

# Congress of the United States

## House of Representatives

SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC  
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September 16, 2024

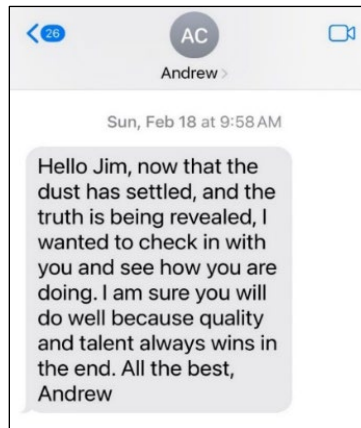
Dr. James Malatras  
[TRANSMITTED VIA EMAIL]

Dear Dr. Malatras:

As you know, on May 20, 2024, you voluntarily testified at a transcribed interview before the Select Subcommittee on the Coronavirus Pandemic.<sup>1</sup> The Select Subcommittee needs to ask you some follow-up questions. During this interview, you were asked about your most recent communications with former-Governor Andrew Cuomo. You testified:

I have had *no conversations* with the governor since sometime in early 2021. He did text me several times to check in. the latest time he texted me was February 18<sup>th</sup> of this year, I believe, just to say I hope you're doing well, things like that. I did not respond.<sup>2</sup>

It is the Select Subcommittee's understanding that you did not respond to any of the text messages you received from Mr. Cuomo and, as such and consistent with your past testimony, we stated you had not "spoken" to Mr. Cuomo since 2021.<sup>3</sup> Subsequent to the interview, the Select Subcommittee requested the referenced text message from Mr. Cuomo to you from February 18, 2024. The text message was as follows:



<sup>1</sup> Transcribed Interview of Dr. James Malatras, Former Advisor, Governor of the States of New York (May 20, 2024) [hereinafter Malatras TI].

<sup>2</sup> *Id.* at 30.

<sup>3</sup> Republican Staff Memorandum, Findings from the Select Subcommittee's Investigation into the Cuomo Administration's March 25 Directive admitting COVID-positive patients into Nursing Homes, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight & Accountability (Sept. 9, 2024), at 34.

Considering the timing of the text message—within 48 hours of the Select Subcommittee publicly announcing that we requested your testimony—and the fact that you had not spoken with Mr. Cuomo since 2021, the Select Subcommittee surmised that:

...this text message raises concerns that Mr. Cuomo may have been trying to influence Dr. Malatras' testimony and obstruct the Select Subcommittee's investigation.<sup>4</sup>

On September 9, 2024, Mr. Cuomo's counsel, Ms. Rita Glavin, e-mailed Select Subcommittee staff to express her opinion regarding the Select Subcommittee's Memorandum. She stated:

I explained that there was nothing nefarious about this text from which you could suggest Governor Cuomo may have been trying to influence Dr. Malatras's testimony or obstruct the Subcommittee's investigation...

I told you that if Dr. Malatras did not understand this innocuous text in that way, you could not suggest something nefarious by Governor Cuomo and you should note that Dr. Malatras did not testify he understood or thought there may have been a nefarious purpose...

The RSM [Republican Staff Memo] deliberately misleads the public by omitting...the fact that [Dr. Malatras] never told you that he understood the text message to be an effort to improperly influence him or obstruct this investigation. Your suggestions that Governor Cuomo may have been attempting violate the law are entirely unsupported.<sup>5</sup>

To address Ms. Glavin's concerns, Select Subcommittee staff replied and stated:

Since Dr. Malatras was not asked explicitly how he [interpreted] the text, it is likely we send an interrogatory to Dr. Malatras to ask him what his interpretations or feelings were. Once we receive his response, we will make sure the memo is updated top [sic] include both his testimony and Mr. Cuomo's.<sup>6</sup>

Ms. Glavin went further than simply expressing her objections and threatened to file complaints with the applicable state bar associations for two Select Subcommittee staff. This is not the first time that Ms. Glavin has resorted to such intimidation tactics on staff. Further, according to recent reporting, employing intimidating and frivolous legal tactics is a theme of

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<sup>4</sup> *Id.* at 35.

<sup>5</sup> E-Mail from Ms. Rita Glavin, Counsel for Mr. Andrew Cuomo, to Select Subcommittee Staff (Sept. 9, 2024 2:30 PM).

<sup>6</sup> E-Mail from Select Subcommittee Staff to Ms. Rita Glavin, Counsel for Andrew Cuomo (Sept. 10, 2024 10:58 AM).

Mr. Cuomo and his team, as they run up taxpayer funded legal fees including in the nursing home investigations.<sup>7</sup> Mr. Cuomo's counsel's statements and multiple threats against staff raise new questions regarding potential impropriety from Mr. Cuomo and his team that we respectfully request you answer.

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### **Interrogatories**

Dr. Malatras please answer the following questions and provide the additional records requested below. As a reminder, you are required pursuant to 18 U.S.C. §1001 to answer questions from Congress truthfully. If at any time you knowingly make a false statement, you could be subject to criminal prosecution.

The Select Subcommittee inferred that the February 18, 2024 text message from Mr. Cuomo to you "may have been trying to influence [your] testimony and obstruct the Select Subcommittee's investigation."

- 1. Dr. Malatras, to you, was the February 18, 2024 text message from Mr. Cuomo to you in response to the Select Subcommittee's invitation for your testimony?**
- 2. Dr. Malatras, how did you interpret the content of the February 18, 2024 text message from Mr. Cuomo to you?**

Dr. Malatras, you previously testified that Mr. Cuomo sent you text messages between 2021 to 2024, including the February 18 text, but you did not respond.

- 3. Please provide those other text messages to the Select Subcommittee.**

Considering the threats received by Select Subcommittee staff from members of Mr. Cuomo's team, it raises questions of if they have employed inappropriate tactics on you and others.

- 4. Dr. Malatras, have you been contacted by Mr. Cuomo since your May 20, 2024 interview before the Select Subcommittee?**
  - a. If yes, when?**
  - b. If yes, did Mr. Cuomo discuss issues related to the Select Subcommittee?**

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<sup>7</sup> Benjamin Oreskes, *Cuomo Legal Bills Have Cost N.Y. Taxpayers \$25.4 Million and Counting*, THE N.Y. TIMES (Sept. 12, 2024) ("Of the \$25.4 million, more than half has gone to defend Mr. Cuomo and several top aides in four lawsuits filed by three women in state and federal court. The rest went to pay for legal representation in earlier state and federal investigations into workplace misconduct and the manipulation of data related to pandemic deaths in nursing homes.").

**i. If yes, what topics?**

**c. If yes, how did you interpret the phone call?**

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Please provide your answers to these important questions as soon as possible but no later than September 20, 2024.

The Select Subcommittee is authorized to investigate “the implementation or effectiveness of any Federal law or regulation applied, enacted, or under consideration to address the coronavirus pandemic and prepare for future pandemics,” “executive branch policies, deliberations, decisions, activities, and internal and external communications related to the coronavirus pandemic,” and “cooperation by the executive branch and others with Congress, the Inspectors General, the Government Accountability Office, and others in connection with oversight of the preparedness for an response to the coronavirus pandemic” under H. Res. 5.

Thank you for your attention to this very important matter.

Sincerely,



Brad Wenstrup, D.P.M.  
Chairman

cc: The Honorable Raul Ruiz, M.D., Ranking Member  
Select Subcommittee on the Coronavirus Pandemic