

**RECEIVED**

DIVISION OF LEGAL SERVICES

FEB 6 2020

OFFICE OF THE STATE COMPTROLLER  
ALBANY

DIVISION OF STATE COUNSEL



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

LETTIA JAMES  
ATTORNEY GENERAL

February 6, 2020

Caitlin Heim, Esq.  
Associate Attorney  
Office of State Comptroller  
110 State Street  
Albany, New York 12236

Re: Public Officers Law §17 in connection with  
SAM Party v. Cuomo et al, USDC/SDNY, 20 CV 323


Dear Ms. Heim:

Pursuant to Public Officers Law Section 17(2)(b), this office has reviewed the presently available facts and circumstances relating to the above matter. Based on this review, we have determined for the purposes of representation only, and without any determination as to the ultimate merits, that representation by the Attorney General of defendants NYS Board of Elections Co Chair Peter S. Kosiniski, NYS Board of Elections Co Chair Douglas Kellner, NYS Board of Elections Commissioner Andrew Spano, NYS Board of Elections Co-Executive Director Robert Brehm, Speaker of the Assembly Carl E. Heastie, Senate Minority Leader John J. Flanagan, Senate President and Majority Leader Andrea Stewart-Cousin, and Governor Andrew M. Cuomo would be inappropriate. I, therefore, certify that NYS Board of Elections Co Chair Peter S. Kosiniski, NYS Board of Elections Co Chair Douglas Kellner, NYS Board of Elections Commissioner Andrew Spano, NYS Board of Elections Co-Executive Director Todd Valentine, NYS Board of Elections Co-Executive Director Robert Brehm, Speaker of the Assembly Carl E. Heastie, Senate Minority Leader John J. Flanagan, Assembly Minority Leader William A. Barclay, Senate President and Majority Leader Andrea Stewart-Cousin, and Governor Andrew M. Cuomo are entitled to be represented by private counsel in accordance with the provisions of Section 17 of the Public Officers Law.

The same private counsel is authorized to be retained for the following defendants:

NYS Board of Elections Co Chair Peter S. Kosiniski, NYS Board of Elections Co Chair Douglas Kellner, NYS Board of Elections Commissioner Andrew Spano, NYS Board of Elections Co-Executive Director Robert Brehm.

cc: Christine Ryan

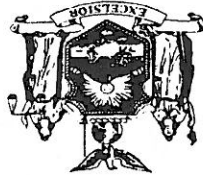
Very truly yours,  
  
MEGAN L. RIVINE  
Deputy Attorney General

Speaker of the Assembly Carl E. Heastie, Senate Minority Leader John J. Flanagan,  
Assembly Minority Leader William A. Barclay, Senate President and Majority Leader  
Andrea Stewart-Cousin, and Governor Andrew M. Cuomo.

Separate private counsel is authorized to be retained for the following defendants:

DIVISION OF STATE COUNSEL  
LITIGATION BUREAU

STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL



LETTIA JAMES  
ATTORNEY GENERAL

February 6, 2020

Via First Class Mail  
Alejandra N. Paulino, Esq.

Secretary of the Senate  
New York State Senate  
The Capitol, Room 321  
Albany, New York 12247-0001

Re: *SAM Party of New York v. Cuomo, et al.*, No. 20-CV-00323 (S.D.N.Y.)

Dear Ms. Paulino:

This Office has received your request for representation on behalf of Senator Andrea Stewart-Cousins, a Defendant named in her official capacity, in the above-referenced matter. Based on the facts and circumstances currently available to us, this Office has concluded that it would be inappropriate for the Attorney General to represent the Senator in this matter.

We are, however, certifying to the State Comptroller that the Senator is entitled to be represented by private counsel under Public Officers Law § 17. Upon this certification, the State will pay for reasonable attorneys' fees and litigation expenses, subject to (1) certification by the Senate that the Senator is entitled to representation under Public Officers Law § 17, and (2) the audit and warrant of the State Comptroller. We suggest that you share this letter with the attorney retained to represent the Senator and notify him or her that the person to contact in the Comptroller's Office is Caitlin Heim, Senior Attorney, at (518) 408-3139.

Your attention is called to subdivision (3)(a) of the statute, which provides that the State may indemnify the Senator in the amount of any judgment obtained against her in any Court, or in the amount of any settlement or any claim, if the act or omission from which the judgment or settlement arose occurred while she was acting within the scope of her public employment or duties and did not result from intentional wrongdoing on her part. Please note that any decision regarding indemnification is made only after a judgment is rendered against her or at the time that a settlement is proposed.

Your attention is also called to subdivision (3)(b), which requires a defendant represented by private counsel to submit any proposed settlement to the Attorney General's Office for review

and approval as to form and amount. Therefore, should the Senator wish to consider settlement, she must contact this office prior to settling the case.

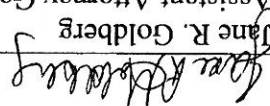
These and other provisions of Public Officers Law § 17 should be carefully studied, as it is important that all procedures be followed.

Further, if upon analysis of the case, the private counsel who will represent the Senator under Public Officers Law § 17 determines that the Senator has a compulsory counterclaim or a cross-claim, and believes that it would be legally appropriate and beneficial to her defense, and in the interest of the State of New York to interpose a counterclaim or cross-claim on her behalf for money damages against the plaintiffs, he or she may do so, but only under the following conditions:

- 1) In order for the private counsel who will represent the Senator under Public Officers Law § 17 to represent her on such a counterclaim or cross-claim, the Senator must agree that if the plaintiffs present her with a proposed settlement of the action against her and she rejects the settlement, she waives her right to indemnification under Public Officers Law § 17 for the amount of any judgment, costs and attorneys' fees awarded against the Senator in excess of the amount of the proposed settlement.
- 2) The Senator must also assign to the State any damages awarded to her on the counterclaim or cross-claim up to an amount equal to any judgment, costs and attorneys' fees awarded to the plaintiffs against her. If there is an award in her favor in excess of any award, including costs and attorneys' fees, to the plaintiffs, that excess amount will belong to her. And in the event that the Senator's Public Officers Law § 17 private counsel is successful on her counterclaim or cross-claim, and the plaintiffs are denied any recovery, the entire amount of the judgment will belong to the Senator.
- 3) Finally, if the plaintiffs withdraw the action against the Senator or if it is dismissed before trial, and only the counterclaim or cross-claim is pending, private counsel will no longer represent the Senator at State expense on the counterclaim or cross-claim. Counsel must, however, take appropriate steps to protect the Senator's position in the litigation until she has had an opportunity to retain other counsel, or counsel may agree to continue to represent the Senator at her expense.

Should you or the attorney retained on behalf of the Senator have any questions regarding the contents of this correspondence, please feel free to contact me at (212) 416-6133.

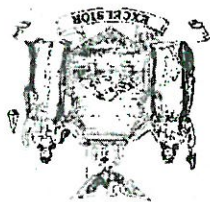
Very truly yours,

  
Jane R. Goldberg  
Assistant Attorney General

Alejandra N. Paulino, Esq.  
February 6, 2020  
Page 3

cc: William T. Little  
(via email)

THOMAS P. DINAPOLI  
STATE COMPTROLLER



STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

DIVISION OF LEGAL SERVICES  
110 State Street- 14<sup>th</sup> Floor  
Albany, NY 12236  
Tel: (518) 474-3444  
Fax: (518) 473-9104

February 10, 2020

Via electronic mail only (ehecker@chwllp.com)

Eric Hecker  
Cuti Hecker Wang LLP  
305 Broadway, Suite 607  
New York, New York 10007

Re: SAM Party of New York v. Cuomo, et al.  
USDC/SDNY, 20-cv-00323

Dear Mr. Hecker:

This is in response to your correspondence of February 6, 2020, requesting hourly rates in excess of the Comptroller's Schedule of Counsel Fees (Schedule) in connection with the representation of Senate Majority Leader Andrea Stewart-Cousins, a defendant in the above-captioned litigation.

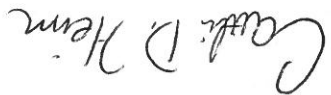
In support of your request, you explain that this matter involves complex constitutional and election law issues. You further explain that your firm has over 20 years of litigation experience. Finally, you explain that the rates requested reflect a discount on your standard hourly rates.

For the reasons you set forth in your request, this Office has approved hourly rates that exceed the Schedule. You and partner John Cuti will be compensated at a rate of \$550 per hour, associates Alice Reiter, Daniel Mullkoff, and Heather Gregorio will be compensated at a rate of \$350 per hour, and paralegals will be compensated at a rate of \$100 per hour. These rates will be applied to all legal services rendered in this case. Travel time will be compensated at 50% of these rates. All other rates, terms and conditions set forth in the Schedule will apply.

Office of State Comptroller  
Finance Office  
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FEB 13 2020

It is expected Cuti Hecker Wang LLP will exercise billing judgment, and conduct the litigation as efficiently as possible. In support of its billings, the firm will need to submit detailed time records to the General State Charges Unit, Bureau of Financial Administration, Office of the State Comptroller, 110 State Street, Albany, New York 12236. Billing and payment inquiries should be directed to the General State Charges Unit at (518) 486-1286. I may be reached at (518) 408-3139 should you have other concerns regarding this case.

Very truly yours,



Caitlin D. Heim  
Associate Attorney

cc: Deputy Attorney General Megan Levine  
General State Charges Unit



State  
Of  
New York

**STANDARD VOUCHER**

SEE INSTRUCTIONS BEFORE COMPLETING

Originating Agency (limit to 30 spaces) Org. Agency Code		Interest Eligible (Y/N)		P-Contract	
Payment Date (MM/DD/YY)		OSC Use Only		Liability Date (MM/DD/YY)	
Payee ID		Additional		Payee Amount	
Payee Name (limit to 30 spaces) Cuti Hecker Wang LLP		IRS Code		Payee Amount	
Payee Name (limit to 30 spaces) Cuti Hecker Wang LLP		Stat. Type		Indicator-Dept.	
Address (limit to 30 spaces) 305 Broadway, Suite 607		Ref/in. No. (limit to 20 spaces) 01185 ROL 812-21N# 0185		Ref/in. Date (MM/DD/YY) 3/10/20	
Address (limit to 20 spaces) New York		State NY		Zip Code 10007	

Order No. and Date	Description of Material/Service	Quantity	Unit	Price	Amount
	SAM Parry v. Cuomo				
	812-2				
	Attorneys Fees and Expenses				
	2/1/20 - 2/29/20				

**Payee Certification**

I certify that the above bill is just, true and correct; that no part thereof has been paid except as stated and that the balance is actually due and owing, and that taxes from which the State is exempt are excluded.

Date: 3/10/20  
 Payee's Signature in Ink: *[Signature]*  
 Title: Partner  
 Name of Company: Cuti Hecker Wang LLP

Total	15,675
Discount %	
Net	15,675

**FOR AGENCY USE ONLY**

STATE COMPTROLLER'S PRE-AUDIT

Date: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Authorized Signature in Ink: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Name of Company: \_\_\_\_\_

I certify that this voucher is correct and just, and payment is approved, and the goods or services rendered or furnished are for use in the performance of the official functions and duties of this agency.

Verified \_\_\_\_\_  
 Audited \_\_\_\_\_  
 Special Approval (as Required) \_\_\_\_\_  
 By: \_\_\_\_\_

Dept.	Cost Center Unit	Var	Yr	Object	Amount	
					Accum	Statewide
Expenditure						
Liquitation						

Distribution: Original to OSC with Copy to Agency/Department and Payee

Check if Continuation form is attached.

RECEIVED  
MAR 13 2020  
Office of State Comptroller  
Finance Office



Cuti Hecker Wang LLP  
 305 Broadway  
 Suite 607  
 New York, New York 10007  
 212-620-2600

CUTI HECKER WANG LLP

Balance \$15,675.00  
 Invoice # 01185  
 Invoice Date March 10, 2020  
 Payment Terms  
 Due Date

New York State Senate

New York State Senate - 1496.1 - SAM Party Litigation

For services rendered between  
 February 01, 2020 and February 29, 2020

Time Entries

Date	Activity	Description	Rate	Hours	Line Total
02/06/2020	JC	Reviewing	\$550.00	1.0	\$550.00
02/06/2020	EH	Review	\$550.00	1.2	\$660.00
02/07/2020	JC	Discussions (.2); legal research	\$550.00	3.5	\$1,925.00
02/07/2020	EH	Initial legal research discussions	\$550.00	2.3	\$1,265.00
02/08/2020	JC	Legal research	\$550.00	1.0	\$550.00
02/09/2020	JC	Reviewing	\$550.00	1.5	\$825.00
02/10/2020	JC	Continuing legal research (.8); discussions	\$550.00	1.0	\$550.00
02/10/2020	EH	Legal research	\$550.00	1.5	\$825.00

JC 20,3550 = 11,165  
 3H 82 x 550 = 4,510

Time Entry Sub-Total:	\$15,675.00
Sub-Total:	\$15,675.00
Total:	\$15,675.00
Amount Paid:	\$0.00
Balance Due:	\$15,675.00

Totals: 28.5 \$15,675.00

02/11/2020	JC	Standard	Reviewing [redacted] (1); continuing legal research [redacted]	\$550.00	3.0	\$1,650.00
02/11/2020	EH	Standard	Further legal research (1.7); discussions and correspondence [redacted] (4); correspondence [redacted] (1).	\$550.00	2.2	\$1,210.00
02/12/2020	JC	Standard	Research regarding [redacted] (1); email [redacted] (2); continuing legal research regarding [redacted]	\$550.00	2.2	\$1,210.00
02/12/2020	EH	Standard	Teleconference with [redacted]	\$550.00	0.9	\$495.00
02/13/2020	JC	Standard	Legal research [redacted] begin writing memo regarding [redacted] same (2); email and discussion [redacted] (6).	\$550.00	2.6	\$1,430.00
02/14/2020	JC	Standard	Legal research [redacted] (5); legal research regarding [redacted]	\$550.00	0.8	\$440.00
02/18/2020	JC	Standard	Legal research regarding [redacted]	\$550.00	1.0	\$550.00
02/19/2020	JC	Standard	Legal research regarding [redacted]	\$550.00	1.0	\$550.00
02/19/2020	EH	Standard	Miscellaneous correspondence.	\$550.00	0.1	\$55.00
02/20/2020	JC	Standard	Legal research [redacted]	\$550.00	1.2	\$660.00
02/25/2020	JC	Standard	Discussions [redacted] conference call	\$550.00	0.5	\$275.00