



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ELIOT SPITZER  
Attorney General

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RICHARD RIFKIN  
Deputy Attorney General  
State Counsel Division

JAMES B. HENLY  
Assistant Attorney General in Charge  
Litigation Bureau

October 10, 2006

Via Federal Express

Arthur Friedman, Esq.  
275 Madison Avenue, Suite 1000  
New York, New York 10016

Re: Bursztyn v. Novello, Index No. 500993

Dear Mr. Friedman:

Enclosed please find the Decision and Order on Motion rendered by the Third Department in the above-mentioned case on October 4, 2006, denying Petitioner's motion for a stay. As we discussed last week, the temporary stay will be vacated twenty-three days from today, on November 2, 2006. We have notified the Department of Health and the Department of Education that the temporary stay will be vacated on that date.

Very truly yours,

*Tracy Peterson*  
Tracy Peterson  
Assistant Attorney General

Encl.

cc: Joseph C. Bierman, Esq.  
Gus Martine  
(Via Fed Ex; w/ encl.)

RECEIVED

OCT 12 2006

NYS DEPARTMENT OF HEALTH  
DIVISION OF LEGAL AFFAIRS  
BUREAU OF LITIGATION

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: THIRD DEPARTMENT

-----x  
In the Matter of ENRIQUE M. BURSZTYN,

Petitioner,

- against -

ANTONIA C. NOVELLO, as Commissioner  
of the New York State Department of  
Health, et al.,

Respondents.  
-----x

**NOTICE OF ENTRY WITH  
DECISION AND ORDER ON  
MOTION**

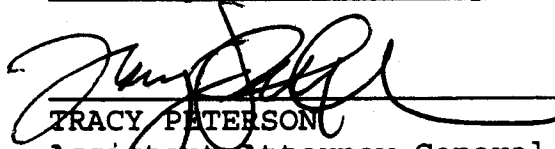
Docket No. 500993

**PLEASE TAKE NOTICE** that the attached is a true copy

of a Decision and Order on Motion in the above entitled proceeding  
duly entered in the office of the Clerk of the Supreme Court of  
the State of New York, Appellate Division, Third Judicial  
Department, on the 4<sup>th</sup> day of October, 2006.

Dated: New York, New York  
October 10, 2006

ELIOT SPITZER  
Attorney General of the  
State of New York  
Attorney for State Respondents

  
TRACY PETERSON  
Assistant, Attorney General  
120 Broadway - 24th Flr.  
New York, New York 10271  
(212) 416-8661

Arthur Friedman, Esq.  
Attorney for Petitioner  
275 Madison Avenue - Suite 1000  
New York, New York 10016

*State of New York  
Supreme Court, Appellate Division  
Third Judicial Department*

Decided and Entered: October 4, 2006

Case # 500993

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**In the Matter of ENRIQUE M.  
BURSZTYN,** Petitioner,  
v

**DECISION AND ORDER  
ON MOTION**

**ANTONIA C. NOVELLO, as  
Commissioner of the New York State  
Department of Health, et al.,**  
Respondents.

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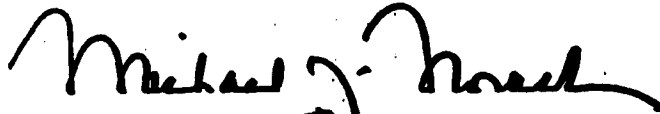
Motion for stay pending determination of proceeding.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is denied, without costs.

CARDONA, P.J., PETERS, SPAIN, CARPINELLO and KANE, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read 'Michael J. Novack', written in a cursive style. The signature is positioned above the typed name and title.

Michael J. Novack  
Clerk of the Court

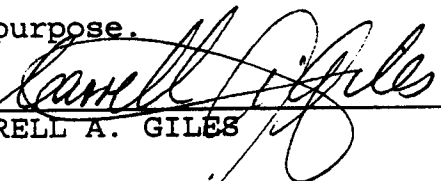
AFFIDAVIT OF SERVICE

STATE OF NEW YORK    )  
                                  :     SS.:  
COUNTY OF NEW YORK )

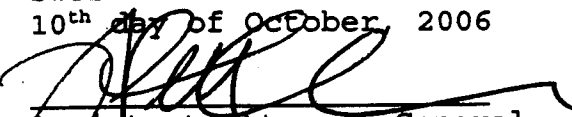
CARRELL A. GILES being duly sworn, deposes and says that she is a Legal Assistant in the office of ELIOT SPITZER, the Attorney General of the State of New York, attorney for respondent herein. On the 10<sup>th</sup> day of October, 2006, she served the annexed **NOTICE OF ENTRY WITH DECISION AND ORDER ON MOTION** upon the following:

Arthur Friedman, Esq.  
Attorney for Petitioner  
275 Madison Avenue - Suite 1000  
New York, New York 10016

attorney for Petitioner in the within entitled proceeding by depositing a true and correct copy thereof, properly enclosed in a pre-paid Federal Express wrapper in a Federal Express drop box regularly maintained by Federal Express, at 120 Broadway, New York, New York 10271, directed to said attorney at the address within the State designated by him for that purpose.

  
\_\_\_\_\_  
CARRELL A. GILES

Sworn to before me this  
10<sup>th</sup> day of October, 2006

  
\_\_\_\_\_  
Assistant Attorney General  
of the State of New York