

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SARATOGA

X

In the matter of
RICH AMEDURE,
ROBERT SMULLEN , WILLIAM FITZPATRICK,
NICK LANGWORTHY,
THE NEW YORK STATE REPUBLICAN PARTY,
GERARD KASSAR,
THE NEW YORK STATE CONSERVATIVE PARTY,
CARL ZIELMAN,
THE SARATOGA COUNTY REPUBLICAN PARTY,
RALPH M. MOHR, AND ERIK HAIGHT,

Petitioners / Plaintiffs,

INDEX NO. 20222145
Freestone, J.

-against-

STATE OF NEW YORK, BOARD OF
ELECTIONS OF THE STATE OF NEW YORK,
GOVERNOR OF THE STATE OF NEW YORK,
SENATE OF THE STATE OF NEW YORK
MAJORITY LEADER AND PRESIDENT PRO
TEMPORE OF THE SENATE OF THE STATE
OF NEW YORK, MINORITY LEADER OF THE
SENATE OF THE STATE OF NEW YORK,
ASSEMBLY OF THE STATE, OF NEW YORK,
MAJORITY LEADER OF THE ASSEMBLY
OF THE STATE OF NEW YORK,
MINORITY LEADER OF THE ASSEMBLY
OF THE STATE OF NEW YORK;
SPEAKER OF THE ASSEMBLY OF
THE STATE OF NEW YORK,

**AMENDED
ORDER PURSUANT
TO ELECTION LAW
§16 – 112 & NYS
CONSTITUTION
ART VI §7**

Respondents / Defendants.

X

**UPON ALL OF THE PAPERS AND PROCEEDINGS HERTOFORE HAD
HEREIN, AND UPON THIS COURT’S ORDER ISSUED AND ENTERED ON
OCTOBER 21, 2022, PURSUANT TO THE PROVISIONS OF ARTICLE VI, §7 OF**

THE NEW YORK STATE CONSTITUTION AND §16-112 ELECTION LAW, IT IS HEREBY ORDERED ADJUDGED AND DECREED:

IT IS ORDERED THAT, Respondent New York State Board of Elections and the Commissioners thereof shall forthwith direct and command all local Boards of Elections under their jurisdiction to preserve and hold inviolate all absentee, military, special, special federal, and affidavit ballots [hereinafter, “the paper ballots”] cast in connection with the 2022 General Election, and

IT IS FURTHER ORDERED THAT, Respondent New York State Board of Elections and the Commissioners thereof [hereinafter NYSBOE] shall forthwith direct and command all local Boards of Elections under their jurisdiction to preserve and hold inviolate all voting records, election materials including but not limited to applications, letter applications, registration records, notes, memoranda and records associated with the aforesaid paper ballots, and

IT IS FURTHER ORDERED THAT, this preservation order is issued in contemplation of any contest before the Supreme Court, OR Court of competent jurisdiction, that may be brought by the Plaintiff / Petitioners herein or any other party with standing to commence an action pursuant to the provisions of Article 16 Election Law, and

IT IS FURTHER ORDERED THAT, this preservation order shall in all cases be implemented in accordance with the provisions of the New York State Constitution, Article II, §8, and that all access to ballots and voting materials shall be done on a bi-partisan basis only, and

IT IS FURTHER ORDERED THAT, the NYSBOE shall direct and command all local boards of elections under its jurisdiction to maintain the terms of this order in full force and effect until the date(s) scheduled for the post-Election Day canvass / recanvass of ballots cast in the 2022 General Election, for which notice has been provided by law to candidates and party committees, and

IT IS FURTHER ORDERED THAT, the NYSBOE shall forthwith direct and command all local Boards of Elections under their jurisdiction to preserve and hold all ballots that: a). have been received but have not been removed from the ballot envelope; b). have been received and have been removed from the ballot envelope; and/or c). have been received and the ballot envelope burst, but the ballot has not been removed from the envelope, separate from those cast at early voting or on the day of Election, November 8, 2022 and that none of the above categories of ballots shall be comingled, intermingled, counted, scanned, tallied, canvassed or re-canvassed prior to the close of polls on the general election day of November 8, 2022, and

IT IS FURTHER ORDERED THAT, nothing herein shall be construed to preclude the local Boards of Elections from sorting ballots into the appropriate election districts for the scheduled post-election re-canvass; and

IT IS FURTHER ORDERED THAT, nothing in this this preservation order shall prevent the “cure” process contained in the Election Law prior to the adoption of the unconstitutional provisions of Chapter 763, Laws of 2021 from moving forward and being implemented, and

IT IS FURTHER ORDERED THAT, the NYSBOE shall forthwith direct and command all local boards of elections under its jurisdiction to report to it on the actions taken to comply with this order, and that the NYSBOE is directed to assist and supervise all local boards of elections in implementation of this order, and

IT IS FURTHER ORDERED THAT, the failure to comply with the provisions of this Order may be punishable by contempt of court in a motion brought on by any of the parties hereto pursuant to the provisions of the Judiciary Law, and

IT IS FURTHER ORDERED THAT, the Plaintiffs / Petitioners shall enter this order and serve it on all parties via NYSCEF, and that such service shall be due and sufficient service thereof.

ENTER:

DATED: October 25th, 2022

Dianne N. Freestone, J.S.C.

HON. DIANNE N. FREESTONE