



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

September 4, 2009

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

Honorable Richard B. Meyer
Essex County Supreme Court
7559 Court Street
P.O. Box 247
Elizabethtown, New York 12932

Re: Lewis Family Farm, Inc. v. Adirondack Park Agency
Index No. 315-08
Adirondack Park Agency v. Lewis Family Farm, Inc.
Index No. 332-08

Dear Judge Meyer:

The State Office of the Attorney General was served with a Notice of Motion from Cynthia Feathers Esq., on behalf of the New York Farm Bureau, for permission to file an amicus curiae brief in the petitioner's motion for attorney fees.

The Farm Bureau's request to file an amicus brief regarding petitioner's motion for attorney fees should be denied. The function of an amicus is to advise the court on the law of the matter before it, particularly when a party is not competently represented, or when the amicus has unique information, beyond what the lawyers for the parties can provide. See Ryan v. Commodity Futures Trading Comm. 125 F.3d 1062, 1063, (7th Cir. 1997); see also 210 East 68th Corp. v. City Rent Agency et. al. 34 N.Y. 2d 552 (1974). The APA had no objection to the Farm Bureau submitting an amicus brief on the underlying merits. However, the Farm Bureau offers no unique perspective or special expertise *on the issue of attorney fees*.

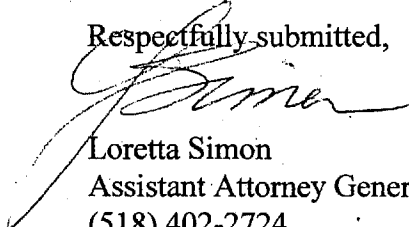
Furthermore, petitioner is seeking reimbursement from the State for its meetings and communications with the Farm Bureau (see Affirmation of John J. Privitera dated August 12, 2009, 25 entries)¹; and intends to add the costs of this motion to its request. See Notice of Motion signed by John J. Privitera, dated August 13, 2009. Whether or not the amicus motion is

¹ The following dates of correspondence, conferences, and communications with the Farm Bureau, are listed in petitioner's motion for attorney fees: 4/7/08, 4/8/08, 4/17/08, 4/28/08, 5/14/08, 5/29/08, 6/2/08, 6/17/08, 7/2/08, 7/11/08, 8/13/08, 12/29/08, 12/30/08, 1/20/09, 1/21/09, 1/27/09, 2/19/09, 3/19/09, 3/23/09, 3/26/09, 3/30/09, 4/6/09, 4/16/09, 4/17/09, and 7/16/09.

granted, communications with the Farm Bureau should not be reimbursable because these communications were not a necessary part of the litigation.

This Court has set oral argument in this matter for October 2, 2009. Because the Farm Bureau requests permission to submit an amicus brief on September 30 or later, should the Court grant the Farm Bureau's motion, the Office of the Attorney General requests sufficient time to review and reply to the brief.

Respectfully submitted,



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cc Cynthia Feathers, Esq.
John J. Privitera, Esq.
Jacob Lamme, Esq.
Paul Van Cott, Esq.