

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS**

-----X
LEAGUE OF WOMEN VOTERS OF THE MID-HUDSON
REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

Index No. 2022-53491

VERIFIED ANSWER

Petitioners,

-against-

DUTCHESS COUNTY BOARD OF ELECTIONS,
and ERIK J. HAIGHT, in his capacity as Commissioner
of the Dutchess County Board of Elections,

Respondents-Defendants.
-----X

Respondent-Defendant proposed intervenor, Hannah Black, as Commissioner of the Dutchess County Board of Elections, which pursuant to Election Law §3-200 (2) is comprised of Commissioners Hannah Black together with Respondent-Defendant Erik J. Haight, (hereinafter, the "Respondent") does hereby set forth the following as and for her VERIFIED ANSWER to the allegations contained in the Verified Petition:

1. The Respondent admits the allegations of fact contained in the paragraphs of the Verified Petition therein numbered 1, 6, 15, 30, 31, 32, 35 and 37, and refers all questions of law contained in said paragraphs to the Honorable Court.

2. The Respondent admits the allegations of fact contained in the paragraphs of the Verified Petition therein numbered 2 and 14, refers all questions of law contained in said paragraphs to the Honorable Court, and denies the relevance of the early voting sites to the question posed by this special proceeding, as the designation of such early voting sites are covered by different sections of the election law than that which is the subject of this proceeding.

3. The Respondent denies having sufficient knowledge or information upon which to form a belief as to those allegations of fact contained in the paragraphs of the Verified Petition therein numbered 3, 4, 5, 10, 11, 12, and 19.

4. The Respondent admits the allegations of fact contained in the paragraphs of the Verified Petition therein numbered 6, 7, 8, 9, 15, 30, 31, 32, 35 and 37, and refers all questions of law contained in said paragraphs to the Honorable Court.

5. With reference to paragraph 13 of the Verified Petition, the Respondent denies having sufficient knowledge or information upon which to form a belief as to the information contained in the “publicly available voter registration records for Dutchess County”, however, admits that the voter registration records for the Dutchess County Board of Elections show that as of November 2, 2022, at least 1,100 voters are registered to vote from the campus of Vassar College.

6. The Respondent admits the allegations of fact contained in the paragraphs of the Verified Petition therein numbered 16, 21, 23 and 24.

7. The Respondent admits the receipt of the correspondence identified in the paragraphs of the Verified Petition therein numbered 17, 18 and 20, and denies having sufficient knowledge or information upon which to form a belief as to the remaining allegations contained therein, and refers the Honorable Court to the content of the correspondence identified therein.

8. The Respondent admits the allegations contained in paragraph 22 of the Verified Petition, except deny that such undertaking would be “easy”, with the caveat however, that it would be possible if we are ordered to do so by the morning of November 4, 2022.

9. The Respondent denies having sufficient knowledge or information upon which to form a belief as to those allegations of fact contained in the paragraphs of the Verified Petition

therein numbered 25, 27, 29, 33, 34, 36 and 39, and refers all questions of law contained in said paragraphs to the Honorable Court.

10. With reference to paragraph 26 of the Verified Petition, the Respondent denies having sufficient knowledge or information upon which to form a belief as to whether the Petitioners are registered voters and organizations whose members include registered voters who reside in Dutchess County, admits the identities and capacities of the Respondents, and further requests intervention as a Respondent-Defendant in her capacity of Commissioner of the Dutchess County Board of Elections.

11. With reference to paragraphs 28 and 38 of the Verified Petition, Respondent realleges and reincorporates her responses to the prior paragraphs of the Verified Petition as though fully set forth herein. Further, with respect to paragraph 38, Petitioner refers the allegations of law not requiring an answer to the Honorable Court.

REQUESTS FOR RELIEF

12. The Respondent seeks intervention and a declaration pursuant to Dutchess County Local Law No. 4 of 1988 that she is entitled to be reimbursed for her attorney fees from the County.

13. Pursuant to CPLR 7802(d), the Respondent requests an order directing the Petitioner to provide notice of this special proceeding to the Respondent as a necessary party pursuant to Election Law §3-200(2), and granting leave for Respondent to intervene as an interested person pursuant to CPLR 401 and CPLR 7802(d), and deeming this verified answer served.

14. Specifically, pursuant to Election Law §3-200(2), each county board of elections (there are exceptions which do not apply to Dutchess County) is comprised of two election commissioners.

15. One election commissioner does not have standing or capacity to assert a position or bring an action or proceeding on behalf of a board of elections except in certain narrow circumstances. (*see, Graziano v. County of Albany*, 3 NY3d 475 [2004])

16. Thus, by bringing this proceeding against the Dutchess County Board of Elections and against only one of the two commissioners, the Petitioners may have inadvertently given the reins (so to speak) to one commissioner only, to assert a position on behalf of the Dutchess County Board of Elections.

17. The Dutchess County Attorney's office, has accepted the existence of a split between the commissioners, and as a result, has declared that it has a conflict of interest in representing the Board of Elections, and thus has permitted Republican Commissioner Erik J. Haight only to hire independent counsel at the County's expense.

18. However, the Dutchess County Attorney's office has, in what can only be deemed a blatantly partisan display, discriminated against Democratic Commissioner Hannah Black in denying her request to hire independent counsel to represent her interests in this matter.

19. Upon information and belief, such position is also a punishment for Commissioner Black providing an affidavit to the Petitioners as she agrees with the express statutory requirement to place a poll site upon the campus of Vassar College.

20. Commissioner Black is a necessary party, as her consent would be required for any settlement of the claims against the Dutchess County Board of Elections, as Commissioner Haight lacks capacity to bind such Board of Elections on his own.

21. Further, in denying her request for counsel to represent her, the Dutchess County Attorney is violating the New York State Constitutional and statutory framework that requires equal representation, staffing and funding for each of the two major parties with commissioners making up each county board of elections. (*see*, Graziano, 3 NY3d at 479-481)

22. There has been no previous application for the relief sought herein.

WHEREFORE, Respondent respectfully request orders:

- I. Pursuant to CPLR 7802(d), declaring Elections Commissioner Hannah Black a necessary party to this special proceeding, and ordering the Petitioner to provide notice of this special proceeding to Commissioner Black;
- II. Granting leave for Commissioner Black to intervene as an interested person pursuant to CPLR 401 and CPLR 7802(d), and deeming this verified answer served;
- III. Declaring that if Commissioner Haight's attorney fees are paid by Dutchess County, that Commissioner Black's attorney fees shall be paid by Dutchess County as well;
- IV. Granting the relief requested in the Verified Petition of the Petitioners viz a viz Petitioners' request for an order requiring that a poll site be placed upon the campus of Vassar College;
- V. Such other and further relief as the Court deems necessary and proper.

Dated: Poughkeepsie, New York
November 2, 2022

Respectfully submitted,



Michael Treybich
Treybich Law, P.C.
Attorney for Respondent Hannah Black
272 Mill Street
Poughkeepsie, New York 12601
(845) 554-5295

RETRIEVED FROM DEMOCRACYDOCKET.COM

VERIFICATION

STATE OF NEW YORK)
) ss.:
DUTCHESS COUNTY)

I, HANNAH BLACK, being duly sworn, depose and state, that I am one of two Commissioners comprising the Respondent-Defendant Dutchess County Board of Elections in the within proceeding. I have read the foregoing Verified Answer and know the contents thereof, and the same is true to my own knowledge, except as to matters therein stated to be alleged on information and belief and that, as to those matters, I believe them to be true.



Hannah Black

Sworn to before me this
2nd day of November, 2022



NOTARY PUBLIC

MICHAEL TREYBICH
Notary Public - New York
Registration No. 02TR6205816
Qualified In Dutchess County
Commission Expires 5/11/2025

RETRIEVED FROM DEMOCRACYDOCS.COM