

**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

Petitioners-Plaintiffs,

-against-

NOTICE OF APPEAL

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

Respondents-Defendants.
----- X

PLEASE TAKE NOTICE that Respondent Erik J. Haight does hereby appeal from the decision, order and judgment of the Supreme Court, D'Alessio, J., in the above-captioned matter entered on or about November 3, 2022, which granted relief on Petitioners' Article 78 claim. This appeal is from each and every portion thereof which ruled adversely to Respondent or by which Respondent Erik Haight is aggrieved, and is to the Appellate Division, Second Department, of the Supreme Court of the State of New York.

Dated: Beacon, New York
November 4, 2022



David D. Jensen
DAVID JENSEN PLLC
33 Main Street
Beacon, New York 12508
(212) 380-6615 phone

TO:

SERVED BY MAIL

James R. Peluso
Dreyer Boyajian LLP
75 Columbia Street
Albany, NY 12210

Aria C. Branch
Justin Baxenberg
Richard Alexander Medina
Renata O'Donnell
Elias Law Group LLP
10 G St NE, Ste 600
Washington, DC 20002

Michael Treybich
Treybich Law, P.C.
272 Mill Street
Poughkeepsie, New York 12601

Caroline Blackburn
Dutchess County Department of Law
22 Market Street
Poughkeepsie, NY 12601

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Supreme Court of the State of New York

Appellate Division: Second Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.

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

- against -

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

For Court of Original Instance

Date Notice of Appeal Filed

For Appellate Division

Case Type

- | | |
|--|--|
| <input type="checkbox"/> Civil Action | <input checked="" type="checkbox"/> CPLR article 78 Proceeding |
| <input type="checkbox"/> CPLR article 75 Arbitration | <input type="checkbox"/> Special Proceeding Other |
| <input type="checkbox"/> Action Commenced under CPLR 214-g | <input type="checkbox"/> Habeas Corpus Proceeding |

Filing Type

- | | |
|---|---|
| <input checked="" type="checkbox"/> Appeal | <input type="checkbox"/> Transferred Proceeding |
| <input type="checkbox"/> Original Proceedings | <input type="checkbox"/> CPLR Article 78 |
| <input type="checkbox"/> CPLR Article 78 | <input type="checkbox"/> Executive Law § 298 |
| <input type="checkbox"/> Eminent Domain | <input type="checkbox"/> CPLR 5704 Review |
| <input type="checkbox"/> Labor Law 220 or 220-b | |
| <input type="checkbox"/> Public Officers Law § 36 | |
| <input type="checkbox"/> Real Property Tax Law § 1278 | |

Nature of Suit: Check up to three of the following categories which best reflect the nature of the case.

<input type="checkbox"/> Administrative Review	<input type="checkbox"/> Business Relationships	<input type="checkbox"/> Commercial	<input type="checkbox"/> Contracts
<input type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Domestic Relations	<input checked="" type="checkbox"/> Election Law	<input type="checkbox"/> Estate Matters
<input type="checkbox"/> Family Court	<input type="checkbox"/> Mortgage Foreclosure	<input type="checkbox"/> Miscellaneous	<input type="checkbox"/> Prisoner Discipline & Parole
<input type="checkbox"/> Real Property (other than foreclosure)	<input type="checkbox"/> Statutory	<input type="checkbox"/> Taxation	<input type="checkbox"/> Torts

Appeal			
Paper Appealed From (Check one only):		If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.	
<input type="checkbox"/> Amended Decree <input type="checkbox"/> Amended Judgement <input type="checkbox"/> Amended Order <input type="checkbox"/> Decision <input type="checkbox"/> Decree	<input type="checkbox"/> Determination <input type="checkbox"/> Finding <input type="checkbox"/> Interlocutory Decree <input type="checkbox"/> Interlocutory Judgment <input checked="" type="checkbox"/> Judgment	<input type="checkbox"/> Order <input type="checkbox"/> Order & Judgment <input type="checkbox"/> Partial Decree <input type="checkbox"/> Resettled Decree <input type="checkbox"/> Resettled Judgment	<input type="checkbox"/> Resettled Order <input type="checkbox"/> Ruling <input type="checkbox"/> Other (specify):
Court: Supreme Court		County: Choose County	
Dated: 11/3/2022		Entered:	
Judge (name in full): Christie L. D'Alessio		Index No.:	
Stage: <input type="checkbox"/> Interlocutory <input checked="" type="checkbox"/> Final <input type="checkbox"/> Post-Final		Trial: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes: <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury	
Prior Unperfected Appeal and Related Case Information			
<p>Are any appeals arising in the same action or proceeding currently pending in the court? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.</p> <p>Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:</p> <p>Not applicable</p>			
Original Proceeding			
Commenced by: <input type="checkbox"/> Order to Show Cause <input type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus			Date Filed:
Statute authorizing commencement of proceeding in the Appellate Division:			
Proceeding Transferred Pursuant to CPLR 7804(g)			
Court: Choose Court		County: Choose County	
Judge (name in full):		Order of Transfer Date:	
CPLR 5704 Review of Ex Parte Order:			
Court: Choose Court		County: Choose County	
Judge (name in full):		Dated:	
Description of Appeal, Proceeding or Application and Statement of Issues			
<p>Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.</p> <p>Appellant Erik Haight appeals from a final decision, order and judgment entered on November 2, 2022 and every part of the order or judgment from which the appealing party is aggrieved.</p>			

Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

The Supreme Court erred in granting the petition, and in denying Appellant's motion to dismiss, because:

- (1) The purported service of papers on Appellant by email was defective and the Supreme Court lacked jurisdiction;
- (2) The doctrine of laches mandated dismissal of this proceeding due its filing on November 1, 2022, one week prior to the election at issue;
- (3) The Petition failed to state a claim for mandamus because the act complained of (the selection and designation of polling places) is not a ministerial action; and
- (4) A necessary party (Vassar College, which owns the property at issue) was not joined.

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	League of Women Voters of the Mid-Hudson Region	Petitioner	Respondent
2	Taneisha Means	Petitioner	Respondent
3	Magdalena Sharff	Petitioner	Respondent
4	Erik Haight	Respondent	Appellant
5	Hannah Black	Intervenor	None
6	Dutchess County Board of Elections	Respondent	None
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20			

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: David Jensen/David Jensen PLLC

Address: 33 Henry Street

City: Beacon

State: NY

Zip: 12508

Telephone No: 212-380-6615

E-mail Address: david@djensenpllc.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above) Erik Haight

Attorney/Firm Name: James Peluso/Dreyer Boyajian LLP

Address: 75 Columbia Street

City: Albany

State: NY

Zip: 12210

Telephone No: 518-463-7784

E-mail Address: jpeluso@dblawny.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name: Michael Treybich/Treybich Law, P.C.

Address: 272 Mill Street

City: Poughkeepsie

State: NY

Zip: 12601

Telephone No: 845-554-5295

E-mail Address: michael@treybichlaw.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above) Hannah Black

Attorney/Firm Name: Caroline Blackburn/Dutchess County Department of Law

Address: 60 Market Street

City: Poughkeepsie

State: NY

Zip: 12601

Telephone No: 845-486-3051

E-mail Address: cblackburn@dutchessny.gov

Attorney Type: ☐ Retained ☐ Assigned ☒ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above) Dutchess County Board of Elections

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

To commence the statutory time period for appeals as of right (CPLR 5513 [a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

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

PRESENT: HON. CHRISTIE L. D'ALESSIO, J.S.C.

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

**DECISION, ORDER,
AND JUDGMENT**

Index No. 2022-53491

Petitioners-Plaintiffs

-against-

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

Respondents-Defendants.

The following papers were read on the petition filed in connection with this hybrid special proceeding under CPLR Article 78 and declaratory judgment action under CPLR § 3001, seeking, inter alia, the designation of a polling location on the campus of Vassar College in accordance with Election Law § 4-104 [5-a]; NYSCEF Documents no. 1-19.

Upon review of the petition filed by Order to Show Cause, all other written submissions filed to NYSCEF, and upon due consideration of the arguments, testimony and exhibits presented on the record in court on November 3, 2022, by the parties and/or their respective counsel, it is hereby

1. ORDERED that, upon application of the proposed intervenor, Hannah Black in the capacity as a Commissioner of Dutchess County Board of Elections, and with the written consent of petitioner, this case caption is amended to include the proposed intervenor as a named Respondent-Defendant. It is further

2. ORDERED that, the case caption is amended as follows:

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,

Petitioners-Plaintiffs

-against-

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

Respondents-Defendants.
-----X

3. ORDERED that, this Court grants Dutchess County Attorney's unopposed application to recuse itself from representing either or both named Commissioners of the Board of Elections based upon the conflict arising from each Commissioner's adverse position on the merits of the petition. It is further
4. ORDERED that, insofar as the proposed Intervenor's application included a request for reimbursement of attorney fees associated with private representation incurred as a result of the aforementioned conflict, the Dutchess County Attorney's letter submission dated November 2, 2022 states that "County Attorney has no objection to the County's payment of attorney fees associated with private representation of Commissioner Black as a Respondent-Defendant, to the extent such fees are in accord with Dutchess County Local Law No. 4 of 1988". Private counsel may follow the appropriate protocols to submit any such request to the County. That issue is resolved accordingly. It is further
5. ORDERED that, the oral application of counsel for Respondent/Defendant Erik J. Haight in his capacity as Commissioner of the Dutchess County Board of Elections for dismissal of this matter is denied. It is further
6. ORDERED that, this Court grants the petition in its entirety. The plain language of Election Law § 4-104[5-a] which includes the word "shall" (as opposed to "may" or "should") *specifically mandates* the designation of a voting polling place on a college or university campus where, as here, the petitioner demonstrated that the college or university campus contains three hundred or more registrants to vote at an address on such college or university campus.

Any other applications for further relief not specifically granted herein are denied.

The foregoing constitutes the decision, order and judgment of this court.

Dated: November 3, 2022
Poughkeepsie, New York

ENTERED:


HON. CHRISTIE L. D'ALESSIO, J.S.C.

TO:

Filed to NYSCEF

Pursuant to CPLR Section 5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.

DAVID JENSEN PLLC

BEACON ♦ MANHATTAN

33 HENRY STREET
BEACON, NEW YORK 12508

111 JOHN STREET, SUITE 420
NEW YORK, NEW YORK 10038

4 November 2022

Attn. Clerk
Supreme Court of the State of New York
County of Dutchess
22 Market Street
Poughkeepsie, New York 12601

Re: *League of Women Voters of the Mid-Hudson Region, et al. v. Dutchess County Board of Elections, et al.*
Index No. 2022/53491

Dear Sir or Maam:

I represented Erik J. Haight in his official capacity as Election Commissioner of Dutchess County. I submit this "No Fee Authorization Letter" because Commissioner Haight exempt from fees pursuant to § 8017(a) of the Civil Practice Law and Rules.

Please don't hesitate to contact me with any questions or concerns.

Respectfully submitted,

DAVID JENSEN PLLC



David D. Jensen

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DAVID JENSEN PLLC

ATTORNEY AND COUNSELOR AT LAW
NEW YORK PROFESSIONAL LIMITED LIABILITY COMPANY
ADMITTED TO PRACTICE IN NEW JERSEY AND NEW YORK

+ 1.212.380.6615 TEL
+ 1.917.591.1318 FAX
david@djensenpllc.com

**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

Petitioners-Plaintiffs,

-against-

**AFFIRMATION OF
SERVICE**

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

Respondents-Defendants.

- - - - - X

DAVID D. JENSEN, an attorney being duly licensed to practice before the Courts of the
State of New York, hereby affirms the following under the penalties of perjury:

1. I am an attorney practicing via David Jensen PLLC, a professional limited liability
company organized under New York law. I represent Respondent Election Commissioner Erik J.
Haight in this Article 78 proceeding.

2. On the 4th day of November, 2022, I served true copies of the annexed Notice of
Appeal by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office
or official depository of the U.S. Postal Service within the State of New York, addressed to the
last known addressee(s) as indicated below:


James R. Peluso
Dreyer Boyajian LLP
75 Columbia Street
Albany, NY 12210

Aria C. Branch
Justin Baxenberg
Richard Alexander Medina
Renata O'Donnell
Elias Law Group LLP
10 G St NE, Ste 600
Washington, DC 20002

Michael Treybich
Treybich Law, P.C.
272 Mill Street
Poughkeepsie, New York 12601

Caroline Blackburn
Dutchess County Department of Law
22 Market Street
Poughkeepsie, NY 12601

Dated: Beacon, New York
November 4, 2022



David D. Jensen
DAVID JENSEN PLLC
33 Main Street
Beacon, New York 12508
(212) 380-6615 phone

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