

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

ROBERT ARRIGO,

Plaintiff,

-against-

THOMAS P. DINAPOLI in his official capacity as the Comptroller of the State of New York,

Defendant.

Index No.

Date Filed: December 11, 2019

SUMMONS

To the above-named Defendant:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer or, if the complaint is not served with this summons, serve a notice of appearance on the Plaintiff's Attorney within 20 days after service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates Albany County as the place of trial. The basis of venue is CPLR 503 and State Finance Law § 123-c.

Dated: Albany, New York
December 11, 2019



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Counsel for Plaintiff

SUPREME COURT OF THE STATE OF NEW YORK
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VERIFIED COMPLAINT

Plaintiff Robert Arrigo for his complaint against Thomas DiNapoli, in his official capacity as the Comptroller of the State of New York, alleges as follows:

Statement of Facts

1. On April 1, 2019, the Senate and Assembly passed a concurrent resolution¹ increasing the annual salaries for New York’s Governor and Lieutenant Governor for the first time in twenty years.

2. The concurrent resolution provided an initial compensation increase effective January 1, 2019 and included potential additional annual increases in 2020 and 2021.

3. Regardless of its merits, the concurrent resolution is unconstitutional.

4. The New York Constitution in plain language prohibits increasing or diminishing the Governor’s or Lieutenant Governor’s compensation during the term for which they are elected.

¹ Senate Resolution No. 958; Assembly Resolution No. 243.

5. Under Section 7 of Article XIII of the New York Constitution: “*Each of the state officers named in this constitution shall, during his or her continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he or she shall have been elected or appointed; nor shall he or she receive to his or her use any fees or perquisites of office or other compensation*” (emphasis added).

6. The Governor and Lieutenant Governor are state officers named in the Constitution.

7. The Governor’s and Lieutenant Governor’s elected terms began in January, months before the Legislature passed the concurrent resolution.

8. To be effective for this gubernatorial term, the Legislature needed to pass a joint resolution affecting the Governor’s and Lieutenant Governor’s compensation before January 1, 2019.

9. Any joint resolution increasing or diminishing the Governor’s or Lieutenant Governor’s compensation passed after their elected terms began cannot be effective until January 1, 2023.

10. Any payments made by the Comptroller at the higher salary amounts for the Governor and Lieutenant Governor set by the Legislature in 2019 are unconstitutional disbursements of state funds.

11. The resolution raised the Governor’s salary during his elected term from \$179,000 to \$200,000 for 2019.

12. The resolution further provided for increases during his elected term on January 1, 2020 and January 1, 2021, to \$225,000 and \$250,000, “provided [each] such increase shall be conditioned upon the timely legislative passage of the budget for the preceding year.”

13. The resolution raised the Lieutenant Governor's salary during her elected term from \$151,500 to \$190,000 for 2019.

14. The resolution further provided for increases during her elected term on January 1, 2020 and January 1, 2021, to \$210,000 and \$220,000, "provided [each] such increase shall be conditioned upon the timely legislative passage of the budget for the preceding year."

15. The resolutions made the salary increases effective January 1, 2019.

16. The Comptroller has unlawfully paid Governor Cuomo at the increased compensation amount.

17. According to the Comptroller's records, as of June 26, 2019, Governor Cuomo's compensation rate was set at \$200,000 and he had gross pay for the year consistent with being paid at that rate retroactive to January 1st.

Parties

18. Plaintiff Robert Arrigo is an individual who resides in New York and pays state income and sales taxes.

19. Defendant Thomas P. DiNapoli is sued in his official capacity as New York State Comptroller.

Jurisdiction and Venue

20. This Court has jurisdiction under CPLR 503 and State Finance Law § 123-c because the disbursements at issue are taking place within Albany County and the Comptroller's principle office is in Albany County.

Count I:**State Finance Law § 123-b and 123-e
Declaratory Judgment and Permanent Injunction**

21. Petitioner repeats and re-alleges paragraphs 1 through 20 as if fully set forth in this paragraph.

22. The Court has authority to grant declaratory judgment under CPLR 3001 and State Finance Law § 123-b and e, and the authority to provide injunctive relief under State Finance Law § 123-b and e.

23. The concurrent resolution increasing the Governor's and Lieutenant Governor's compensation passed on April 1, 2019 is unconstitutional and should be declared null and void.

24. The Comptroller should be permanently enjoined from disbursing state funds to the Governor and Lieutenant Governor at the compensation rates set by the concurrent resolution the Legislature passed on April 1, 2019 (Senate Resolution No. 958; Assembly Resolution No. 243).

Relief Requested

25. Plaintiff respectfully requests that this Court issue an order:
- a. Declaring that the April 1, 2019 concurrent resolution (Senate Resolution No. 958; Assembly Resolution No. 243) is null and void as violating Section 7, Article XIII of the New York Constitution;
 - b. Permanently enjoining the New York State Comptroller from disbursing Governor and Lieutenant Governor at the compensation rates set by the Legislature in the April 1, 2019 concurrent resolution (Senate Resolution No. 958; Assembly Resolution No. 243);
 - c. Awarding attorneys' fees and costs incurred in this proceeding; and

d. Granting such other and further relief as this Court may deem just and proper.

Dated: Albany, New York
December 11, 2019

Respectfully submitted,



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Counsel for Plaintiff

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ALBANY) :ss

Cameron J. Macdonald, being duly sworn, deposes and says:

I am the attorney for Robert Arrigo, Plaintiff in the above-captioned action.

I have reviewed the foregoing Complaint and know its contents to be true to my knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters I believe them to be true based on my review of pertinent documents and conversations with persons with personal knowledge.

This verification is made by me rather than Plaintiff because the Plaintiff resides outside Albany County where I maintain my office.

[Handwritten signature of Cameron J. Macdonald]

Cameron J. Macdonald

Sworn to and subscribed before me this 11th day of December, 2019

[Handwritten signature of Amanda P. Robinson]
Notary Public

AMANDA P ROBINSON
NOTARY PUBLIC STATE OF NEW YORK
SARATOGA
LIC. #01RO6390046
COMM. EXP. 04/08/2023