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AT AN IAS TERM OF THE
SUPREME COURT HELD IN &
FOR SARATOGA COUNTY AT
THE COURTHOUSE THEREOF
ON SEPTEMBER 8, 2023

PRESENT: HON. James E. Walsh, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
SARATOGA COUNTY

X

In the matter of
RICH AMEDURE,
GARTH SNIDE, ROBERT SMULLEN,
EDWARD COX,
THE NEW YORK STATE REPUBLICAN PARTY,
GERARD KASSAR,
THE NEW YORK STATE CONSERVATIVE PARTY,
JOSEPH WHALEN,
THE SARATOGA COUNTY REPUBLICAN PARTY,
RALPH M. MOHR, ERIK HAIGHT & JOHN QUIGLEY,
Petitioners / Plaintiffs,

-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,

Respondents / Defendants.

X

INDEX NO.

ORDER TO
SHOW CAUSE

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Upon the filing and reading of the annexed verified petition / complaint, duly verified by the attorneys for the Plaintiff / Petitioners, Perillo Hill, LLP, John Ciampoli, Esq. & Adam Fusco, Esq. *of counsel*, on the 31st Day of August 2023, and all of the papers and proceedings heretofore had herein, it is hereby:

ORDERED, that Respondents herein **SHOW CAUSE** before a Special Term of this Court held in and for the County of Saratoga at the Courthouse thereof at SARATOGA COUNTY SUPREME COURT, 30 McMaster Street, Building 3, Ballston Span, New York, 12020, at 9:15 AM in the forenoon of the 20th day of September, 2023, or as soon thereafter as counsel may be heard, as to why an Order of the Court should not be made and entered pursuant to the provisions of the New York State Constitution, Article 78 CPLR, §3001 CPLR, and Article 16 Election Law, thereby,

1. Declaring Chapter 763, New York Laws of 2021 to be unconstitutional upon the causes of action in the annexed verified complaint, and
2. Determining that because the subject Chapter of New York Laws has no severability clause, that the said Chapter 763, New York Laws of 2021 is entirely invalid and that any chapters amending such law are also invalid, and
3. Issuing a preliminary injunction against the Defendant Respondents prohibiting the enforcement of such unconstitutional statutes, and

4. Issuing an order for such other, further and different relief as this Court may deem to be just and proper in the premises.

SUFFICIENT CAUSE APPEARING THEREFOR,

Leave is hereby granted to the Plaintiff / Petitioners to submit on the return date hereof, or any adjourn date thereof, such additional evidence, testimony, affidavits and exhibits as may be necessary, and it is

ORDERED that proof of service may be filed with the Clerk of the Part on the Return Date hereof, and

SUFFICIENT CAUSE APPEARING THEREFOR, it is further

ORDERED, that a copy of this Order to Show Cause together with the papers upon which it was granted be served upon the Defendant Respondents by one of the following methods, at the option of the Plaintiff / Petitioners:

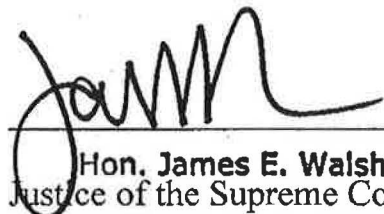
1. By delivering same to such Respondent pursuant to CPLR 308(1) on or before September 13th, 2023, or
2. By delivering same to the offices of such Respondent, and leaving such copy with any person(s) authorized to accept service thereof for said Defendant – Respondent, on or before September 13th, 2023, or alternatively by electronic or fax transmission thereof to the said Defendant Respondent at an e-mail or FAX number designated and maintained for such purpose on or before September 13th, 2023,

3. Or, at the option of the Plaintiff / Petitioner, same may be served upon such Defendant / Respondent by enclosing same in a post paid wrapper and depositing same with a depository of the United States postal Service via Priority Mail EXPRESS service (or alternatively any other recognized overnight delivery service) on or before September 13th, 2023,

4. Or, by any other method of service authorized by the CPLR on or before September 13th, 2023, and that such service shall constitute good and sufficient service and notice thereof.

① 5. Responsive PAPERS DUE by September 18th, 2023.
ENTER:

DATED: September 13th, 2023
Boston Sp4, New York


_____, J.S.C.
Hon. James E. Walsh
Justice of the Supreme Court

SUPREME COURT OF THE STATE OF NEW YORK
SARATOGA COUNTY

X

In the matter of
RICH AMEDURE,
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Petitioners / Plaintiffs,

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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,

VERIFIED PETITION

Respondents / Defendants.

X

TO: THE SUPREME COURT OF THE STATE OF NEW YORK

PETITIONERS / PLAINTIFFS, as captioned hereinabove, do hereby complain of the above captioned Respondents / Defendants and hereby petition this Court and state as follows:

NATURE OF THE CASE

1. This is a hybrid proceeding brought pursuant to Article 16 of the Election Law, an Article 78 Proceeding pursuant to Article 78 CPLR, and a declaratory judgment action brought pursuant to the New York Civil Practice Law and Rules, ("CPLR") 3001.
2. Plaintiff's declaratory judgment action seeks a determination, and order declaring that Chapter 763 of the New York State laws of 2021, A.7931 /S. 1027-A (hereinafter, the "Statute", "the Chapter", or "Chapter 763") passed by Defendants Assembly and Senate of the State of New York, and then signed into law by the Defendant Governor, amending §9 – 209 Election Law and other related sections of law, to accelerate the canvass of absentee and other paper ballots, is in conflict with other statutes and violative of the New York State Constitution as set forth herein.
3. The Statute violates the Constitution of the State of New York ("Constitution") and interferes with the constitutionally protected rights of citizens, electors, candidates, and political parties to engage

in the political process as prescribed by the Constitution. Accordingly, Plaintiffs seek a judgement declaring the statute unconstitutional on its face and as applied on the basis that: (a) In enacting the Statute, the Legislature exceeded the authority granted to it by Article II, §2 of the Constitution; (b) the Statute is inconsistent with and in direct conflict with the Constitution and other applicable statutes, such that it can not be enforced without a violation thereof; (c) the Statute impermissibly interferes with Plaintiffs / Petitioners' rights to free speech and free association as guaranteed by the New York State Constitution; (d) the Statute impermissibly opens the election process to the counting of improper and invalid votes, including fraudulent votes; the Statute is unconstitutionally vague.

4. Plaintiff – Petitioners seek a preliminary injunction as against the Defendant – Respondents enjoining the enforcement of the unconstitutional provisions of the New York State Chapter of Laws challenged herein.
5. Plaintiff – Petitioners seek their declaratory judgment, and other relief, as to the 2024 election cycle, unless the court determines that the relief may be applied immediately.

6. Plaintiff – Petitioners seek Article 78 relief as it is arbitrary and capricious action by any administrative agency to enforce a law which violates the Constitution. Further a mandamus / prohibition order should issue prohibiting such enforcement.

THE PARTIES

7. Plaintiff – Petitioner New York State Republican Party is an unincorporated association and a political party organized under the provisions of the Election Law. Its principal office is located at 315 State Street, Albany, New York.
8. Plaintiff – Petitioner Edward Cox is the Chairman and a member of the State Republican Party. He is a resident, elector and taxpayer of Suffolk County, and the State of New York. He resides in Suffolk County, New York.
9. Plaintiff – Petitioner New York State Conservative Party is an unincorporated association and a political party organized under the Election Law. Its principal office is located at 486 78th Street, Brooklyn, New York.
10. Plaintiff – Petitioner Gerard Kassar is Chairman and a member of the New York State Conservative Party. He is a resident, elector and

taxpayer of Kings County and the State of New York. Plaintiff Kassar resides in Kings County (Brooklyn), New York.

11. Plaintiff – Petitioner Joseph Whalen is Chairman of the Saratoga County Republican party and a Member of the New York State Republican party. He is a resident, elector and taxpayer of Saratoga County and New York State. Plaintiff Whalen resides in Saratoga County New York.
12. Plaintiff – Petitioner Saratoga Republican Party is a county party committee and unincorporated association organized under the terms of the Election Law to represent the party in Saratoga County.
13. Plaintiff – Petitioner Ralph M. Mohr is a Commissioner of Elections and a member of the Erie County Board of Elections.
14. Plaintiff – Petitioner Erik Haight is a Commissioner of Elections and a member of the Dutchess County Board of Elections.
15. Plaintiff – Petitioner John Quigley is a Commissioner of elections and a member of the Ulster County Board of Elections.
16. Plaintiff – Petitioner Robert Smullen is a Member of the New York State Assembly, 118th Assembly District, and a resident, elector and taxpayer of Fulton County and the State of New York. He intends to seek re-election to the Assembly in 2024.

17. Plaintiff - Petitioner Rich Amedure has been a candidate for member of the New York State Senate, and is considering candidacy for such office in 2024. He is a resident, elector and taxpayer of Albany County and New York State. He resides in Albany County, New York.
18. Plaintiff - Petitioner Garth Snide is a resident elector and taxpayer of Saratoga County. He has, in the past, availed himself of an absentee ballot when he was outside his home county.
19. Defendant – Respondent State of New York, by the Attorney General, is the body bound by the Constitution, including but not limited to its executive and legislative branches of government, Defendant Governor, Defendant Senate, Defendant Assembly and the Defendant State Board of Elections.
20. Defendant - Respondent New York State Board of Elections is a bipartisan body of the State vested with the power to oversee and manage the administration and enforcement of all laws relating to elections in the State of New York.
21. In addition to its regulatory and enforcement responsibilities; the Defendant – Respondent Board is charged with the administration and supervision of the election process and the preservation of citizens' confidence in the election process and election integrity.

22. Defendant – Respondent Board of Elections supervises the election process administered by the fifty seven county boards of elections and in the five counties comprising the City of New York, by supervising the City’s board of elections.
23. Defendant – Respondent Governor of the State of New York, Kathy Hochul, is the head of the Executive Branch of Government in New York State. The Governor’s powers and duties are expressly set forth in the Constitution. The Governor approved the Statute by signing same into law, and is ultimately responsible for the enforcement of the laws of the State of New York.
24. Defendant – Respondent New York State Senate is the upper house of the New York State legislature empowered by the Constitution to represent the will of the people of New York State by drafting and approving changes to the laws of the State. The Senate adopted the Statute which is challenged herein.
25. Defendant – Respondent Majority Leader and President Pro Tempore of the Senate, Andrea Stewart Cousins, is an officer and leader of the Senate. She is elected by and represents the Majority Conference of the Senate.

26. Defendant – Respondent Robert Ortt is an officer and leader of the Senate. He is elected by and represents the Minority Conference of the Senate.
27. Defendant – Respondent New York State Assembly is the lower house of the New York State Legislature empowered by the Constitution to represent the will of the people of New York State by drafting and approving changes to the laws of the State. The Assembly adopted the Statute which is challenged herein.
28. Defendant – Respondent Speaker of the Assembly, Carl Heastie, is an officer and leader of the Assembly. He is elected by and represents the Majority Conference of the Assembly.
29. Defendant – Respondent William Barclay is an officer and leader of the Assembly. He is elected by and represents the Minority Conference of the Assembly.

JURISDICTION AND VENUE

30. This Court has jurisdiction over the parties and the substantive issues and claims set forth in this action pursuant to Article 3 CPLR.
31. The within declaratory judgment action is brought pursuant to CPLR §3001.

32. An actual justiciable controversy exists among Plaintiffs and Defendants within the meaning of CPLR §3001.
33. Here, the Respondent New York State Board of Elections is enforcing statutory provisions that contravene the Constitution, which may be enjoined pursuant to Article 78 CPLR.
34. Pursuant to §503 CPLR, venue of this action is proper in Saratoga County, State of New York.
35. Plaintiff – Petitioner Whalen is a resident of Saratoga County.
36. Plaintiff – Petitioner Snide is a resident of Saratoga County.
37. Plaintiff – Petitioner Saratoga County Republican Committee is an unincorporated association / party committee organized and operating in Saratoga County.
38. Said Plaintiffs – Petitioners, Whalen, Snide, and Saratoga Republican Party hereby designate Saratoga County as venue for these proceedings.
39. All of the individuals who are Plaintiff – Petitioners in this action are voters whose rights are adversely affected by the provisions of law put in place by Chapter 763, New York Laws of 2021.
40. Plaintiff – Petitioners who are party committee chairmen and the party committees they represent will and intend to have poll watchers

present for the canvass of ballots in future elections including the 2024 General Election, and are adversely affected by the provisions of law put into place by Chapter 763 of the Laws of 2021.

41. Plaintiffs – Petitioners who will be candidates for public office in 2024 intend to have poll watchers present and participating in the canvass and recanvass of ballots in the election(s) they are competing in. They will be adversely affected by the provisions of law put into place by Chapter 763 of the New York Laws of 2021.
42. Plaintiffs – Petitioners who are commissioners of elections will not be able to perform their statutory duties and are adversely affected by the provisions of law put into place by Chapter 763 of the New York Laws of 2021.

BACKGROUND – NATURE OF THE CHALLENGE

43. Plaintiff – Petitioners make their claims under the provisions of the New York State Constitution and New York State Statutes.
44. Any claims based upon federal law or the U.S. Constitution are hereby expressly reserved for a federal forum, see England v. Louisiana State Board of Medical Examiners, 375 U.S. 411 (1964).
45. Plaintiff – Petitioners’ challenge herein is to the entirety of the Chapters specified and to any subsequent amendments thereto.

46. Chapter 763 has no severability clause. The entirety of the Chapter must fall and is void upon any finding of unconstitutionality by this Court.

47. Each of the causes of action herein shall be put forward as a challenge to the constitutionality of the Chapter as well as a challenge to the Chapter as it is applied to the Plaintiffs – Petitioners.

**FIRST CAUSE OF ACTION – CHAPTER 763
UNCONSTITUTIONALLY IMPAIRS THE RIGHTS OF VOTERS**

48. The license granted to the Legislature to regulate the “how, when, and where” of absentee voting must not, however, contravene the constitutional rights of the voters, candidates and political parties.

49. Moreover, the legislature is NOT empowered by Article II §2 of the New York State Constitution to protect illegal conduct, abridge due process, deprive the Judiciary – co-equal branch of government - of the ability to perform its duties and review administrative determinations, or to provide for ballots of persons who are not qualified to vote to be included in the votes that determine who our elected representatives will be.

RELEVANT PROVISIONS OF THE ELECTION LAW & CPLR

50. In addition to seeking a declaratory judgment, Plaintiff – Petitioners seek relief under the provisions of Article 16 Election Law (and related sections of such law) and Article 78 CPLR as are hereinafter referenced and relied upon.
51. Pursuant to Article II §2 of the Constitution, the Legislature enacted Article Eight of the Election Law (a general law) to, *inter alia*, erect a system for absentee voting.
52. Article Eight, Title Four of the Election Law provides for absentee voting.
53. Article Eight, Title Five of the Election Law provides for challenging voters.
54. Article Nine of the Election Law (a general law) provides for canvassing procedures.
55. The challenged Chapter Law, Chapter 763, materially interferes with Plaintiff – Petitioners’ rights under the Constitution and statutes of this State as hereinafter set forth.
56. Under the provisions of Chapter 763, Laws of 2021, if a voter’s name appears in the pollbook or on the computer generated registration list, with a notation that the Board of Elections has issued the voter an absentee, military, or special ballot such voter shall NOT be permitted

to vote on the voting machine at an early voting site or on Election Day, but will only be allowed an affidavit ballot. That affidavit ballot will be invalidated where the Board of Elections has canvassed the absentee before Election Day.

57. This deprives the voter of the right to change his / her mind on (or before) the day of Election, which right was preserved by prior law that required an absentee ballot to be set aside and NOT counted and canvassed if the voter appeared at the polls on election day (or during early voting) and voted in person.

58. In fact, this new law challenged herein misleads the voter by permitting him / her to cast a provisional ballot (affidavit ballot) on the days the polls are open.

59. Where the Board of Elections has received an application in the voter's name (authentic or fraudulent) and issued and canvassed the returned ballot (genuine or fraudulent) the Chapter MANDATES the ballot cast in person to be invalidated and discarded.

60. It is respectfully submitted that Chapter 763 not only protects fraudulent votes from the post-election scrutiny that they have traditionally received, but that it favors fraudulent ballots over genuine ballots cast in person.

61. This, further, interferes with the voters' rights of free speech and Free Association as guaranteed by the New York State Constitution under the provisions of Article I, §§ 8 & 9 by *inter alia*, not allowing them to change their mind on the day of the election.

62. The Chapter challenged herein actually promotes the canvassing of votes cast in contravention of the law and the Constitution – including falsified ballots cast from those not qualified to vote, people who were defrauded in the voting process, and even persons who have died prior to the day of the election (and, of course, were therefore not qualified to vote).

63. The perpetrator of fraud is assured, under the provisions of this Chapter, that ballots illegally harvested will not be the subject of review during the canvass / recanvass by election officials, or invalidation by the Board of Elections (or in Court). Upon information and belief, based upon reports from local Boards of Elections, as applied in the 2022 and 2023 primary elections, the provisions of Chapter 763, Laws of 2021, have resulted in instances where persons who were not true citizens of the State of New York and even dead persons had their votes canvassed and included with the votes of

legitimate citizens who were qualified to vote and actually alive on the date of the Primary Election.

64. In 2022, in the Matter of Shiroff v. Mannion, 77 Misc. 3d 1203(A), the Court held,

“In 2021, the New York State Legislature amended the process by which absentee, military, special and affidavit ballots ("paper ballots") are canvassed under Election Law § 9-209, as well as the procedure by which those canvasses can be challenged under Article 16 of the Election Law (Laws 2021, Chapter 763). In these special proceedings, the candidates seek the issuance of temporary restraining orders altering that canvassing process under Section 9-209 to direct, among other things, the preservation of the paper ballot envelopes during the post-election canvassing, similar to the procedure followed in O’Keefe v. Gentile (1 Misc 3d 151, 757 N.Y.S.2d 689 [Sup Ct Kings Cty 2003]), as well as the advanced production of records and materials by the Boards of Elections that the candidates claim will assist them in reviewing the validity of paper ballots during the canvassing.

However, the authority of the Courts in an Election Law proceeding is strictly limited, and the only relief that may be awarded is that which has been expressly authorized by statutory [**2] provision (Jacobs v. Biamonte, 38 AD3d 777, 778, 833 N.Y.S.2d 532 [2d Dept 2007]). The Courts cannot intervene in the actual canvassing of ballots by the Boards of Elections, and do not have the authority to modify the statutory procedures governing that canvassing or its timing” Shiroff v. Mannion, supra.

65. What is most poignant in this ruling is that the trial Judge was the same Judge who decided Tenney v. Oswego County Board of

Elections, 70 Misc3d 680; 71 Misc.3d 385; 71 Misc.3d 421; 71 Misc.3d 400; 2020 N.Y. Misc. LEXIS 1105.

66. In Tenney v. Oswego County BOE, supra, there was extensive, outcome determinative, litigation in which detailed review of ballots, applications and related elections documents was conducted. The litigation featured orders to the Boards of Elections in the Congressional district to correct erroneous practices that had resulted in disenfranchisement of voters.
67. The litigation in Tenney, supra resulted in that Congressional contest being the last to be decided in America. The careful scrutiny of the process and the ballots, however, resulted in no appeal from the final order. The result of the election was that Congresswoman Claudia Tenney upset an incumbent Member of Congress.
68. There can be no question that the results took a long time to get to, however, they were correct and conclusive due to Judicial review.
69. Justice Del Conte commented from the bench in Shiroff that he was sure that the Legislature's actions in enacting Chapter 763 were in direct response to what occurred in Tenney, supra.

70. He then ruled that the Judiciary had been effectively precluded from conducting the type of review that the Law at the time of Tenney, supra, allowed for.
71. The Shiroff case, supra, saw an election decided by only ten votes out of 123,148 votes cast – a 0.008% difference.
72. Counsel is certain that strict scrutiny of ballots and election processes would have yielded a different result.
73. The voters were given quicker results in Shiroff, supra, but not necessarily the accurate results that the Tenney, supra, era law delivered.
74. Most recently Chapter 763 reared its ugly head in a primary election in Queens County. In Chen v. Pai, Index No. 713743/2023, the petitioner asked “... to have the Court rule on the casting and canvassing of improper votes, or the refusal to cast and canvas proper votes, and other protested and challenged ballots of whatever kind, as well as fraud in connection with absentee ballots and other ballots” because of alleged fraud including “... votes were cast by absentee ballots by persons who signed the absentee ballot envelope but were not, in fact, the duly enrolled voter whose name they signed. Voting

by such imposters is unlawful and fraudulent” NYSCEF, Index No. 713743/2023, Doc. 1.

75. In Chen v. Pai, supra, the Petitioner was unable to present any “challenged ballots” see Election Law § 16 – 106(1) to the Court. This was because the challenged Chapter prohibits a poll watcher from making challenges (“Nothing in this section prohibits a representative of a candidate, political party, or independent body entitled to have watchers present at the polls in any election district in the board’s jurisdiction from observing, without objection, the review of ballot envelopes” § 9 – 209(5)”).

76. The Court concluded, “A thorough review of the allegations set forth in the petition has demonstrated that petitioner has failed to sufficiently detail the number of incidents of voter fraud alleged” NYSCEF Index No. 713743/2023, Doc. 30.

77. While the Petitioner’s position in that matter was that there was no fraud, assuming *arguendo*, that there was fraud, the deprivation of a participatory administrative process (the canvass) would serve to prevent an aggrieved candidate from having any opportunity to detect the fraud.

78. This situation was intentionally exacerbated by the Legislature by spreading out the canvass of ballots over a period of more than a month preceding the election – with canvassing to be done every four days, see Chapter 736.
79. In fact, a recanvass every four days not only discourages or prevents candidate from participation, but invites any person or person choosing to affect the results of an election via a fraudulent harvesting of absentee ballots has an invitation – via Chapter 763, Laws of 2021 – to flood the ballot boxes with illegal absentees, which cannot be objected to and will be swept into the count every four days.
80. Upon information and belief, based upon reports from Boards of Elections, the provisions of Chapter 763 have resulted in multiple instances where persons who were not true citizens of the State of New York, and even dead persons, had their votes counted and included with the votes of legitimate citizens who were qualified to vote and actually alive on election day.
81. The voters of this state are entitled to have their right to vote protected against vote dilution.

82. The voters of this state have the right to be able to change their mind(s) as to who they will vote for up to and including the day of the election.

83. Further, voters should not be misled as to their ability to make a choice on any day of balloting by being issued a provisional (affidavit) ballot that is certain to be invalidated and discarded so as to allow the ballot that no longer reflects the voter's choice to be counted.

84. This impermissibly impinges upon the Constitutional rights of Free Speech and Free Association.

85. This irreparably harms your Plaintiff – Petitioners, and requires a remedial order.

86. Accordingly, this Court must declare the provisions of Chapter 763 to be unconstitutional (and / or unconstitutional as applied) and enjoin its enforcement by Defendant-Respondents.

SECOND CAUSE OF ACTION - CHAPTER 763 UNCONSTITUTIONALLY IMPAIRS THE RIGHTS OF CANDIDATES AND POLITICAL PARTIES

87. Each and every allegation contained in the preceding paragraphs is hereby repeated and re-alleged as if fully set forth herein.

88. It is beyond dispute that the early canvassing provided for by Chapter 763, Laws of 2021, also categorically squelches any administrative

proceedings challenging illegal, improper, or fraudulent votes (and votes by the dead and non-citizens).

89. The New York State Constitution establishes the right to due process of law and equal protection under these laws. It states, “No person shall be deprived of life, liberty or property without due process of law” Constitution, Article 1, § 6. Further, “No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall be denied the equal protection of the laws of this state or any subdivision thereof” Constitution, Article I, § 11.

90. The right to due process applies to administrative proceedings.

91. This right attaches to the proceedings conducted by a Board of Elections. That includes administrative proceedings relating to the canvass of ballots under the provisions of Chapter 763, Laws of 2021.

92. The essence of the right to due process in the administrative setting is two pronged. There must be: 1. adequate notice, and 2. an adequate opportunity to be heard.

93. Plaintiff - Petitioners are entitled by law to have watchers participate in the administrative proceedings of the Boards of Elections by law, see Election Law § 8 - 500.

94. By purporting to preclude any objections to ballots Chapter 763, Laws of 2021 deprives Plaintiffs - Petitioners of due process of law.
95. This is because the Plaintiffs - Petitioners are entitled to watchers, however, those representatives, by this new law, are deprived of the right to be heard, and the administrative agency has been prohibited from acting on a watcher's objections to invalidate a ballot that is improper or illegal.
96. Also, the public policy of this state gives Plaintiffs - Petitioners the right to have ***ONLY A LIST OF ABSENTEE VOTERS BEFORE*** the day of election, see Election Law § 8-402, as cited in Jacobs v. Biamonte, 15 Misc.3d 223, affd, 38 A.D.3d 777 (2nd Dept., 2007).
97. The implication of Jacobs, supra, is that the applications and other relevant data are made available only after the election when there is a close race and a contested canvass proceeding at the Board of Elections, and / or a post-election contest pursuant to Article 16 Election Law.
77. Chapter 763, Laws of 2021, requires the Board of Elections to canvass ballots not less than ten times during the forty days prior to Election Day.

98. It does not allow for the party chairs, candidates, or any other citizen to obtain the records that would allow for meaningful participation in the canvass process.

99. This Chapter further circumscribes the commencement of a pre-election impoundment under §16 - 112 Election Law to preserve ballots and election data in contemplation of a future contest. (Such orders are / have been commonly brought where the race is expected to be close; and are often brought with the consent of the party committees and candidates.)

100. These impermissible restrictions deprive Plaintiffs - Petitioners of their due process rights, and access to the Courts.

101. Accordingly, Chapter 763 of the Laws of 2021 must be declared to be unconstitutional as depriving Plaintiffs - Petitioners of the right to Due Process of Law as specified by the New York State Constitution.

THIRD CAUSE OF ACTION - CHAPTER 763 UNCONSTITUTIONALLY IMPAIRS THE RIGHTS OF COMMISSIONERS OF ELECTIONS AND PREVENTS THEM FROM PERFORMING THEIR DUTIES

102. Each and every allegation contained in the preceding paragraphs is hereby repeated and re-alleged as if fully set forth herein.

103. It is respectfully submitted that a Commissioner of Elections participating in administrative procedures to canvass ballots has a duty under the Law to entertain and rule on objections from poll watchers legally present at the canvass of ballots.

104. In fact, each Commissioner of Elections has taken an oath to enforce the terms of the Constitution and the statute.

105. The Chapter of Law that is the subject of these proceedings precludes any Commissioner of Elections from ruling on a poll watcher's objection so as to result in the invalidation of any ballot.

106. This effectively prohibits Elections Commissioners from performing their duties.

107. Additionally, it prohibits Elections Commissioners from exercising their rights of free speech (making a ruling) and free association (determining to associate him / herself with the arguments advanced by the poll watcher / objector) in contravention of the State Constitution.

108. The "early canvassing" provisions of Chapter 763, Laws of 2021, effectively prevents the Board of Elections and its Commissioners from performing their duties to investigate the validity of applications and ballots issued thereon.

109. Accordingly, this Court should declare the subject statute to be unconstitutional.

FOURTH CAUSE OF ACTION - THE STATUTE IMPERMISSABLY
COMPROMISES VOTERS' RIGHTS TO HAVE A SECRET BALLOT

110. Each and every allegation contained in the preceding paragraphs is hereby repeated and re-alleged as if fully set forth herein.

111. It is the personal experience of Counsel that where the number of ballots in a particular Election District is so small that there are only a few or even one or two ballots to be counted that the secrecy of the ballot guaranteed by Article II, § 7 of the New York State Constitution is compromised.

112. Here the compromise of the secrecy of voters' ballots occurs on two levels due to Chapter 736, Laws of 2021.

113. First, the drive to have pre-election canvassing occurring every four days before the day of election assures that the number of times that the voters' secret ballots will be compromised will rise exponentially.

114. This compromise of a fundamental right of the individual voters guaranteed by the Constitution is intolerable.

115. In this highly polarized political environment, the voters will be subject to threat, pressure, and ridicule from political operatives who will use their knowledge of the canvassing process to get voters to cast the ballots as they desire.
116. Concomitantly, voters who do not cast their votes as desired by political operatives will leave them vulnerable to retaliation.
117. This is exactly why we hold the secret ballot sacrosanct. It demonstrates a clear case of the Legislature sacrificing constitutional rights to achieve political ends.
118. Secondly, the new Statute requires the Boards of Elections to conduct a running, but "secret" canvass of the votes, see § 9 - 209 (6).
119. This provision is not only unworkable, but completely unrealistic.
120. Poll watchers are still entitled to see the face of each ballot when it is canvassed (but now are prohibited from objecting to ballots that do not conform to the law).
121. Nothing can stop poll watchers (or election personnel present at the canvass) from keeping a tally of the votes (or identifying particular voters' ballots).

122. We note here that where the voters engage in writing in their votes (as was recently the case in the election for the office of mayor of the City of Buffalo) voting machines used to scan the ballots will segregate any ballot with a “write-in vote”. Further compromising the right of the voters to a secret ballot.
123. Further, many of the election workers are party committee members or volunteers for candidates’ campaigns.
124. This state has party officers, including committee chairs, and party committee members, serving as commissioners, deputy commissioners and other election officers.
125. Accordingly, Chapter 763 contemplates the absolute absurdity of a person keeping the canvass results a secret from him or herself.
126. The inescapable conclusion here is that the sieve designed by the Legislature compromises the Constitutional right to a secret ballot in several ways.
127. The compromise of Constitutional Rights and absurdities created by this Chapter would be completely avoided by this Court declaring the new law unconstitutional and leaving the post-election canvass until the day of election is over.

128. This Court should declare the subject statute to be unconstitutional for compromising the voters rights to a secret ballot pursuant to Article I, §11 of the New York State Constitution.

FIFTH CAUSE OF ACTION - THE CHALLENGED STATUTE
UNCONSTITUTIONALLY REMOVES THE POWER OF JUDICIAL
OVERSIGHT OVER ADMINISTRATIVE PROCEEDINGS

129. Each and every allegation contained in the preceding paragraphs is hereby repeated and re-alleged as if fully set forth herein.

130. The Constitution establishes the Judiciary as an independent co-equal branch of government.

131. Article VI, §7 of the New York State Constitution gives the Supreme Court jurisdiction over all questions of law emanating from the Election Law.

132. It is fair to say that the Courts of our state have authority to review the determinations made by administrative agencies in our state, see generally, *Judicial Review of Administrative Action in New York: An Overview and Survey*, *St. John's Law Review*, Vol. 52 No.3 (1978), Gabrielli & Nonna.

133. Here, in addition to the general provisions of Article 78 CPLR, we have the Election Law which provides that, “The supreme court is vested with jurisdiction to summarily determine any question of law or fact arising as to any subject set forth in this article, which shall be construed liberally”, see Election Law § 16 - 101(1).

134. It is only logical to conclude that the administrative process of ballot review is (and should be) subject to Court review.

135. Under the Election Law the Courts have declared:

“The Court's role in this proceeding is to preserve the integrity of the electoral system by ensuring that the laws governing elections are strictly and uniformly applied. (Gross v. Albany County Bd. of Elections, 3 N.Y.3d 251, 258, 785 N.Y.S.2d 729, 819 N.E.2d 197 [2004]). This means ensuring that every single valid vote - and only every single valid vote - is counted. Accordingly, all rulings in this Decision and Order are based upon either existing appellate authority or the plain language of the governing statutes and regulations, and each ruling is applied equally to all similarly situated ballots. Previously, this Court exercised its statutory authority and ordered the Boards of Elections to carry out their “dut[ies] imposed by law” by canvassing all ballots in accordance with the provisions of Election Law § 9-209 Election Law § 16-106[4]). Now, in determining the validity of the properly canvassed ballots, only ballots that were challenged during the canvasses, and only the objections made by the candidates at those canvasses, are considered Gross, 3 N.Y.3d 251; Benson v. Prusinski, 151 A.D.3d 1441, 1444, 58 N.Y.S.3d 685 [3d Dept. 2017]”, Tenney v. Oswego County Board of Elections, 71 Misc.3d 400 (Sup. Ct., Oswego Co., 2021).

136. Provisions for Judicial proceedings under the Election Law are set forth in Article 16 of the Election Law. The former provisions of § 9 - 209 of the Election Law stated:

“If the board cannot agree as to the validity of the ballot it shall set the ballot aside, un-opened, for a period of three days at which time the ballot envelope shall be opened and the vote counted unless otherwise directed by an order of the court”.

137. The provisions of Article Nine were seamlessly linked to the provisions of §16 - 112, which states:

“Proceedings for examination or preservation of ballots. The supreme court, by a justice within the judicial district, or the county court, by a county judge within his county, may direct the examination by any candidate or his agent of any ballot or voting machine upon which his name appeared, and the preservation of any ballots in view of a prospective contest, upon such conditions as may be proper”.

138. The actual review of ballots and materials which are preserved is addressed in §16 - 102 Election Law. The statute provides:

“The casting or canvassing or refusal to cast challenged ballots, blank ballots, void or canvass absentee, military, special federal, federal write-in or emergency ballots and ballots voted in affidavit envelopes by persons whose registration poll records were not in the ledger or whose names were not on the computer generated registration list on the day of election or voters in inactive status, voters who moved to a new address in the city or county or after they registered or voters who claimed to be enrolled in a party other than that shown on their

registration poll record or on the computer generated registration list and the original applications for a military, special federal, federal write-in, emergency or absentee voter's ballot may be contested in a proceeding instituted in the supreme or county court, by any candidate or the chairman of any party committee, and by any voter with respect to the refusal to cast such voter's ballot, against the board of canvassers of the returns from such district, if any, and otherwise against the board of inspectors of election of such district. If the court determines that the person who cast such ballot was entitled to vote at such election, it shall order such ballot to be cast and canvassed if the court finds that ministerial error by the board of elections or any of its employees caused such ballot envelope not to be valid on its face.

2. The canvass of returns by the state, or county, city, town or village board of canvassers may be contested, in a proceeding instituted in the supreme court by any voter, except a proceeding on account of the failure of the state board of canvassers to act upon new returns of a board of canvassers of any county made pursuant to the order of a court or justice, which may be instituted only by a candidate aggrieved or a voter in the county." Election Law §16 - 102.

139. By enactment of Chapter 763, Laws of 2021 the Legislature has completely abridged any person - be it a candidate, party chair, election commissioner or voter from contesting a determination by the Board of Elections to canvass an illegal or improper ballot. Moreover, a partisan split on the validity of a ballot is not accompanied by a three-day preservation of the questioned ballot for judicial review. Rather, the Supreme Court is divested of jurisdiction as now the ballot envelope is to be immediately burst and the ballot intermingled with all others for canvassing.

140. The offending statute enables a single member of the bipartisan Board of Elections to control the outcome of the canvass and prevent a determination to not canvass any ballot which is improper or illegal by “splitting” in the vote from his / her counterpart. In all such cases this statute compels the canvassing of the ballot without regard to the merits, and further the Statute precludes any Court review.
141. This precludes any meaningful proceeding to determine the validity of the ballot.
142. The Legislature has, in contravention of the Constitution and statute, prohibited the Courts from performing their duty by the statute's dictate "In no event may a court order a ballot that has been counted to be uncounted" see §9 - 209 Election Law at sub sections (7)(j) and (8)(e).
143. Thus, should the Supreme Court, or the Appellate Courts, determine that a voter was not entitled to vote at the subject election, or that the ballot in question was fraudulent, the Legislature has actually reached into the courtroom and stopped the Judiciary from doing its appointed job under the terms of the Constitution.

144. Accordingly, the Statute must be declared unconstitutional as it violates the terms of the Constitution which empower the Judiciary to review administrative determinations.

**SIXTH CAUSE OF ACTION - THE CHALLENGED STATUTE
UNCONSTITUTIONALLY VIOLATES THE DOCTRINE OF SEPARATION
OF POWERS.**

145. Each and every allegation contained in the preceding paragraphs is hereby repeated and re-alleged as if fully set forth herein.

146. The Constitution establishes the Judiciary as an independent co-equal branch of government.

147. Here, Chapter 763, Laws of 2021 actually and effectively pre-determines the validity of any of the various ballots which may be contested pursuant to the provisions of §16 - 112 Election Law.

148. The Legislature has clearly usurped the role of the Judiciary in enacting this new statute.

149. This is an overreach by the Legislature which is a flagrant violation of the Doctrine of Separation of Powers.

150. Accordingly, this Court must declare the challenged statute to be unconstitutional for its violation of the Separation of Powers

Doctrine and a legislative act in excess of the powers allowed to the Legislature.

**SEVENTH CAUSE OF ACTION - THE CHALLENGED STATUTE
UNCONSTITUTIONALLY CURTAILS THE ABILITY OF THE PLAINTIFFS -
PETITIONERS TO EXERCISE THEIR RIGHTS UNDER THE ELECTION LAW**

151. Each and every allegation contained in the preceding paragraphs is hereby repeated and re-alleged as if fully set forth herein.
152. Here, Chapter 763, Laws of 2021 actually and effectively pre-determines the validity of any of the various ballots which may be contested pursuant to the provisions of §16 - 112 Election Law, by preventing the Plaintiffs - Petitioners from preserving their objections at the administrative level for review by the Courts.
153. The new Chapter explicitly precludes poll watchers appointed by your Plaintiffs-Petitioners from making objections, see Election Law §9-209 (5) as amended by Chapter 763, Laws of 2021.
154. Recording objections at the Board of Elections to ballots being contested is a pre-requisite to litigating the validity of same before the Supreme Court.

155. The candidates, party chairs and voters allowed to contest determinations of validity or invalidity of ballots under the provisions of Article 16 Election Law will be, and are, precluded from making a case because they cannot exhaust administrative remedies by recording any objections at the administrative level of the post-election proceeding.
156. This deprives the Plaintiffs - Petitioners from seeking redress from the Supreme Court under Election Law §16 - 112.
157. Accordingly, the due process, free speech, and free associational rights provided by the Constitution, in addition to the statutory rights provided by the Election Law, and the right to proceed before the Courts has / have been improperly abridged by the enactment of Chapter 763, Laws of 2021.
158. This Court should enter a declaratory judgment striking the offending Statute as unconstitutional.

**EIGHTH CAUSE OF ACTION- THE CHALLENGED STATUTE
UNCONSTITUTIONALLY CURTAILS THE ABILITY OF THE PLAINTIFFS -
PETITIONERS TO EXERCISE THEIR RIGHTS UNDER THE ELECTION
LAW**

159. Each and every allegation contained in the preceding paragraphs is hereby repeated and re-alleged as if fully set forth herein.

160. The prohibition of a poll watcher from making objections to a ballot is a per se violation of the right of Free Speech granted to such poll watchers and the Plaintiffs - Petitioners who appoint them.

161. Additionally, the new statute curtails a poll watcher's meaningful access to subject ballots, abridging their substantive rights to freely associate and exercise political speech.

162. Accordingly, the offending Statute must be stricken as unconstitutional.

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NINTH CAUSE OF ACTION - THE CHALLENGED STATUTE
IMPERMISSABLY CONFLICTS WITH THE RIGHTS CONFERRED
BY OTHER SECTIONS OF THE ELECTION LAW

163. Each and every allegation contained in the preceding paragraphs is hereby repeated and re-alleged as if fully set forth herein.
164. Poll watchers are defined by, and the authority to appoint watchers is established by, Title V of Article 8 of the Election Law.
165. The provisions of §8 - 502 allow for watchers to challenge “any Person” as to their right to vote.
166. This provision of law applies to the polling places on the days of election and to the central polling place at which absentee and other paper ballots are canvassed, see §8 - 506 Election Law.
167. Section 8 - 506 expressly regulates the entry of objections at the central polling place set for the canvass of absentee, military, federal and other paper ballots.
168. This section of the law provides:
- “1. During the examination of absentee, military, special federal and special presidential voters' ballot envelopes, any inspector shall, and any watcher or registered voter properly in the polling place may, challenge the casting of any ballot upon the ground or grounds allowed for challenges generally, or (a) that the voter was not entitled to cast an absentee, military, special federal or special presidential

ballot, or (b) that notwithstanding the permissive use of titles, initials or customary abbreviations of given names, the signature on the ballot envelope does not correspond to the signature on the registration poll record, or (c) that the voter died before the day of the election.

2. The board of inspectors forthwith shall proceed to determine each challenge. Unless the board by majority vote shall sustain the challenge, an inspector shall endorse upon the envelope the nature of the challenge and the words "not sustained", shall sign such endorsement, and shall proceed to cast the ballot as provided herein” Should the board, by majority vote, sustain such challenge, the reason and the word "sustained" shall be similarly endorsed upon the envelope and an inspector shall sign such endorsement. The envelope shall not be opened and such envelope shall be returned unopened to the board of elections. If a challenge is sustained after the ballot has been removed from the envelope, but before it has been deposited in the ballot box, such ballot shall be rejected without being unfolded or inspected and shall be returned to the envelope. The board shall immediately enter the reason for sustaining the challenge on such envelope and an inspector shall sign such endorsement.

3. If the board of inspectors determines by majority vote that it lacks sufficient knowledge and information to determine the validity of a challenge, the inspectors shall endorse upon the ballot envelope the words "unable to determine", enter the reason for the challenge in the appropriate section of the challenge report and return the envelope unopened to the board of elections. Such ballots shall be cast and canvassed pursuant to the provisions of section 9-209 of this chapter” Election Law §8-506, emphasis added.

169. Obviously, the provisions of Chapter 763, Laws of 2021 are in direct conflict with the existing provisions of Article Eight, Title Five of the Election Law.

170. This conflict might be attributed to poor draftsmanship by the Legislature. It might be attributed to an ignorance of the Election

Process as established by the Law and as carried out for decades.

171. Whatever the root cause of this conflict of laws the resolution of the conflict must fall clearly on the side of preserving the rights of the participants given standing to contest the validity of the ballots in Article 16 Election Law; the right of the Judiciary to perform its duties in preserving the contested ballots and reviewing the Board's administrative determinations; and the Constitutional rights of the party chairs, candidates and the voters to be protected against improper or illegal ballots from being allowed to determine the outcome of our elections.

172. It is also clear that the provisions of this new law transgress against the rights conveyed upon Plaintiffs - Petitioners by Article Sixteen Election Law.

173. The Legislature chose not to repeal the provisions of Articles Eight and Sixteen of the Election Law in adopting the Chapter challenged herein. There can be no inference made that the rights secured by the sections of law not repealed or amended should in any way be abridged.

174. It cannot be said that the voters cannot be compelled to associate with or have their votes diluted by persons who are dead, not qualified to vote, or are voting illegally.
175. The Courts have an obligation to preserve the integrity of our election process and assure the public's confidence in the election process.
176. Accordingly, to the extent that Chapter 763, Laws of 2021 conflicts with the rights established by Article Eight of the Election Law and other Sections of that Law including Article Sixteen, the conflicting provisions of Chapter 763, Laws of 2021 must be declared to be invalid and the provisions of Article Eight and Sixteen Election Law must be declared to be controlling.

WHEREFORE, Plaintiffs - Petitioners respectfully pray for an order of this Court:

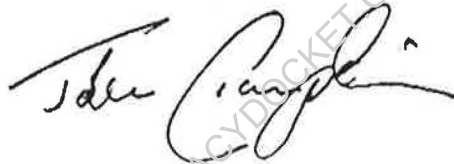
1. Declaring Chapter 763 of the New York Laws of 2021 to be unconstitutional on the basis of the FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH, EIGHTH, and NINTH CAUSES OF ACTION, and
2. Because the subject statutes do not have a severability clause, declaring the entirety of the statutes challenged herein to be invalid as unconstitutional, and

3. Issuing a preliminary injunction as against Defendants - Respondents prohibiting the enforcement of the unconstitutional statutes challenged herein,

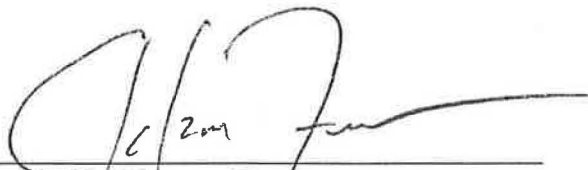
Together with such other, further and different relief as this Court may deem to be just and proper in the premises.

DATED: August 31, 2023

Respectfully submitted,



John Ciampoli, Esq.
of counsel
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ATTORNEY'S VERIFICATION

STATE OF NEW YORK)
COUNTY OF SUFFOLK) s.ss:

JOHN CIAMPOLI, ESQ., an attorney duly admitted to the practice of law before the Courts of the State of New York, does hereby affirm under the penalties of perjury:

1. He is the attorney for the Petitioner(s) in this action.
2. He has reviewed the contents of this document with his client(s), and / or their campaign workers, and upon the conclusion of said review as to the facts alleged therein, believes same to be true, as indicated herein, upon information and belief.
3. He has personally reviewed originals or copies of the relevant petitions, Board of Elections records, and ancillary documents on file with the Boards of Elections, together with other papers relating thereto, contacted the respondent board, and upon the conclusion of the said review, believes the within allegations to be true, on the basis of his personal knowledge.
4. This affirmation is being used pursuant to the provisions of the CPLR and applicable case law, due to the fact that time is of the essence and that petitioner(s)' residence(s) and his counsel's office are in different counties.

DATED: Suffolk County, New York
August 31, 2023



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SUPREME COURT OF THE STATE OF NEW YORK
SARATOGA COUNTY

X

In the matter of
RICH AMEDURE,
GARTH SNIDE, ROBERT SMULLEN,
EDWARD COX,
THE NEW YORK STATE REPUBLICAN PARTY,
GERARD KASSAR,
THE NEW YORK STATE CONSERVATIVE PARTY,
JOSEPH WHALEN,
THE SARATOGA COUNTY REPUBLICAN PARTY,
RALPH M. MOHR, ERIK HAIGHT & JOHN QUIGLEY,

Petitioners / Plaintiffs.

-against-

INDEX NO.

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,

Respondents / Defendants.

**EMERGENCY
AFFIRMATION**

X

TO: THE SUPREME COURT OF THE STATE OF NEW YORK

John Ciampoli, Esq. an attorney duly admitted to the practise of law before the
Courts of the State of New York does hereby affirm under the penalties of perjury, as

follows:

1. I am the attorney for the Petitioner(s) in the above captioned proceeding.
2. This affirmation is offered to the Court to explain why this matter is of the most urgent nature and requires the Court's immediate attention.
3. This is an Election Law proceeding, and as such, this matter has a statutory preference over all other matters on the Court's calendar, see, Election Law Section 16 - 116.
4. This matter is subject to an incredibly short statute of limitations. The last day to commence this proceeding is a mere fourteen days after the last day to file petitions. As a practical matter, this case must receive immediate attention so that the Court may achieve jurisdiction.
5. This matter must be instituted and provided an Election Law preference because the application of the challenged chapter of laws may affect upcoming elections.
6. To that end, the Court of Appeals has determined that Elections Matters are always to be given the highest priority by the Courts. It is respectfully submitted that the circumstances described in the petition present this court with an emergency situation requiring immediate action, and further that the very nature of an election proceeding, particularly with regard to petition challenges which have a very short statute of limitations, presents

an exemption to any rule which might delay or bar the court's action in other circumstances, see Banko v. Webber, 7 NY2d 758 (1959).

7. It is respectfully submitted that the statute and case law require the *immediate* consideration of this matter by the Supreme Court.

WHEREFORE, it is respectfully requested that this Court take up the annexed Order to Show Cause immediately and grant the relief requested for such order in the verified petition, together with such other, further and different relief as this Court may deem to be just and proper in the premises.

Dated: August 31, 2023

A handwritten signature in black ink, appearing to read "John Ciampoli". The signature is fluid and cursive, with a prominent loop at the end.

John Ciampoli, Esq.
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REQUEST FOR JUDICIAL INTERVENTION
SUPREME COURT, COUNTY OF Saratoga

UCS-840
(rev. 11/24/2022)

Index No: _____ Date Index Issued: _____

For Court Use Only:

CAPTION Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

INVESTIGATOR: _____
 DATE: _____
 COUNTY: _____
 COUNTY OFFICE: _____
 COUNTY OFFICER: _____
 COUNTY OFFICER'S PHONE: _____
 COUNTY OFFICER'S FAX: _____
 COUNTY OFFICER'S EMAIL: _____
 COUNTY OFFICER'S ADDRESS: _____
 COUNTY OFFICER'S CITY: _____
 COUNTY OFFICER'S STATE: _____
 COUNTY OFFICER'S ZIP: _____

RJI (REQUEST FOR JUDICIAL INTERVENTION)



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 Saratoga County Clerk

Plaintiff(s)/Petitioner(s): _____

IAS Entry Date _____

Judge Assigned _____

RJI Filed Date _____

against: _____

INVESTIGATOR: _____
 DATE: _____
 COUNTY: _____
 COUNTY OFFICE: _____
 COUNTY OFFICER: _____
 COUNTY OFFICER'S PHONE: _____
 COUNTY OFFICER'S FAX: _____
 COUNTY OFFICER'S EMAIL: _____
 COUNTY OFFICER'S ADDRESS: _____
 COUNTY OFFICER'S CITY: _____
 COUNTY OFFICER'S STATE: _____
 COUNTY OFFICER'S ZIP: _____

Defendant(s)/Respondent(s): _____

NATURE OF ACTION OR PROCEEDING Check only one box and specify where indicated.

COMMERCIAL

- Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)
 - Contract
 - Insurance (where insurance company is a party, except arbitration)
 - UCC (includes sales and negotiable instruments)
 - Other Commercial (specify): _____
- NOTE: For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C).*

MATRIMONIAL

- Contested
*NOTE: If there are children under the age of 18, complete and attach the MATRIMONIAL RJI ADDENDUM (UCS-840M).
 For Uncontested Matrimonial actions, use the Uncontested Divorce RJI (UD-13).*

REAL PROPERTY Specify how many properties the application includes: _____

- Condemnation
- Mortgage Foreclosure (specify): Residential Commercial
 Property Address: _____
NOTE: For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the FORECLOSURE RJI ADDENDUM (UCS-840F).
- Partition
NOTE: Complete and attach the PARTITION RJI ADDENDUM (UCS-840P).
- Tax Certiorari (specify): Section: _____ Block: _____ Lot: _____
- Tax Foreclosure
- Other Real Property (specify): _____

TORTS

- Adult Survivors Act
- Asbestos
- Environmental (specify): _____
- Medical, Dental or Podiatric Malpractice
- Motor Vehicle
- Products Liability (specify): _____
- Other Negligence (specify): _____
- Other Professional Malpractice (specify): _____
- Other Tort (specify): _____

SPECIAL PROCEEDINGS

- Child-Parent Security Act (specify): Assisted Reproduction Surrogacy Agreement
- CPLR Article 75 – Arbitration [see NOTE in COMMERCIAL section]
- CPLR Article 78 – Proceeding against a Body or Officer
- Election Law
- Extreme Risk Protection Order
- MHL Article 9.60 – Kendra's Law
- MHL Article 10 – Sex Offender Confinement (specify): Initial Review
- MHL Article 81 (Guardianship)
- Other Mental Hygiene (specify): _____
- Other Special Proceeding (specify): _____

OTHER MATTERS

- Certificate of Incorporation/Dissolution [see NOTE in COMMERCIAL section]
- Emergency Medical Treatment
- Habeas Corpus
- Local Court Appeal
- Mechanic's Lien
- Name Change/Sex Designation Change
- Pistol Permit Revocation Hearing
- Sale or Finance of Religious/Not for Profit Property
- Other (specify): CPLR 3001 Dec. Judgment

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

| | YES | NO | |
|---|-----------------------|----------------------------------|------------------------------|
| Has a summons and complaint or summons with notice been filed? | <input type="radio"/> | <input checked="" type="radio"/> | If yes, date filed: _____ |
| Has a summons and complaint or summons with notice been served? | <input type="radio"/> | <input checked="" type="radio"/> | If yes, date served: _____ |
| Is this action/proceeding being filed post-judgment? | <input type="radio"/> | <input checked="" type="radio"/> | If yes, judgment date: _____ |

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.

- Infant's Compromise
- Extreme Risk Protection Order Application
- Note of Issue/Certificate of Readiness
- Notice of Medical, Dental or Podiatric Malpractice Date Issue Joined: _____
- Notice of Motion Relief Requested: _____ Return Date: _____
- Notice of Petition Relief Requested: _____ Return Date: _____
- Order to Show Cause Relief Requested: Dec. Jgmt., PI, CPLR 78, EL 16 Return Date: _____
- Other Ex Parte Application Relief Requested: _____
- Partition Settlement Conference
- Poor Person Application
- Request for Preliminary Conference
- Residential Mortgage Foreclosure Settlement Conference
- Writ of Habeas Corpus
- Other (specify): _____

RELATED CASES List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank.
 If additional space is required, complete and attach the **RJI ADDENDUM (UCS-840A)**.

| Case Title | Index/Case Number | Court | Judge (if assigned) | Relationship to instant case |
|------------|-------------------|-------|---------------------|------------------------------|
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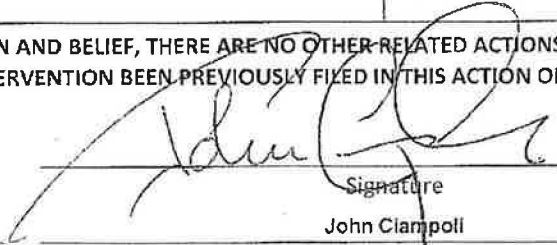
PARTIES For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided.
 If additional space is required, complete and attach the **RJI ADDENDUM (UCS-840A)**.

| Un-Rep | Parties List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 rd party plaintiff, etc.) | Attorneys and Unrepresented Litigants For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email. | Issue Joined For each defendant, indicate if issue has been joined. | Insurance Carriers For each defendant, indicate insurance carrier, if applicable. |
|--------------------------|---|--|--|--|
| <input type="checkbox"/> | Name: Rich Amedure Role(s): Plaintiff | Perillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: Garth Snide Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: Robert Smullen Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: Edward Cox Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: NY State Republican Party Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: Edward Cox Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: Gerard Kassar Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: NY State Conservative Party Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: Joseph Whalen Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: Saratoga County Republican Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: Ralph Mohr Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: Erik Haight Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: John Quigley Role(s): | erillo Hill LLP 285 W. Main Street (203) Sayville, NY 11782 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: State of New York Role(s): | NYS Atty General Justice Building, Capital Albany NY 12224 | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Name: NYS Board of Elections Role(s): | 40 N. Pearl Street Albany NY 12207 | <input type="radio"/> YES <input type="radio"/> NO | |

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: 08/30/2023

2003317


 Signature
 John Ciampoli
 Print Name

Attorney Registration Number

Print Name

Request for Judicial Intervention Addendum

Supreme

COURT, COUNTY OF

Saratoga

Index No: _____

For use when additional space is needed to provide party or related case information.

| PARTIES: For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in "Attorneys" space. | | Attorneys and/or Unrepresented Litigants: | | | | Issue Joined (Y/N): | Insurance Carrier(s): |
|--|--|---|--|--|--|---|------------------------------|
| Un-Rep | Parties: List parties in caption order and indicate party role(s) (e.g. defendant; 3rd-party plaintiff). | Provide attorney name, firm name, business address, phone number and e-mail address of all attorneys that have appeared in the case. For unrepresented litigants, provide address, phone number and e-mail address. | | | | | |
| <input type="checkbox"/> | Governor State of New York Last Name First Name Primary Role: Defendant Secondary Role (if any): | NYS Atty General Justice Building, Capital Albany N' Last Name First Name Firm Name Street Address City State Zip Phone Fax e-mail | | | | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Senate, State of New York Last Name First Name Primary Role: Defendant Secondary Role (if any): | unknown Last Name First Name Firm Name Capital Building, Albany, NY 12247 Street Address City State Zip Phone Fax e-mail | | | | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Majority Leader & President Pro Tem NYS Last Name First Name Primary Role: Defendant Secondary Role (if any): | unknown Last Name First Name Firm Name Capital Building, Albany, NY 12247 Street Address City State Zip Phone Fax e-mail | | | | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Minority Leader NYS Senate Last Name First Name Primary Role: Defendant Secondary Role (if any): | unknown Last Name First Name Firm Name Capital Building, Albany, NY 12247 Street Address City State Zip Phone Fax e-mail | | | | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | NYS Assembly Last Name First Name Primary Role: Defendant Secondary Role (if any): | unknown Last Name First Name Firm Name Capital Building, Albany NY 12248 Street Address City State Zip Phone Fax e-mail | | | | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Speaker, NYS Assembly Last Name First Name Primary Role: Defendant Secondary Role (if any): | unknown Last Name First Name Firm Name Capital Building, Albany NY 12248 Street Address City State Zip Phone Fax e-mail | | | | <input type="radio"/> YES <input type="radio"/> NO | |

| RELATED CASES: List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases. | | | | |
|--|----------------|-------|---------------------|------------------------------|
| Case Title | Index/Case No. | Court | Judge (if assigned) | Relationship to Instant Case |
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Request for Judicial Intervention Addendum

Supreme

COURT, COUNTY OF Saratoga

Index No: _____

For use when additional space is needed to provide party or related case information.

PARTIES: For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in "Attorneys" space.

| Un-Rep | Parties: | Attorneys and/or Unrepresented Litigants: | Issue Joined (Y/N): | Insurance Carrier(s): |
|--------------------------|--|---|---|-----------------------|
| <input type="checkbox"/> | Minority Leader NYS Assembly Last Name First Name Primary Role: Secondary Role (if any): | unknown Last Name First Name Firm Name Capital Building, Albany, NY 12248 Street Address City State Zip Phone Fax e-mail | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Majority leader NYS Assembly Last Name First Name Primary Role: Secondary Role (if any): | unknown Last Name First Name Firm Name Capital Building, Albany, NY 12248 Street Address City State Zip Phone Fax e-mail | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Last Name First Name Primary Role: Secondary Role (if any): | Last Name First Name Firm Name Street Address City State Zip Phone Fax e-mail | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Last Name First Name Primary Role: Secondary Role (if any): | Last Name First Name Firm Name Street Address City State Zip Phone Fax e-mail | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Last Name First Name Primary Role: Secondary Role (if any): | Last Name First Name Firm Name Street Address City State Zip Phone Fax e-mail | <input type="radio"/> YES <input type="radio"/> NO | |
| <input type="checkbox"/> | Last Name First Name Primary Role: Secondary Role (if any): | Last Name First Name Firm Name Street Address City State Zip Phone Fax e-mail | <input type="radio"/> YES <input type="radio"/> NO | |

RELATED CASES: List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases.

| Case Title | Index/Case No. | Court | Judge (if assigned) | Relationship to Instant Case |
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