

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELIOT I. BERNSTEIN, et al.,

07 Cv. 11196 (SAS)

Plaintiffs,

-against-

APPELLATE DIVISION FIRST DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE,
et al.,

**NOTICE OF MOTION
TO DISMISS THE
AMENDED COMPLAINT**

Defendants.

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PLEASE TAKE NOTICE that, upon the Declaration of Monica A. Connell, dated May 30, 2008 and the exhibits thereto, as well as the State Defendants' Memorandum of Law dated May 30, 2008, the undersigned will move before the Honorable Shira A. Scheindlin at the United States Courthouse, 500 Pearl Street, New York New York, 10007, at a date and time to be determined by the Court, on behalf of the New York State Defendants for an order dismissing plaintiff's Amended Complaint in its entirety, and granting such other and further relief as the Court deems just, proper and appropriate.

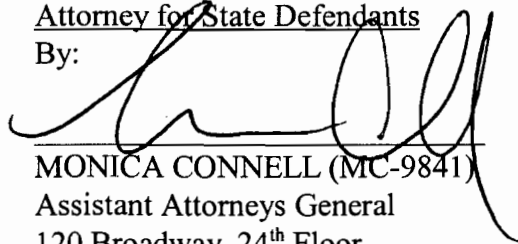
PLEASE BE FURTHER ADVISED that answering papers to this motion, if

any, must be served by June 30, 2008.

Dated: New York, New York
May 30, 2008

ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for State Defendants

By:



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELIOT I. BERNSTEIN, et al.,

07 Cv. 11196 (SAS)

Plaintiffs,

-against-

APPELLATE DIVISION FIRST DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE,
et al.,

**DECLARATION OF
MONICA A. CONNELL
IN SUPPORT OF
STATE DEFENDANTS'
MOTION TO DISMISS**

Defendants.

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MONICA CONNELL, an attorney duly admitted to the Bars of this State and this Court, declares and states as follows, under penalties of perjury:

1. I am an Assistant Attorney General in the office of ANDREW M. CUOMO, Attorney General of the State of New York, attorney for the State of New York; the New York State Office of Court Administration; Thomas Cahill; Martin R. Gold; Paul Curran; the New York State Supreme Court, Appellate Division, First Department; the Departmental Disciplinary Committee of the First Department; Catherine O'Hagen Wolfe; Hon. Angela M. Mazzarelli; Hon. Richard T. Andrias; Hon. David B. Saxe; Hon. David Friedman; Hon. Luiz A. Gonzales; Appellate Division, Second Department Departmental Disciplinary Committee; Lawrence Digiovanna; Diana Maxfield Kears; New York State Appellate Division, Second Department; James E. Pelzer; Hon. A. Gail Prudenti; Hon Judith S. Kaye; State of New York Commission of Investigation; Anthony Cartusciello; Lawyers Fund for Client Protection; the New York State Attorney General; and Eliot Spitzer (hereinafter the "State Defendants"), named defendants in this action.

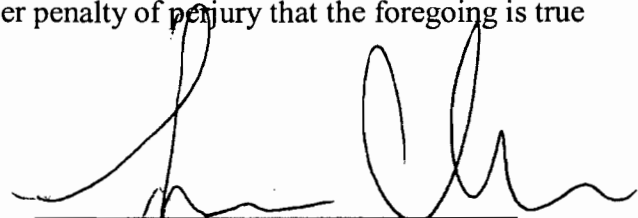
2. I submit this declaration in support of the State Defendants' motion to dismiss on the grounds asserted in the accompanying Memorandum of Law.

3. Attached hereto as Exhibit A is a true copy of the Amended Complaint in this action.¹

4. Pursuant to Rule 7.1(c) of the Local Rules for United States District Courts for the Southern and Eastern Districts of New York, attached collectively hereto as Exhibit B are copies of all unpublished cases cited in the accompanying Memorandum of Law.

WHEREFORE, State Defendants respectfully request that the Court issue an order granting State Defendants' motion to dismiss plaintiff's Amended Complaint in its entirety and granting such other and further relief as the Court deems just, proper and appropriate.

Pursuant to 28 U.S.C. §1746 I declare under penalty of perjury that the foregoing is true and correct. Executed on May 30, 2008.



MONICA CONNELL (MC 9841)

¹ Due to the length of the Amended Complaint, copies are only being produced to the Court and the plaintiffs.