



NY's Highest Court Must Rule on Fundamental Constitutional Questions Raised in Ethics Commission Decision

Groups Applaud Attorney General For Filing Motion to Appeal

Logic of Appellate Court Would Create an “Imperial” Governor

Our groups, united in our belief that the law creating New York’s Commission on Ethics and Lobbying in Government (COELIG) is constitutional, are concerned that the alarming logic of the recent Appellate Court decision would create an imperial Governor who cannot be held accountable for defying the law – short of impeachment or the ballot box.

This is a matter of upholding the principles of transparency and accountability in our government, and rejecting the widely discredited federal “unitary executive theory,” which, in essence, gives the president unchecked power over executive agencies. For these reasons, we applaud Attorney General James for appealing the Third Department’s perfunctory decision, and urge the Court of Appeals to grant the appeal.

We urge the Court of Appeals to weigh in swiftly, as this case carries implications that extend far beyond the ethics commission. The decision at hand raises fundamental questions about a number of issues: (1) the separation and delegation of powers; (2) the importance of collaboration between branches of government in lawmaking; (3) the distinction between the Governor and the executive branch (which in New York includes the Attorney General and the Comptroller); and (4) whether the Governor must be able to fire statutorily appointed public officials whose job it is to enforce the law – including ethics officials investigating the Governor. The Court of Appeals must carefully consider and publicly respond to the heavily researched arguments supporting the law's constitutionality provided by both the Attorney General and our [amicus brief](#).

We also urge the Court of Appeals to immediately grant a stay so that COELIG can continue administering state lobbying and ethics laws while deciding the constitutionality of the commission’s appointment and removal process. Without a stay, enforcement activity and investigations that have nothing to do with the executive may be unjustly delayed.

Lastly, we want our state leaders to understand that we strongly oppose the passage of interim legislation changing the composition of the commission. Such changes, made before a final ruling, could result in a weaker and less independent commission. This would be a hasty response to a sweeping opinion with radical implications for how state government is structured, potentially compromising the very principles of our democracy.

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