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January 7, 2020

By ECF

Honorable P. Kevin Castel
United States District Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: *Steck v. DiNapoli*, et al., 19-cv-05015 (PKC)

Dear Judge Castel:

The parties agreed to update you on the status of this matter by January 9, 2020. The outside income limitations challenged in this action have been declared unlawful in two State Court proceedings. The State has not appealed either ruling.

The plaintiffs, however, who are State Legislators, do not believe that we have yet reached the end of the road on this matter. In New York State, unlike the United States, the budget is controlled by the Executive (Governor), with the Legislature able to make only limited changes. See *Pataki v. N.Y. State Assembly*, 4 N.Y.3d 75 (2004). Should the Governor include the outside income ban in his 2020 budget, which we will know shortly, the issue will be once again ripe for adjudication. The Federal constitutional issues will be the same whether the outside income ban comes from a commission, as was the case when plaintiff brought this case, or from an executive budget (which last time included the commission in lieu of a specific ban in the budget itself). The issues would only be different if the outside income ban were enacted by New York State constitutional amendment, which cannot be part of the budget, since the

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Governor is not involved in the process of amending the State constitution (passage by two consecutive legislatures and approval in a referendum is required).

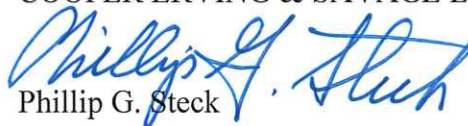
Therefore, rather than start the process of filing a complaint and answer, and pre-motion proceedings all over again, should the Governor take the aforementioned action, plaintiff requests an adjournment of this matter for six months, at which time it will be known whether the federal constitutional issues raised in this case have in fact gone by the wayside.

The defendants oppose this request and will be filing their own letter. If the Court elects to dismiss instead of adjourning, any such dismissal should be without prejudice.

Thank you for your consideration.

Very truly yours,

COOPER ERVING & SAVAGE LLP


Phillip G. Steck

cc.: Assistant Attorney General Mark E. Klein [via ECF]