants/respondents reply, including much of their case law (see exhibit T).

WHERFORE, in view of fact the plaintiff/appellant has documented that the Third Department has overlooked case changing facts; has made important misapprehensions of law; has misapplied law: overlooked relevant law, overlooked that none of the plaintiff/appellants facts were challenged; overlooked case law in his appeal went unchallenged, overlooked its own case law, overlooked binding and controlling case law of the Court of Appeals and the U.S. Supreme Court; overlooked plaintiff/appellant's reply-brief challenged defendants/respondents referenced case law in their reply as not applicable, plaintiff/appellant respectfully moves this Honorable Court to reverse it's August 6, 2020 Order and the summary judgment decision/order of the lower court, dated February 14, 2018 , remand subject case 16-1351 back to the lower court and issue an order permitting completion of discovery, including the taking of depositions, respecting plaintiff/appellants right to due process and equal protection under the law.

I, Stephen Phillip Romine, pro se, pro per, sui juris litigant and affiant, do solemnly swear and proclaim that under the pain and penalties for perjury, I affirm that everything I have stated in this affidavit to be true to the best of my knowledge, understanding and belief.

Stephen Phillip Romine — Date: Sept. 3, 2020

Notary — Date: 9/3/2020

ZACHARY DERNISON
Notary Public, State of New York
Reg. #01DE6292736
Qualified in Ulster County
Commission Expires 1-4-21

STATE OF NEW YORK SUPREME COURT
APPELLATE DIVISION THIRD DEPARTMENT

STEPHEN PHILLIP ROMINE

Plaintiff/Appellant,

Appellate Division
Case: #528147

AFFIDAVIT OF SUPPORT FOR LEAVE TO APPEAL TO THE COURT OF APPEALS

Vs.

JAMES P. LAURITO and STEVEN V. LANT

Defendants/Respondents,

I, Stephen Phillip Romine, flesh and blood natural man, pro se, pro per, sui juris plaintiff/appellant litigant and affiant, am familiar with the facts in appeal case #528147, appealing case #16-1351 of the Honorable Supreme Court of Ulster County, N.Y. (hereafter called the "lower court") and using my inalienable rights, protected by the U.S Constitution, to represent my self in these proceedings of the Honorable Appellate Division, Third Judicial Department, (hereafter called the " Third Department"). This affidavit, pursuant to the Practice Rules of the Appellate Division section 1250.16

(d)(3)(i), is in support of a motion for leave to appeal to the Court of Appeals that sets forth the following questions of law and reasons an appeal should be heard by the Court of Appeals

Questions of Law

I- Whether the doctrine of Collateral Estoppel was applicable and proper, barring the plaintiff/appellant from litigating his complaints with the lower court?

II- Whether the doctrine of Primary Jurisdiction was applicable and proper, barring the plaintiff/appellant from litigating his complaints with the lower court?

III- Whether the Exhaustion of Administrative Remedies rule was applicable and proper, barring the plaintiff/appellant from litigating his complaints with the lower court?

IV- Whether plaintiff/appellant's constitutionally protected right to due process and equal protection under the law was violated by not allowing him a "reasonable opportunity for discovery" while allowing his adversaries discovery before a summary judgment decision was rendered.

V- Whether the Third Department and the lower court using "the color of law " violated 42USC1983 and plaintiff/appellants constitutionally protected

right to "equal protection under the law" by preventing plaintiff/appellant from fully litigating his complaints in bona fide court of law and barring him from obtaining long sought remedy.

VI- Whether the Third Department and the lower court violated plaintiff/appellants right to "equal protection under the law" by not adhering to controlling and binding case law and referenced authorities.

Reasons For Court of Appeals Review

VII- The questions raised is of statewide importance that the laws be interpreted correctly and in this case they have not.

VIII- The issue of forced new technologies on the public at the heart of this case is of statewide importance that power utility customer rights be protected and not silenced by a corporate captured agency that has a revolving door policy between itself and the industry it is supposed to be regulating.

IX- This issue has been made very public in the news, the radio and TV, and is of societal interest.

X- There are some obvious misapplied laws in the Third Department's August 6th, 2020 Memorandum/Order.

XI- The apparent abuse of discretion diminishes the integrity of the Third Department and the Appellate Division.

XII- There is a glaring inconsistency with past Third Department case law of 1989, regarding discovery, and it's recent August 6th, 2020 Order

(*Timothy K. Fultz v Benvenuti Properties 155 A.D. 2d 794, 548 N.Y.S. 2d 72 (1989)* etc.

XIII- The sidestepping of cited appellate division case law, controlling/binding higher court case law and referenced authorities, which in effect favors corporate attorneys, gives the appearance of bias against a pro se plaintiff/appellant.

XIV- Allowing corporate attorneys discovery while not allowing *"reasonable opportunity to complete discovery"* for a pro se plaintiff/appellant, gives the appearance of bias against the common person.

XV- Not reversing the decision in this case will cause preclusion to important issues and claims that were never actually litigated, let alone fully or vigorously, as plaintiff/appellant has documented.

XVI- Not adhering to controlling and binding case law or observing cited authorities, diminishes the appearance of integrity and trust of the people this Honorable Court works for.

XVII- For all the reasons above and in the interest of Justice, this case should be reviewed by the Honorable Court of Appeals.

Wherefore in view of the six (VI) questions of law and eleven (11) articulated reasons for review, this pro se litigant respectfully requests this Honorable Court grant leave of court to plaintiff/appellant to appeal to the New York State Court of Appeals.

I, Stephen Phillip Romine, pro se, pro per, sui juris litigant and affiant, do solemnly swear and proclaim that under the pain and penalties for perjury, I affirm that everything I have stated in this affidavit to be true to the best of my knowledge, understanding and belief.

Stephen Phillip Romine — Date: Sept. 3, 2020

Notary — Date: 9/3/2020

ZACHARY DERNISON
Notary Public, State of New York
Reg. #01DE6292736
Qualified in Ulster County
Commission Expires 11-4-21

AFFIDAVIT OF SERVICE OF MAILING

STATE OF NEW YORK)

COUNTY OF ULSTER) ss.:

Nicole M. Nevin , being duly sworn, deposes and says:

On the 3rd day of September , 20 20 , I served a true copy of the annexed notice of motion and supporting affidavit(s), mailing the same in a sealed envelope, with with exhibits A Through U postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known addressee(s) as indicated below:

(Insert here the name[s] and address[es] of the person[s] to whom you are mailing the papers being filed with this Court. If necessary, attach extra pages for additional names and addresses.)

Name & Address	Name & Address
Christina M. Bookless Esq. Rizzo & Kelley Law Firm Attorneys at Law 272 Mill Street, Poughkeepsie, New York,12498	

(Signature) Nicole Nevin

(Print Name) Nicole Nevin

Sworn to before me this 3rd

day of September , 20 20

Notary Public

ZACHARY DERNISON
Notary Public, State of New York
Reg. #01DE6292736
Qualified in Ulster County
Commission Expires 11-4-21

AFFIDAVIT OF PERSONAL SERVICE

STATE OF NEW YORK)

COUNTY OF ~~ULSTER~~ Dutchess) ss.:

Tamara Schuppin, being duly sworn, deposes and says:

On the 21st day of September, 20 20, I served a true copy of the annexed Reply to Opposition to Reargument Motion by personally delivering same to the following person(s):

(Insert here the name[s] of the person[s] upon whom you have personally served the papers being filed with this Court and the address[es] at which such service was accomplished.)

Name & Address	Name & Address
Christine M. Bookless Esq. Rizzo & Kelley, PLLC Attorneys at Law 272 Mill Street Poughkeepsie New York 12601	

(Signature) Tamara Schuppin

(Print Name) TAMARA Schuppin

Sworn to before me this 21st

day of September, 2020

Jessica Whelan

Notary Public

JESSICA WHELAN
NOTARY PUBLIC, State of New York
No. 04WH6406160
Qualified in Dutchess County
Commission Expires 03/23/2021

Revised: September 18, 2018

STATE OF NEW YORK SUPREME COURT
APPELLATE DIVISION THIRD DEPARTMENT

STEPHEN PHILLIP ROMINE Plaintiff/Appellant, VS. JAMES P. LAURITO and STEVEN V. LANT Defendants/Respondents	)))))))	**APPELLATTE DIVISION** **CASE: # 528147**

NOTICE OF MOTION FOR REARGUMENT/LEAVE TO APPEAL TO N.Y.S. COURT OF APPEALS ANNEXED WITH SUPPORTING AFFIDAVITS

STEPHEN PHILLIP ROMINE
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