

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

Decided and Entered: April 17, 2009

Case # 506590

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**In the Matter of ELLIOTT S. COHEN,**  
**Petitioner,**

v

**NEW YORK STATE DEPARTMENT**  
**OF HEALTH,**

**Respondent.**

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**DECISION AND ORDER**  
**ON MOTION**

Motion for stay pending determination of proceeding and for preference.

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

ORDERED that the motion for a stay is denied, without costs, and it is further

ORDERED that the motion for a preference is granted, without costs, and the proceeding is set down for the May 2009 term of this Court. Petitioner shall serve by overnight delivery service and file the record on review and his brief on or before May 1, 2009. Respondent shall serve by overnight delivery service and file its responding brief on or before May 15, 2009. The reply brief, if any, shall be filed and served on or before May 26, 2009.

ROSE, J.P., LAHTINEN, STEIN, McCARTHY and GARRY, JJ., concur.

ENTER:

Redacted Signature

Michael J. Novack  
Clerk of the Court

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

-----X  
In the Matter of the Application of  
ELLIOTT S. COHEN, M.D.,

Petitioner,

Docket No. 506590

for Judgment pursuant to Article 78 of  
the CPLR,

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

- against -

NEW YORK STATE DEPARTMENT OF HEALTH  
RICHARD F. DAINES, M.D., COMMISSIONER,

Respondent.  
-----X

**PLEASE TAKE NOTICE** that the attached is a true copy  
of a Decision and Order on Motion for Stay 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  
Department, on the 17<sup>th</sup> day of April, 2009.

Dated: New York, New York  
April 21, 2009

ANDREW M. CUOMO  
Attorney General of the  
State of New York  
Attorney for Respondent

Redacted Signature

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PETER S. HYUN  
Assistant Attorney General  
120 Broadway - 24th Fl  
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(212) 416-6556

TO: Samuel C. Young  
COSTELLO COONEY & FEARON  
Attorneys for Petitioner  
205 South Salina Street  
Syracuse, New York 13202

AFFIDAVIT OF SERVICE

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

CARRELL A. CLARKE-EUROPE being duly sworn, deposes and says that she is a Legal Assistant in the office of ANDREW M. CUOMO, the Attorney General of the State of New York, attorney for respondent herein. On the 21<sup>st</sup> day of April, 2009, she served the annexed **NOTICE OF ENTRY WITH DECISION AND ORDER ON MOTION FOR STAY** upon the following named persons(s):

Samuel C. Young  
COSTELLO COONEY & FEARON  
Attorneys for Petitioner  
205 South Salina Street  
Syracuse, New York 13202

Attorneys for Petitioner in the within entitled proceeding by depositing a true and correct copy thereof, properly enclosed in a post-paid wrapper, in a post office box regularly maintained by the United States Postal Service at 120 Broadway, New York, New York 10271, directed to said attorneys at the address within the State designated by them for that purpose.

Redacted Signature

CARRELL A. CLARKE-EUROPE

Sworn to before me this  
21<sup>st</sup> day of April, 2009

Redacted Signature

Assistant Attorney General  
of the State of New York