



*State of New York
Court of Appeals*

*Stuart M. Cohen
Clerk of the Court*

*Clerk's Office
Albany, New York 12207-1095*

CC: CHS TEAM

August 8, 2007

Phillips Lytle LLP
Attn: Kenneth A. Manning, Esq.
Suite 3400, One HSBC Center
Buffalo, NY 14203-2887

Re: St. Joseph Hospital of Cheektowaga, New York, et al. v Novello, et al.

Dear Mr. Manning:

The Court has received your Preliminary Appeal Statement and will examine its subject matter jurisdiction with respect to whether a substantial constitutional question is directly involved to support an appeal as of right. This examination of jurisdiction shall not preclude the Court from addressing any jurisdictional concerns in the future.

This communication is without prejudice to any motion any party may wish to make. If you conclude that the order is not appealable as of right, please arrange for the execution of a stipulation signed by all counsel consenting to a dismissal of the appeal (see section 500.8[a] of the Court of Appeals Rules of Practice) and transmit that paper to my office. If a stipulation is forthcoming, please inform the Clerk's office immediately.

On the other hand, if you wish to persevere in the appeal, you should serve and file within ten days after this letter's date your comments in letter format justifying the retention of subject matter jurisdiction. Also please enclose a copy of each brief filed by each party in the Appellate Division, as well as a copy of the record on appeal or appendix filed in that court.

By copy of this letter, your adversary is likewise afforded the opportunity to comment in writing on the subject matter jurisdiction within the same ten day period after this letter's date.

St. Joseph Hospital of Cheektowaga, New York v Novello

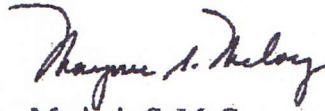
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The times within which briefs on the merits must be filed are held in abeyance during the pendency of this jurisdictional inquiry. If this inquiry is terminated by the Court, the Clerk will notify counsel in writing and set a new schedule for the perfecting of the appeal.

If you have any questions regarding this letter, you may contact Susan Dautel (518-455-7701).

Very truly yours,



Marjorie S. McCoy
Deputy Clerk

MSM/ai

cc: Hon. Andrew M. Cuomo