



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
JAMES J. SAMPEL
NANCY MOTTOLA-SCHACHER
NAOMI C. SILIE
J.P. SIPP
GREGORY C. SOUMAS
JUDITH D. STUPP
COMMISSIONERS

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
FAX (212) 487-5349
www.vote.nyc.ny.us

AGENDA COMMISSIONERS MEETING TUESDAY, MAY 12, 2009 AT 1:30 P.M.

1. Minutes
 - a) 05/05/09
2. Marcus Cederqvist
 - a) HAVA Update
 - b) Appointment of Standing Committee Members
3. Steven H. Richman
 - a) Draft – Independent Nominating Petition Rules for 2009
4. John Ward
 - a) Vacancy Report
 - b) FY10 OTPS Executive Budget
 - c) FY09-FY10 OTPS Projection

For Your Information

- NYS Board of Elections Weekly Status Report for the Week of April 23, 2009 through April 30, 2009
- Notice of Motion – CV 08-3679 (CBA)(LB)
- New York State Board of Elections Proposed Change to Part 6217.5(C), NYCRR – Voter Registration and Processing
- Department of Justice Pre-Clearance of Submissions Numbered 2009-K01
- Statement of Cost, March 2009
- Certification of Vacancy
- Assembly Bills
- Fifteenth Citywide Seminar on Ethics in NYC Government

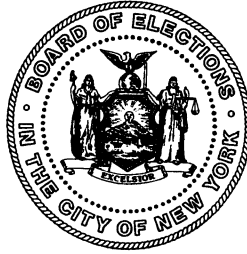
News Items of Interest

- New York Law Journal: Free: Four Judges Named for Civil, Criminal Administrative Posts

Board of Elections in the City of New York

Standing Committees for 2009

Human Resources	Commissioner Silie Commissioner Schacher
Budget & Finance	Commissioner Silie Commissioner Soumas Commissioner Polanco Commissioner Umane
Communications, Voter Registration and Outreach	Commissioner Polanco Commissioner Stupp Commissioner Araujo Commissioner Soumas
Management Information Systems and Services	Commissioner Dent Commissioner Umane
Legislative Affairs	Commissioner Yennella Commissioner Sempel Commissioner Stupp Commissioner Soumas
Investigations	Commissioner Sempel Commissioner Polanco Commissioner Soumas Commissioner Schacher



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
JAMES J. SAMPEL
NANCY MOTTOLA-SCHACHER
NAOMI C. SILIE
J.P. SIPP
GREGORY C. SOUMAS
JUDITH D. STUPP
COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR


GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

STEVEN H. RICHMAN
GENERAL COUNSEL
Tel: (212) 498-5338
Fax: (212) 497-5342
E-Mail:
srichman@boe.nyc.ny.us

May 7, 2009

TO: The Commissioners of Elections in the City of New York

FROM: Steven H. Richman, General Counsel 

COPIES: Marcus Cederqvist, George Gonzalez, Pamela Perkins, Joseph LaRocca, Steven Denkberg, Charles Webb & John Owens

**RE: DRAFT –
INDEPENDENT NOMINATING PETITION RULES FOR 2009**

Attached is a draft of the independent nominating petition rules for Calendar Year 2009. They were circulated by e-mail to you today.

I am requesting adoption of the rules at your meeting to be held on May 12, 2009. This will permit submission to DOJ and their competition of pre-clearance review by the first day to circulate Independent Nominating Petitions for the 2009 General Election which is July 7, 2009.

Please note that this draft reflects the applicable changes you have made in both the Independent Nominating Petition Rules for the February 2009 City Council Special Elections as well as the 2009

Designating/OTB Rules (currently awaiting pre-clearance by DOJ). Finally, at the recommendation of Commissioner Soumas, a new Rule E2 was added to reflect the Board's actions earlier this year and the decision of the Appellate Division with respect to the use of the names of existing political parties.

NOTE: *Additions from the adopted 2008 Independent Nominating Petition Rules are noted in bold, italics and underlined.*
Deletions are in the same time with a strikethrough

I want to thank you in advance for your consideration in this matter.

Attachment



JAMES J. SAMPSEL
PRESIDENT

FREDERIC M. UMANE
SECRETARY

JOSE MIGUEL ARAUJO
JULIE DENT
NERO GRAHAM, Jr.
JUAN CARLOS "J.C." POLANCO
NANCY MOTTOLA-SCHACHER
GREGORY C. SOUMAS
JUDITH D. STUPP
MARYANN YENNELLA

COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

STEVEN H. RICHMAN
GENERAL COUNSEL
TEL: (212) 487-5338
FAX: (212) 487-5342
E-MAIL:
srichman@boe.nyc.ny.us

DRAFT

INDEPENDENT NOMINATING PETITION RULES FOR 2009

Adopted: _____

**Note: Additions from the adopted 2008 Independent Nominating
Petition Rules are noted in bold, italics and underlined. Deletions are
in the same time with a strikethrough.**

These Rules are adopted by the Board of Elections in the City of New York pursuant to Election Law § 6-154 (2). Everyone is urged to consult the Election Law and Regulations of the New York State Board of Elections, 9 NYCRR §6215 as well as these Rules.

DEFINITIONS:

Petition - A “petition” is all of the sheets, which may be filed with the Board in one or more volumes, together with any required cover sheet, which nominate the same candidate for a particular public office.¹

Petition Volume - A “petition volume” is the securely fastened grouping of petition sheets for one or more candidates or group of candidates.

Cover Sheet - A “cover sheet” is the form (as set forth in Rule C of these Rules) to be filed with the Board which summarizes what petition volume or volumes comprise the petition for each candidate for a particular public office or party position.

A. GENERAL REQUIREMENTS

- A1. Sheets of a nominating petition shall be securely fastened together in one or more petition volumes. The sheets in each petition volume shall be numbered sequentially at the bottom of each sheet.
- A2. All papers required to be filed pursuant to Section 1-106 of the Election Law shall, unless otherwise provided, be filed in person between the hours of 9:00 a.m. and 5:00 p.m. at the Executive Office of the Board of Elections, 32 Broadway, 7th Floor, Borough of Manhattan, New York, N.Y. 10004. If the last day for filing shall fall on a Saturday, Sunday, or legal holiday, the next business day shall become the last day for filing. The Board of Elections shall be open for the receipt of any document from 9:00 a.m. until Midnight on the last day to file any such document. Failure of any person or entity to

¹ *In accordance with the Decision and Order entered by the U.S. District Court for the Eastern District of New York in Chou v. New York State Board of Elections [332 F. Supp. 2d 510 (2004) which held that the requirement that the witness to an independent nominating petition be a resident of the political subdivision wherein the candidate is seeking election is unconstitutional and the representations made to the Court therein by the Board of Elections in the City of New York, the Board of Elections will not entertain any specification of objection in this regard even if the subscribing witness utilizes the language set forth on the sample form prescribed the State Board of Elections pursuant to the Election Law, which does not conform to the Court’s Order and the witness resides outside of the applicable political subdivision.*

deliver any such document to the Board of Elections on or before the last day to file same shall be a fatal defect.

- A3. (1) The order of ballot for a SPECIAL ELECTION (held at a time other than the General Election) shall be determined for Independent Nominations by the first candidate to file a cover sheet, if required, and a sufficient number of signatures to qualify that candidate to appear on the ballot.
- (2) The order of ballot for the GENERAL ELECTION shall be determined for Independent nominations by the first candidate for the highest office for which an independent nominating petition has been filed (following the customary order of offices on the General Election Ballot) appearing on that General Election ballot to file a cover sheet, if required, and a sufficient number of signatures to qualify that candidate to appear on the ballot.
- A4. Any determination regarding the name and/or emblem of independent bodies shall be made using the standard set forth in Rule A3.

B. IDENTIFICATION NUMBERS

- B1. No one is required to apply for a petition volume identification number before filing any petition volume. However, any person may apply for a petition volume identification number by submission of an Identification Number Application Form. Identification Number Application Forms are available at the Candidate Records Unit, 32 Broadway, 7th Floor, New York, NY. If a petition volume identification number has been assigned before the petition volume is filed, the petition volume identification number must appear prominently on the top of the petition volume, on any cover sheet, and on each copy of the lists of candidates submitted with the petition volume. The Board requests that petition volume identification numbers **not** be placed on the petition volume's binding.
- B2. The Board will inscribe petition volume identification numbers on all application forms. These forms will be retained in a binder for public inspection.
- B3. A pre-assigned petition volume identification number shall be used only by the candidate/s or applicant/s named in the application. Petition volume identification numbers are not transferable or assignable.
- B4. A pre-assigned petition volume identification number shall be used only for the election event for which the application is made.
- B5. Whenever a petition volume is filed without a pre-assigned petition volume identification number, the Board will assign a petition volume identification number at the time the petition volume is filed.

C. COVER SHEET

- C1. A cover sheet must be filed for all petitions containing ten or more sheets in one volume or consisting of more than one volume. The cover sheet SHALL BE FILED SEPARATELY from the petition volume(s). It shall not be attached to any petition volume,
- C2. A cover sheet shall contain the following information:
- a) the office, the independent body's name and district number (where appropriate) for which each nomination is being made;
 - b) the name and complete residence address of each candidate;
 - c) the total number of volumes comprising each petition;
 - d) an identification of the volumes comprising the petition; when multiple volumes are filed, a single cover sheet shall be filed consistent with the Regulations of the New York State Board of Elections, 9 NYCRR §6215.2 (a) 2, with the volumes identified by listing the identification number of each volume in the petition on the cover sheet;
 - e) a statement that the petition contains the number, or in excess of the number, of valid signatures, required by the Election Law;
 - f) a place for the optional designation of a contact person to be notified to correct noncompliance with the Rules and to receive copies of any specifications of objections (a candidate may be designated as the contact person);
 - g) when more than one candidate is designated or nominated on the same petition volumes, the candidates may be grouped together on a cover sheet so that the number of volumes comprising the petition need not be repeated;
 - h) a cover sheet may consist of more than one page.
- C3. An amended cover sheet must clearly identify the original cover sheet, which it is amending, or attach a copy of the original cover sheet, which it is amending. The amended cover sheet must contain all the information required of a cover sheet. Amended cover sheets must contain the following authentication: "This is to certify that I am authorized to file this amended cover sheet." Said authentication must be signed and dated and shall include the printed name, address, and may include the office telephone number and fax number of said candidate or representative.
- C4. An amended cover sheet must be filed on or before the last day to file the petition unless the amended cover sheet is filed to cure a failure to comply with the Rules after the Board has made a determination of non-compliance with these Rules.

D. DETERMINATIONS; CURES ***PURSUANT TO §6-134 (2) OF THE ELECTION LAW***

- D1. Within two (2) business days of the receipt of a petition, the Board will review the petition to determine whether the petition complies with the cover sheet and binding

requirements of these Rules. Such review shall be limited to matters apparent on the face of the cover sheet, the binding of each petition volume, and the number of petition volumes. Such review and such determination shall be without prejudice to the Board's determination of objections and specifications of objections filed pursuant to the provisions of the Election Law and these Rules.

- D2. In the event that the Board determines that a petition does not comply with these Rules, the Board shall forthwith notify the candidate or candidates named on the petition of its determination and the reasons therefore.
- D3. Notification of a determination of noncompliance shall be given by written notice by depositing such notice on the day of such determination with an overnight delivery service, for overnight delivery, on the next business day after the determination to the candidate or contact person, if designated, at the address stated on the petition and/or the cover sheet, as applicable. Notification shall be given by overnight delivery unless the candidate shall have filed with the Board written authorization, signed by the candidate for the Board to give notification by facsimile transmission. In the event that the candidate shall have authorized notification by facsimile transmission, then the Board shall notify the candidate or the contact person, if designated, by facsimile transmission on the day of the determination to the number set forth by the candidate and shall, in addition, mail a copy of the determination to the candidate.
- D4. A candidate may, within three (3) business days of the date of a determination that the petition does not comply with these Rules, cure the violation of these Rules. Cover sheet deficiencies may be corrected by the filing of an amended cover sheet. Such cure or correction must be received by the Board of Elections no later than the third business day following such determination.
- D5. If the Board determines that an attempt to cure a defect does not comply with these Rules or the Election Law, the Board shall, upon expiration of the three (3) business days set forth in Rule D4, notify the candidate or candidates named on the petition/cover sheet of its determination and the reasons therefore. The Board shall give written notice of such determination and the fact that the candidate (s) will not appear on the ballot by depositing such notice on the day of such determination with an overnight delivery service, for overnight delivery, on the next business day after the determination to the candidate or contact person, if so designated, at the address stated on the petition, cover sheet and/or amended cover sheet, as applicable. Notification shall be given by overnight delivery unless the candidate shall have filed with the Board written authorization, signed by the candidate for the Board to give notification by facsimile transmission. In the event that the candidate shall have authorized notification by facsimile transmission, then the Board shall notify the candidate or the contact person, if designated, by facsimile transmission on the day of the determination to the number set forth by the candidate and shall, in addition, mail a copy of the determination to the candidate.

E. PRIMA FACIE MATTERS

- E1. The Board of Elections reviews each Cover Sheet and Petition to insure compliance with the New York State Election Law. On occasion, the Board determines that it appears that a Cover Sheet and/or Petition, on its face, fails to comply with the requirements of the New York State Election Law and is not subject to a cure under Section 6-134(2) of the Election Law. In that event, the Board shall notify the candidate or designated contact person in writing, of the Board's preliminary finding of a Prima Facie defect and advise the candidate/contact person that he/she may appear at the commencement of the Board's hearings on said petitions to contest such preliminary finding. Such review, preliminary finding and final determination shall be without prejudice to the Board's subsequent determination of objections and specifications of objections filed pursuant to the provisions of the Election Law and these Rules.
- E2. In accordance with the provisions of Section 6-138(3) (a) of the Election Law, the name selected for the independent body shall not include the name or part of the name or an abbreviation of the name or part of the name, nor shall the emblem or name of such a configuration as to create the possibility of confusion with the emblem or name of a then existing political party. The inclusion of such name is a fatal prima facie defect. (See: DiResto v. Cornell, Appellate Division, 2nd Department, February 20, 2009.)

F. EXAMINATION AND COPYING OF PETITIONS

- F1. The Commissioners of the Board, or in their absence, the Executive Director, Deputy Executive Director, the Chief Clerks, Deputy Chief Clerks or such other staff as may be designated by the Executive Director, shall control the requisition, examination and copying of any document filed with the Board in order to assure that candidates, objectors or potential objectors and their representatives have an equal and fair opportunity to examine or copy such documents consistent with the needs of the Board to process petitions and specifications of objections.
- F2. Any person may obtain a copy of any document filed with the Board upon written application and payment of 25¢ per page.
- F3. No document shall be unfastened or taken apart (except by authorized employees of the Board of Elections) while examining the document; nor shall pen and ink or indelible pencil be used while examining documents. Red pencil only is to be used while

examining any document. No other writing instrument may be used while examining any filed document.

G. GENERAL OBJECTIONS

- G1. A general objection to a petition must be filed at the Executive Office of the Board of Elections, 32 Broadway, 7th Floor, New York, N.Y. 10004. The last day for filing general objections shall be three days after the latest date on which any part of such petition or cover sheet was filed, **even if said petition or cover sheet is subsequently not claimed by the candidate(s) appearing thereon. NOTE: The Board reserves the right to conduct an inquiry into the fact and circumstances of the filing of any document and the application of rule G1.**
- G2. In the event an amended cover sheet is filed to cure noncompliance with these Rules after the last day to file a petition, the general objection and specifications filed in support of such general objection shall address only issues raised by the amended cover sheet. Such a general objection and specifications are without prejudice to any other issues addressed in any timely filed general objection and supporting specifications which are addressed to the petition. In order to expedite a determination by the Board, objectors are urged to file specifications of an objection addressed to an amended cover sheet filed to cure after a determination of noncompliance at the time when the general objection is filed.
- G3. The general objection shall state the name and address of the objector and candidate and public office on the petition to which the objection is addressed and shall be signed by the objector.
- G4. The general objection shall include a place for the optional designation of a contact person to receive notice of any rulings on the objection. The general objection should include any telephone numbers and fax numbers, which can be used to provide notice regarding rulings on the objection.

H. SPECIFICATIONS OF OBJECTIONS

- H1. Specifications of objections shall state the name and address of the objector and the candidate and public office on the petition to which the objection is addressed and shall be signed by the objector. **The specifications of objections shall be prepared using ink. The specifications of objections shall be securely**

fastened together in one or more volumes. The specification of objections in each and every volume shall be numbered sequentially at the bottom of each page of the specification.

- H2. The specifications shall include the name and mailing address of any contact person other than the objector to receive notice of any rulings on the specifications designated in the general objection. The specifications should include any telephone numbers and fax numbers, which can be used to provide notice regarding rulings on specifications. The specifications may indicate separate numbers to be used on the Saturday and Sunday prior to the date scheduled for Commissioners' hearings.
- H3. When an objector files an objection, which presents a factual issue, which cannot be determined from documents on file with the Board, the specification(s) must set forth the factual allegations with particulars. The objector shall submit with the specification(s), copies of any documents or affidavits that are required in order for the Board to rule on the issue.
- H4. If the specifications of objections claim that there are an insufficient number of valid signatures, the specifications must state the total number of signatures contained in the petition and the total number of signatures, which the objector claims to be invalid.
- H5. Any specific objection to an individual signature or witness statement shall set forth the Board-assigned petition volume identification number, page number and line number and shall set forth with specificity the nature of each objection to that signature or witness statement.
- H6. The following abbreviations are acceptable:

AI	Address illegible or so abbreviated it cannot be identified.
ALT	Alteration (date/signature)
DI	Date incomplete
DUP v._p._l_	Duplicate of same signature located in the petition at volume identification # ____, page ____, line __
DSP	Date of witness statement is prior to date of signature
F	Forgery
ILLS	Illegible signature
ILLD	Illegible date
NA	No address stated
ND	No date stated
NFN	No first name\name is so abbreviated it cannot be identified
NPN	No page number –petition page not sequentially numbered
NR	Not registered as stated in BOE records
OD	Out of the district of the contest
P	Pencil or not in ink
PR	Signature is printed or not handwritten

SH	Similar handwriting
TE	Date of signature is prior to first day for circulating petitions
TL	Date of signature is subsequent to last day for circulating petitions or subsequent to date of witness signature
SAP v. _ p. _ l _	Signed another petition for the same office on same or prior date designating another as candidate, at petition volume identification # _____ page ____, line ____.
SW	Signature is that of the subscribing witness to the page
SWALT	Subscribing Witness information altered (not initialed)
SWNQ	Subscribing witness not qualified
SWNR	Subscribing witness not registered, as stated
SWDI	Date incomplete in subscribing witness statement
SWA	No address or wrong address stated in subscribing witness statement
SWND	No date stated in subscribing witness statement
SWNN	Name of subscribing witness omitted from body of subscribing witness statement
SWNS	Signature of subscribing witness omitted
SWNSO	Number of signatures omitted from subscribing witness statement
SWWNS	Wrong number of signatures stated in subscribing witness statement
SWTE	Date of signature is prior to first day for circulating petitions
SWTL	Date of signature is subsequent to last day for circulating petitions
WA	Wrong address stated on petition

Objectors may use other abbreviations or symbols as long as they are clearly defined in the specifications.

- H7. Objectors are warned not to include in the specifications broad, non-specific or generic claims or claims which are not supported by documents filed with the Board. The Board may dismiss the entire objections as frivolous if specifications include such claims.
- H8. Because the Board believes that the appropriate forum for determination of allegations of forgery or fraud is in an invalidating proceeding commenced in the Supreme Court pursuant to Election Law §16-102, the Board does not ordinarily rule on such allegations. In the rare case where an objector seeks to obtain a ruling from the Board on an issue of fraud, or on a factual issue which cannot be determined from documents already filed with the Board (such as petitions, registration records, party call, party rules, etc.), the specifications must set forth the factual allegations with particularity. The objector should submit with the specification(s) copies of any documents or affidavits that are required in order for the Board to rule on the issue. Notwithstanding such a submission, the Board will generally decline to rule on any allegation of fraud.

- H9. Before filing specifications with the Board, the objector must serve a copy of the specifications personally or by certified mail upon the candidate designated in the petition objected to for public office.
- H10. Specifications of objections must be filed within six (6) days after the filing of general objections, in person, at the Executive Office, Board of Elections, 32 Broadway, 7th Floor, New York, N.Y. 10004. The Executive Office will be open during the period for filing objections and specifications until midnight of each day (except Saturday and Sunday) to permit the filing of such papers in person. The Election Law does not authorize the extension of time for filing objections or specifications.
- H11. Proof of service of specifications (which must identify the specification it is related to by including the borough and General Objection/Specification number or attaching a copy of the first page of the specification) must be filed in person at the Executive Office, Board of Elections, 32 Broadway, 7th Floor, New York, N.Y. 10004, no later than the day after specifications are filed. The Board will issue a receipt for proof of service upon filing.
- H12. Upon receipt of Specifications of Objection in a borough office, the Chief Clerk and Deputy Chief Clerk (or their designees) shall review said specifications of objections on their face and determine if said specifications appear to be frivolous or if the objectors lack standing to file such specifications. Upon such a preliminary determination by the Chief Clerk and Deputy Chief Clerk, they shall refer their preliminary determination to ~~that Borough's Commissioners' Committee for review.~~ **Board's Executive Committee for all specifications of objections relating to petitions for Citywide Office or the respective Borough's Commissioners' Committee for specifications of objections relating to petitions for all other offices and/or positions** for review. If the ~~Executive Director and General Counsel~~ **appropriate Commissioners' Committee** confirms that the specifications of objection appear to be frivolous or that the objector(s) lack standing to file such specifications, they shall confirm the preliminary determination of the Chief Clerk and Deputy Chief Clerk and direct that the specifications of objections not be worked by the borough office staff. Such findings and confirmation thereof shall be reported to the full Board of Commissioners at the commencement of the hearings for their review.

I. CLERKS'/COUNSEL'S REPORT

11. The Chief Clerk and Deputy Chief Clerk of each borough shall assign staff to examine the specifications of objections and to prepare a report to the Commissioners on the objections.

12. As soon as the borough office has prepared the report to the Commissioners, the borough office shall fax copies of the summary report (without line-by-line rulings) to the contact persons designated on the petition cover sheet and on the specifications to receive notices at the fax number indicated. Candidates or objectors who are unable to receive faxes must check with the Chief Clerk or Deputy Chief Clerk of the respective borough office if the candidate or objector wishes to review the Clerks' Report prior to the Commissioners' hearing.
13. At least twenty-four hours before each date for Commissioners' hearings, each borough office shall prepare a list of Clerks' Reports, which have not been completed and shall immediately provide a copy to the Executive Office and shall make the list available. The Commissioners' hearing on Clerks' Reports included on the list will be automatically postponed from the immediate hearing date to the next hearing date scheduled by the Commissioners unless there is consent from the objector and the candidate to rule on the Clerks' Report as scheduled.
14. Once the borough office has prepared the report to the Commissioners, the original specifications of objections with the line by line rulings of the clerks will be made available for examination or copying by the objector, candidate or representative, provided that the specification is not being used by the clerks for the review of any other specifications of objections.
15. The rules regarding examination and copying of petitions shall also apply to specifications of objections showing the clerks' line by line rulings. The use of independent nominating petitions and specifications by the clerks for the preparation of their report shall have priority over any request for examination or copying by any objector, candidate or their representative.
16. In the event that the specifications of objection present legal rather than or in addition to factual issues, said specifications of objections shall be referred to the Office of the General Counsel of the Board who shall assign staff to examine such specifications of objections and prepare a report to the Commissioners on the legal issues raised in the specifications. The notice and inspection provisions found in Sections 12, 14 and 15 of these Rules shall apply to such Counsel's Report.

J. HEARINGS

- J1. The Commissioners shall render a ruling on specifications of objections after they receive the Clerks' Report or Counsel's Report, Candidates or objectors who wish to be heard by the Commissioners should review the Clerks'/Counsel's Report and individual line-by-line rulings prior to the Commissioners' hearing. Candidates or objectors shall present to the Commissioners a list of exceptions which identifies with specificity each ruling by the clerks which is claimed to be erroneous. In view of the short deadlines and urgency of obtaining final rulings by the Board, the Board may reject any application for an extension of time to review the Clerks'/Counsel's Report when the candidate or objector received notice of the Clerks'/Counsel's Report at least 24 hours prior to the

hearing (*including* weekends and holidays), or the candidate or objector failed to designate a fax number for the receipt of notice.

- J2. Attorneys appearing on behalf of a candidate or objector must file a Notice of Appearance on the Board prepared form, which includes a current address, telephone number and fax number.
- J3. An individual, other than an attorney, (including a candidate or objector), representing a candidate or an objector must file a Notice of Authorization that must be signed by said candidate or objector. Notices of Appearance and/or Authorization can be obtained from the Candidate Records Unit.
- J4. The hearings held by the Board shall be transcribed by a professional reporter and/or recorded. Any person may obtain a copy of the transcript or recording by making a written request to the Executive Director or Deputy Executive Director (or their designees) and paying the applicable fee.
- J5. Whenever there is not a quorum of Commissioners present on any day scheduled for Commissioners' hearings, a committee of the Commissioners shall rule on the Clerks' Reports. The committee is constituted pursuant to Election Law §3-212 (5). The committee shall consist of the largest equal number of Commissioners from each of the political parties represented on the Board who are available and designated by the President and Secretary of the Board, who may make such designation by telephone. In the absence of the President or the Secretary, the Commissioner of the same political party with the greatest length of service on the Board who is available shall make such designation. The President and Secretary, or senior Commissioners present shall attempt to confer with the other Commissioners of the same political party before making such designation. The committee shall serve only for that hearing date, or until a quorum of the full Board is present, whichever is shorter, unless the full Board shall provide otherwise.
- J6. The Board may reconsider any determination or the determination of any committee of the Board. In such event, the Board will provide notice to any objector, candidate and representative.
- J7. Pursuant to the provisions of Section 6-154(3) of the Election Law, the Board shall give written notice to each candidate the Board determines will not appear on the ballot for failure to comply with the requirements of the Election Law and/or these rules. If that determination is made upon specific objections, the objector shall be given written notice that the candidate(s) will not appear on the ballot. The Board shall give such written notice by depositing such notice on the day of such determination with an overnight delivery service, for overnight delivery, on the next business day after the determination to the candidate at the address stated on the petition and the objector at the address stated on the objection.

NOTICE:

THE SAMPLE FORMS LISTED BELOW (PREPARED BY THE NEW YORK STATE AND OR CITY BOARD OF ELECTIONS) FOLLOW THESE RULES:

- ❑ **INDEPENDENT NOMINATING PETITION SHEET;**
- ❑ **COVER SHEET;**
- ❑ **AMENDED COVER SHEET;**
- ❑ **GENERAL OBJECTION;**
- ❑ **SPECIFICATIONS OF OBJECTION;**
- ❑ **CERTIFICATE OF ACCEPTANCE;**
- ❑ **CERTIFICATE OF DECLINATION;**
- ❑ **CERTIFICATION OF AUTHORIZATION;**
- ❑ **CERTIFICATE OF SUBSTITUTION BY COMMITTEE TO FILL VACANCIES AFTER DECLINATION, DEATH OR DISQUALIFICATION;**
- ❑ **CERTIFICATE OF SUBSTITUTION BY PARTY COMMITTEE AFTER DECLINATION, DEATH OR DISQUALIFICATION.**
- ❑ **NOTICE OF APPEARANCE AND/OR AUTHORIZATION FOR PETITION HEARINGS. DEATH OR DISQUALIFICATION.**
- ❑ **SAMPLE SPECIFICATIONS OF OBJECTION WORKSHEET**

Copies of the:

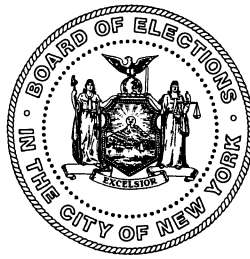
- ❖ Election Law of the State of New York, and the
- ❖ Rules and regulations of the State Board of Elections

are available for purchase at the front counter, 32 Broadway, 7th floor, New York, N.Y. 10004.

The Election Law and State Board Rules and sample forms can also be viewed and downloaded from the State Board of Elections website:

<http://www.elections.state.ny.us/law/elaw.pdf>

Please note that these Rules were adopted unanimously by the Commissioners of Elections in the City of New York, at their public meeting held on Tuesday, _____, 2009.



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
JAMES J. SAMPSEL
NANCY MOTTOLA-SCHACHER
NAOMI C. SILIE
J.P. SIPP
GREGORY C. SOUMAS
JUDITH D. STUPP
COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

JOHN J. WARD
FINANCE OFFICER

DATE: May 12, 2009
TO: Commissioners

FROM: John Ward
Finance Officer.

RE: Vacancies

					Inc.	New.
1	Assistant General Counsel					\$75,000
2	Valerie Marshall	Adm. Asst.	N.Y.	Dem.	\$39,440	\$37,562
3	Robert Helenius	VMT	Bklyn	Rep.	\$27,818	\$26,493
4	Lisa Sattie	Adm. Asst.	S.I.	Dem.	\$39,440	\$37,562
5	William Johnert	Adm. Assoc.	Tech	Rep.	\$46,878	\$44,646
6	Steve Morena	Clerk.	Qns	Rep.	\$27,111	\$25,820

FY10 OTPS EXECUTIVE BUDGET

Budget Code	Object Code	Description	Executive FY10 Budget
0201	100	Supplies & Materials - Gen.	\$ 500,000
	101	Printing Supplies	\$ 260,000
	105	Auto. Supplies & Materials	\$ -
	106	Motor Vehicle Fuel	\$ 24,000
	10E	Automotive Supplies (856)	\$ 1,155
	10F	Motor Fuel (856)	\$ 3,000
	10X	Supplies & Materials - Gen.	\$ 82,779
	117	Postage	\$ 2,000,000
	199	Data Processing Supplies	\$ 210,000
	300	Equipment - Gen.	\$ 150,000
	302	Telecomm. Equip.	\$ 30,000
	305	Motor Vehicle	\$ -
	314	Office Furniture	\$ 250,000
	315	Office Equipment	\$ 50,000
	319	Security Equipment	\$ 95,000
	332	Purch. of Data Process. Equip.	\$ 210,000
	337	Books - Other	\$ 15,000
	400	Contractual Expenditures	\$ 1,000,000
	402	Telephone & Other Comm.	\$ 300,000
	403	Office Service	\$ 100,000
	407	Maint. & Rep. Mot. Veh. Equip.	\$ 500
	40B	Communication (858)	\$ 412,838
	40G	Automotive Repairs (856)	\$ 10,020
	40X	Contractual Services	\$ -
	412	Rentals - Misc. Equip.	\$ 400,000
	413	Rentals - Data Process. Equip.	\$ -
	417	Advertising	\$ 400,000
	427	Data Processing Svcs	\$ 15,000
	42C	Heat, Light & Power (856)	\$ 574,039
	42G	Data Processing Svcs (858)	\$ 111,748
	451	Local Travel Expend. - Gen.	\$ 13,200
	452	Local Travel Expend. - Special	\$ 10,600
	453	NonLocal Travel Exp. General	\$ 7,100
	454	NonLocal Travel Exp. Special	\$ 8,100
	499	Other Expend. - Gen.	\$ 1,016,197
	600	Contractual Services	\$ 1,500,000
	602	Telecomm. Maint. - Cont.	\$ 1,000
	608	Maint. & Repairs - Gen. - Cont.	\$ 1,132
	612	Office Equip. Maint. - Cont.	\$ 220,000
	613	Data Process. Maint. - Cont.	\$ 200,000
	615	Printing Svcs - Cont.	\$ 13,007,500
	619	Security Svcs - Cont.	\$ 200,000
	624	Cleaning Svcs - Cont.	\$ 100,000
	633	Transportation Svcs - Cont.	\$ 2,750,000
	671	Train. Prog. for City Empl.	\$ 190,000
	682	Prof. Svcs - Legal - Cont.	\$ 150,000
	684	Cont. Prof Serv	\$ -
686	Prof. Svcs - Other - Cont.	\$ 100,000	
P002	499	OMB Reduction	\$ (8,924,352)
0202	414	Poll sites	\$ 300,000
	499	Other Expend. - Gen.	\$ 1,500,000
	686	Poll workers	\$ 14,716,430
0203 DCAS	41D	Rentals (856)	\$ 18,929,751
0204	414	Rentals Land/Bldgs/Structures	\$ 303,642
	499	HAVA Holding Code	\$ 15,170,000
0205	686	Prof. Svcs - Other - Cont.	\$ -
0206	300	Grants	\$ -
TOTALS			\$ 68,675,379

FY09-FY10 OTPS PROJECTION
5-12-09

		FY09	FY10
OTPS ALLOCATION		\$69,365,767	\$68,675,379
OTPS ALLOCATION Minus HAVA Funding		\$53,895,767	\$53,505,379
Minus Rent Money and Intra-City		<u>\$17,231,848</u>	<u>\$20,428,972</u>
Adj. Total		\$36,663,919	\$33,076,407
Day to Day Spending		<u>\$5,000,000</u>	<u>\$5,000,000</u>
Adj. Total		\$31,663,919	\$28,076,407
Event Codes (Actual+Mgr Est.)			
117 Postage	\$2,500,000		
412 Rental tables and chairs	\$350,000		
417 Advertising	\$400,000		
600 Contractual	\$650,000		
615 Printing	\$12,000,000		
633 Trucks-Cabs	\$4,000,000		
414 Poll sites	\$300,000		
686 Pollworker	<u>\$15,000,000</u>		
Event code Total	\$35,200,000	<u>\$35,200,000</u>	<u>-\$35,200,000</u>
Adj. Total		-\$3,536,081	-\$7,123,593
Other Factors			
PS Deficit	\$6,800,000		PS Deficit <u>-\$6,500,000</u>
3 Specials Feb. 24th	\$1,000,000		
Doitt Deficit	\$366,000		
Bronx Special April 21st	\$2,200,000		
2 Bronx Specials June 2nd	<u>\$550,000</u>		
	\$10,916,000	<u>-\$10,916,000</u>	
Balance		-\$14,452,081	-\$13,623,593
Executive Plan funding for specials		\$2,500,000	
Deficit		-\$11,952,081	-\$13,623,593
			Run Off <u>-\$13,500,000</u>
			adj Deficit <u>-\$27,123,593</u>

Assumptions:
All Rent and Intra-City money is spent.
No other cuts.
New Machine implementation has begun.

Most numbers rounded

FUF



State of New York
STATE BOARD OF ELECTIONS

James A. Walsh
Chair
Douglas A. Kellner
Chair
Gregory P. Peterson
Commissioner
Evelyn J. Aquila
Commissioner

40 STEUBEN STREET
ALBANY, N.Y. 12207
Phone: 518/474-6367 Fax: 518/486-4546
website: www.elections.state.ny.us

Todd D. Valentine
Executive Director
Stanley L. Zalen
Executive Director
Kimberly A. Galvin
Special Counsel
Paul M. Collins
Deputy Counsel

May 1, 2009

Honorable Gary L. Sharpe
United States District Court
for the Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Re: *United States v. New York State Board of Elections, et al.*
Civil Action No. 06-CV-0263 (GLS)

Dear Judge Sharpe,

We enclose herewith Status Report of the Defendant New York State Board of Elections for the week ending April 30, 2009.

Respectfully submitted,

s/ _____
Kimberly A. Galvin (505011)
Special Counsel

s/ _____
Paul M. Collins (101384)
Deputy Special Counsel

NEW YORK STATE BOARD OF ELECTIONS

HAVA COMPLIANCE UPDATE
Activities & Progress for the Week of 4/23/09-4/30/09

Following is a detailed report concerning the previous week's progress in implementing the terms of the Court's Orders.

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are *in jeopardy and behind schedule*.

Contracting with Voting System Vendors

Status of tasks in this category: *on schedule*

- Contract negotiations have concluded and are awaiting sign off by the vendors and OSC.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *in jeopardy and behind schedule*

- Overall progress of testing :
 - SBOE, SysTest, and NYSTEC continue conference calls with vendors.
 - Vendors will be providing the versions of software that are to be tested by close of business 4/30/09. Vendors will be given until 5/06/09 to make any supplemental additions required by SysTest.
 - Testing will begin on 5/12/09.
 - SBOE, the AG's office and the DOJ are finalizing the details of the pilot program. After finalization, a joint motion will be made to the Court for approval of the pilot plan. Full certification efforts continue on a parallel track.

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- SBOE presented multiple new procedures to County Board Commissioners at the NYSBOE Annual Conference on 4/29/09; including Pre-Qualification Test, Maintenance Log Test & Procedures, and Test Deck Creation & Implementation.
- SBOE and NYSTEC provided a security policy presentation to the County Commissioners at the NYSBOE Annual Conference on 4/29/09.

HAVA COMPLAINT PROCESS

NYC HAVA Complaint

The Changes to the **Part 6217.5(C) Voter Registration Processing** have been posted to the SBOE Web Site and the comment period has commenced. Still awaiting a response from NYC.

FYI



State of New York
STATE BOARD OF ELECTIONS

James A. Walsh
Chair
Douglas A. Kellner
Chair
Gregory P. Peterson
Commissioner
Evelyn J. Aquila
Commissioner

40 STEUBEN STREET
ALBANY, N.Y. 12207
Phone: 518/474-6367 Fax: 518/486-4546
website: www.elections.state.ny.us

Todd D. Valentine
Executive Director
Stanley L. Zalen
Executive Director
Kimberly A. Galvin
Special Counsel
Paul M. Collins
Deputy Counsel

May 8, 2009

Honorable Gary L. Sharpe
United States District Court
for the Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Re: *United States v. New York State Board of Elections, et al.*
Civil Action No. 06-CV-0263 (GLS)

Dear Judge Sharpe,

We enclose herewith Status Report of the Defendant New York State Board of Elections
for the week ending May 7, 2009.

Respectfully submitted,

s/ _____
Kimberly A. Galvin (505011)
Special Counsel

s/ _____
Paul M. Collins (101384)
Deputy Special Counsel

NEW YORK STATE BOARD OF ELECTIONS

HAVA COMPLIANCE UPDATE
Activities & Progress for the Week of 5/01/09 - 5/07/09

Following is a detailed report concerning the previous week's progress in implementing the terms of the Court's Orders.

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are in jeopardy and behind schedule.

Contracting with Voting System Vendors

Status of tasks in this category: *on schedule*

- The revised contracts were sent to the vendors on May 4, 2009 for signature.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *in jeopardy and behind schedule*

- Overall progress of testing :
 - NYSTEC & SBOE provided final feedback on the timeline to SysTest on 5/1/09. Critical dates have been set.
 - SysTest is on schedule to begin testing on 5/12/09.
- SBOE submitted version of pilot plan parameters and proposed amended time line to DOJ early this week. It is expected that SBOE and DOJ will continue to discuss and finalize details of the plan and the Board will vote on the proposal on 5/12/09 at the Board meeting.

NEW YORK STATE BOARD OF ELECTIONS

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- NYSTEC is currently working on completing the Security Policy document to include all county templates and anything else that may be needed before it is released to counties.
- NYSTEC is currently working on policies and procedures for the Lot 1 acceptance testing process and county receipt process.

HAVA COMPLAINT PROCESS

NYC HAVA Complaint

No response from NYC has been received to date. SBOE staff again followed up with NYC staff but has not as yet received a response.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

172

----- x

JIMMY MCMILLAN,

Plaintiffs,

NOTICE OF MOTION

- against -

CV 08-3679 (CBA)(LB)

BOARD OF ELECTIONS IN THE
CITY OF NEW YORK,

Defendants.

----- x

PLEASE TAKE NOTICE, that upon the Defendant's Memorandum of Law in Support of Its Motion to Dismiss the Complaint, and all other pleadings and proceedings herein, defendant Board of Elections in the City of New York, will move this Court on a date and time to be designated by the Court, before the Honorable Carol Bagley Amon, United States District Judge, at the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201, for an order pursuant to Rule 12(b)(1) and (6) of the Federal Rules of Civil Procedure, dismissing the complaint and for such other relief as the Court deems just and proper.

RECEIVED
GENERAL COUNSEL
BD. OF ELECTIONS
IN THE CITY OF NEW YORK
2009 MAY -8 PM 6:52

**NOTICE TO PRO SE LITIGANT WHO
OPPOSES A RULE 12 MOTION SUPPORTED
BY MATTERS OUTSIDE THE PLEADINGS**

The defendant in this case has moved to dismiss for judgment on the pleadings pursuant to Rule 12(b) or 12(c) of the Federal Rules of Civil Procedure and has submitted additional written materials. This means that the defendant has asked the court to decide this case without a trial, based on these written materials. You are warned that the Court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, **THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION** by filing sworn affidavits and other papers as required by Rule 56(e). An affidavit is a sworn statement of fact based on personal knowledge that would be admissible in evidence at trial. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached.

In short, Rule 56 provides that you may NOT oppose the defendant's motion simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising issues of fact for trial. Any witness statements must be in the form of affidavits. You may submit your own affidavit and/or the affidavit of others. You may submit affidavits that were prepared specifically in response to defendant's motion.

If you do not respond to the motion on time with affidavits or documentary evidence contradicting the facts asserted by the defendant, the court may accept defendant's factual assertions as true. Judgment may then be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, must be served on the undersigned by June 5, 2009.

Dated: New York, New York
May 8, 2009

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant Board of
Elections in the City of New York
100 Church Street, Room 2-126
New York, New York 10007
(212) 788-0849
e-mail: SKitzing@law.nyc.gov

By: s/Stephen Kitzinger
Stephen Kitzinger
Assistant Corporation Counsel

EXHIBIT A

FEDERAL RULES OF CIVIL PROCEDURE

RULE 56. Summary Judgment

(a) By a Claiming Party. A party claiming relief may move, with or without supporting affidavits, for summary judgment on all or part of the claim. The motion may be filed at any time after:

- (1) 20 days have passed from commencement of the action; or
- (2) the opposing party serves a motion for summary judgment.

(b) For Defending Party. A party against whom relief is sought may move at any time, with or without supporting affidavits, for summary judgment on all or part of the claim.

(c) Serving the Motion; Proceedings. The motion must be served at least 10 days before the day set for the hearing. An opposing party may serve opposing affidavits before the hearing day. The judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.

(d) Case Not Fully Adjudicated on Motion.

(1) **Establishing Facts.** If summary judgment is not rendered on the whole action, the court should, to the extent practicable, determine what material facts are not genuinely at issue. The court should so determine by examining the pleadings and evidence before it and by interrogating the attorneys. It should then issue an order specifying what facts--including items of damages or other relief--are not genuinely at issue. The facts so specified must be treated as established in the action.

(2) **Establishing Liability.** An interlocutory summary judgment may be rendered on liability alone, even if there is a genuine issue on the amount of damages.

(e) Affidavits; Further Testimony.

(1) **In General.** A supporting or opposing affidavit must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant is competent to testify on the matters stated. If a paper or part of a paper is referred to in an affidavit, a sworn or certified copy must be attached to or served with the affidavit. The court may permit an affidavit to be supplemented or opposed by depositions, answers to interrogatories, or additional affidavits.

(2) **Opposing Party's Obligation to Respond.** When a motion for summary judgment is properly made and supported, an opposing party may not rely merely on allegations or denials in its own pleading; rather, its response must--by affidavits or as otherwise provided in this rule--set out specific facts showing a genuine issue for trial. If the opposing party does not so respond, summary judgment should, if appropriate, be entered against that party.

(f) When Affidavits are Unavailable. If a party opposing the motion shows by affidavit that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(1) deny the motion;

(2) order a continuance to enable affidavits to be obtained, depositions to be taken, or other discovery to be undertaken; or

(3) issue any other just order.

(g) Affidavit Submitted in Bad Faith. If satisfied that an affidavit under this rule is submitted in bad faith or solely for delay, the court must order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt.

CERTIFICATE OF SERVICE

I, Stephen Kitzinger, hereby certify that a copy of the attached Notice of Motion was caused to be served on the party listed below by first-class mail, postage prepaid, on May 8, 2009.

Jimmy McMillan
1996 Nostrand Avenue
Brooklyn, New York 11210

Dated: New York, New York
May 8, 2009

s/Stephen Kitzinger
STEPHEN KITZINGER

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x

JIMMY MCMILLAN,

Plaintiffs,

- against -

CV 08-3679 (NG)(LB)

BOARD OF ELECTIONS IN THE
CITY OF NEW YORK,

Defendants.

----- x

**DEFENDANT BOARD OF ELECTIONS IN
THE CITY OF NEW YORK'S
MEMORANDUM OF LAW IN SUPPORT OF
ITS MOTION TO DISMISS THE
COMPLAINT**

Defendant Board of Elections in the City of New York (the “Board”) submits this memorandum of law in support of its Motion to Dismiss the Complaint (the “Complaint”). Plaintiff commenced this action alleging that the Board acted without authority when it determined that his independent nominating petition was invalid in the absence of a validly filed objection. This action should be dismissed because: (1) he has not alleged a federal claim that gives this Court jurisdiction; (2) the state-law claim is time-barred; (3) in the event that the Court were to construe the Complaint as asserting a claim under the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States (the “Fourteenth Amendment”), such a claim is barred by the Second Circuit’s opinion and order in Rivera-Powell v. New York City Bd. of Elec., 470 F.3d 458 (2d Cir. 2006); and (4) the Board acted properly in making its determination that plaintiff’s petition was facially deficient. Accordingly, the complaint should be dismissed.

FACTS

On or about August 19, 2008, an independent nominating petition was filed with the Board purporting to nominate plaintiff for the public office of Member of the Senate from the 21st Senatorial District (the "Petition"). See Kitzinger Declaration, Exhibit A. To be valid, the petition was required to contain valid signatures in an amount equal to the lesser of 5% of the votes cast in the most recent gubernatorial election within the 21st Senatorial District, not including blank or void votes, or 3,000. N.Y. Election Law § 6-142(2) and (2)(f). There were 40,588 votes cast in the 21st Senatorial District in the 2006 gubernatorial election. See Kitzinger Declaration, Exhibit B. Accordingly, for the Petition to be valid, it was required to contain 2,030 signatures. The petition filed by plaintiff contained not more than 40 signatures, on a total of 4 sheets. See Kitzinger Declaration, Exhibit A. By letter dated August 25, 2008, the Board notified plaintiff that the petition purporting to nominate him appeared on its face to be deficient and that he would be given an opportunity to be contest this preliminary finding at the Board's hearing on September 4, 2008. At the Board's public hearing held on September 4, 2008, the Commissioners of Election in the City of New York (the "Commissioners") determined that the Petition was invalid because it did not comply with the New York State Election Law and/or the Rules of the Board of Elections. See Exhibit to Complaint (letter from the Board dated September 4, 2008, advising that the petition was determined to be invalid). This action was commenced by the filing of the Complaint with the Pro Se Office on September 10, 2008.

ARGUMENT

STANDARD OF REVIEW

In reviewing a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), a court merely assesses the legal feasibility of the complaint, and does not weigh the evidence that may be offered at trial. Cooper v. Parsky, 140 F.3d 433, 440 (2d Cir. 1998); Geisler v. Petrocelli, 616 F.2d 636, 639 (2d Cir. 1980). All factual allegations in the complaint must be accepted as true, and the complaint must be viewed in the light most favorable to the plaintiff. LaBounty v. Adler, 933 F.2d 121, 123 (2d Cir. 1991). Although a court is limited to the facts stated in the complaint, for purposes of a Rule 12(b)(6) motion, the complaint includes any documents attached as exhibits and any documents incorporated by reference. See Paulemon v. Tobin, 30 F.3d 307, 308-09 (2d Cir. 1994); Cortec Industries, Inc. v. Sum Holding, L.P., 949 F.2d 42, 47 (2d Cir. 1991), cert. denied, 503 U.S. 960 (1992). Further, a court resolving a motion to dismiss the complaint may also consider matters of which judicial notice may be taken. Chambers v. Time Warner, Inc., 282 F.3d 147, 153 (2d Cir. 2002). Pursuant to Fed. R. Evid. 201, the Court may take judicial notice of facts “not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably challenged.” This includes matters of public record. Lakonia Management Ltd.v. Meriwether, 106 F. Supp. 2d 540 (citing Pani v. Empire Blue Cross Blue Shield, 152 F.3d 67, 75 (2d Cir. 1998), cert. denied, 525 U.S. 1103 (1999)), Hirsch v. Arthur Andersen & Co., 72 F.3d 1085, 1092 (2d Cir. 1995).

A motion to dismiss should be granted unless plaintiff has pled a set of facts that plausibly state a claim for relief. Bell Atlantic Corp., v. Twombly, 550 U.S. ___, 127 S. Ct. 1955, 1974 (2007). Even liberally construed, plaintiff has failed to plead a set of facts that

support recovery under any legal theory that would support federal jurisdiction. Accordingly, the complaint should be dismissed.

POINT I

PLAINTIFF HAS FAILED TO PLEAD A CLAIM FOR WHICH THIS COURT HAS ORIGINAL JURISDICTION.

It is well-settled that the party seeking to invoke federal jurisdiction bears the burden of proving it. Blockbuster, Inc. v. Galeno, 472 F.3d 53, 57 (2d Cir. 2006). District Courts are courts of limited jurisdiction and have the power to hear only that which is authorized by the United States Constitution and/or statute. Exxon Mobil Corp. v. Allapattah Servs., 545 U.S. 546, 552 (2005) (citing Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375, 377 (1994)). Sections 1331 and 1332 of Title 28 of the United States Code define the basic contours of a District Court's original jurisdiction. Section 1331 provides that a District Court shall have original jurisdiction over civil actions that arise under the Constitution, laws, or treaties of the United States. 28 U.S.C. § 1331. Here, plaintiff appears to have asserted a garden variety claim under Article 16 of the New York Election Law. As such, the claim does not arise under the Constitution, laws, or treaties of the United States and jurisdiction may not be predicated on 28 U.S.C. § 1331. Section 1332 provides for the District Court to have original jurisdiction over claims between citizens of different states where the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. Here, it has not been alleged that plaintiff and defendant are citizens of different states (in fact, both are citizens of the state of New York). Accordingly, jurisdiction may not be predicated on 28 U.S.C. § 1332. Since plaintiff has failed to properly plead a claim over which this court has jurisdiction, the complaint must be dismissed.

POINT II

PLAINTIFF'S STATE LAW CLAIM IS TIME-BARRLED.

State law provides that an aggrieved candidate has until the later of two-weeks after the last date to file the petition or three business days after the Board determined that the petition was invalid. N.Y. Election Law § 16-102(2). Here, the last day to file an independent nominating petition – like the one filed by plaintiff – was August 19, 2008. N.Y. Election Law § 6-158(9) (“A petition for an independent nomination for an office to be filled at the time of a general election shall be filed . . . not later than eleven weeks preceding such election.”). The Board determined that the Petition was invalid on September 4, 2008. Accordingly, the later date was September 9, 2008 (3 business days after the Board acted). Because plaintiff did not commence this action until September 10, 2008, the claim is untimely and the Complaint should be dismissed.

POINT III

IN THE EVENT THAT THE COURT WERE TO CONSTRUE PLAINTIFF'S CLAIM AS BEING A DUE PROCESS CLAIM, THE SECOND CIRCUIT DECISION IN RIVERA-POWELL PRECLUDES PLAINTIFF'S RECOVERY.

In the event that the Court were to construe plaintiff's claim as asserting a denial of due process, such a claim fails as a matter of law. The Second Circuit, in Rivera-Powell v. New York City Bd. of Elec., 470 F.3d 458 (2d Cir. 2006), held that a plaintiff could not sustain a procedural due process claim against the Board because the Board's procedures – notice of the Board's hearing and the opportunity to be heard – along with the statutory remedy provided by Article 16 of the Election Law, satisfied all procedural due process concerns. Rivera-Powell, 470 F.3d at 467 – 68. Therefore, to the extent that this Court were to construe the Complaint as seeking to assert such a claim, such a claim is foreclosed, as a matter of law, by the Second Circuit's ruling in Rivera-Powell. Plaintiff had an opportunity to press the state law claim described above in New York Supreme Court. Apparently, he elected not to do so. The failure to avail oneself of process cannot serve as the basis for a claim that one was denied due process. Accordingly, to the extent that the Court were to construe plaintiff's claim as one that he was denied due process, such a claim fails as a matter of law and the complaint should be dismissed.

POINT IV

THE BOARD ACTED PROPERLY IN MAKING A PRIMA FACIE DETERMINATION THAT PLAINTIFF'S PETITION WAS DEFICIENT.

Under N.Y. Election Law § 6-154(2), Respondent Board is “empowered to make rules in reference to the filing and disposition of such [challenged nominating] petition, certificate, objections and specifications.” N.Y. Election Law § 6-154(2). In accordance with this provision, the Board of Elections adopted the following rule as Rule E1. of its Independent Nominating Petition Rules for 2008:

The Board of Elections reviews each Cover Sheet and Petition to insure compliance with the New York State Election Law. On occasion, the Board determines that it appears that a Cover Sheet and/or Petition, on its face, fails to comply with the requirements of the New York State Election Law and is not subject to a cure under Section 6-134(2) of the Election Law. In that event, the Board shall notify the candidate or designated contact person in writing, of the Board's preliminary finding of a Prima Facie defect and advise the candidate/contact person that he/she may appear at the commencement of the Board's hearings on said petitions to contest such preliminary finding. Such review, preliminary finding and final determination shall be without prejudice to the Board's subsequent determination of objections and specifications of objections filed pursuant to the provisions of the Election Law and these Rules.

Independent Nominating Petition Rules For 2008, Rule E1., available at <http://vote.nyc.ny.us/pdf/documents/boe/Adopted2008IndependentNominatingPetitionRules.pdf>.

Pursuant to this rule, the Board reviewed plaintiffs' petition to determine whether or not it was prima facie valid. The Board determined that it was not and, again in accordance with this rule, so notified plaintiff and provided him the opportunity to contest the finding. In sum, the Board

acted within its statutory grant of authority in determining the invalidity of plaintiff's petition in the absence of a validly filed objection. As such, plaintiff has, as a matter of law, failed to state a claim upon which relief may be granted and the complaint should be dismissed.

CONCLUSION

For the reasons set forth herein, the Board of Elections in the City of New York respectfully request that this Court enter an order dismissing the Complaint and for such other and further relief as is just and proper.

Dated: New York, New York
 May 8, 2009

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant Board of
Elections in the City of New York
100 Church Street, Room 2-126
New York, New York 10007
(212) 788-0849
e-mail: SKitzing@law.nyc.gov

By: s/Stephen Kitzinger
 Stephen Kitzinger
 Assistant Corporation Counsel

CERTIFICATE OF SERVICE

I, Stephen Kitzinger, hereby certify that a copy of the attached Defendant Board of Elections in the City of New York's Memorandum of Law In Support of Its Motion to Dismiss the Complaint was caused to be served on the party listed below by first-class mail, postage prepaid, on May 8, 2009.

Jimmy McMillan
1996 Nostrand Avenue
Brooklyn, New York 11210

Dated: New York, New York
May 8, 2009

s/Stephen Kitzinger
STEPHEN KITZINGER

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x

JIMMY MCMILLAN,

Plaintiffs,

- against -

BOARD OF ELECTIONS IN THE
CITY OF NEW YORK,

**DECLARATION OF
STEPHEN KITZINGER IN
SUPPORT OF
DEFENDANT’S MOTION TO
DISMISS THE COMPLAINT**

Defendants. CV 08-3679 (CBA)(LB)

----- x

STEPHEN KITZINGER, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury, that:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant Board of Elections in the City of New York (the “Board”). As such, I am familiar with the facts of this case.

2. I submit this declaration in support of the Board’s motion, pursuant to Rule 12 of the Federal Rules of Civil Procedure, to dismiss the complaint. The complaint should be dismissed because: (1) plaintiff has not alleged a federal claim that gives this Court jurisdiction; (2) the state-law claim is time-barred; (3) in the event that the Court were to construe the Complaint as asserting a claim under the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States (the “Fourteenth Amendment”), such a claim is barred by the Second Circuit’s opinion and order in Rivera-Powell v. New York City Bd. of Elec., 470 F.3d 458 (2d Cir. 2006); and (4) the Board acted properly in making its determination that plaintiff’s petition was facially deficient.

3. Attached hereto as Exhibit A is a true and correct certified copy of the petition filed with and on file at the Board purporting to nominate plaintiff as a candidate for election to the public office of Member of the Senate from the 21st Senatorial District.

4. Attached hereto as Exhibit B is a true and correct certified copy of the Statement and Return Report by Senatorial District, Kings County, relating to the 2006 General Election for the public offices of Governor and Lieutenant Governor, on file at the Board.

Dated: New York, New York
May 7, 2009

s/Stephen Kitzing
STEPHEN KITZINGER

Independent Nominating Petition

Election Law

I, the undersigned, do hereby state that I am registered voter of the State of New York and a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto and that I do hereby nominate that following named person (or persons) as a candidate (candidates) for election to public office (or public offices) to be voted for at the election to be held on the 4 day of NOVEMBER, 2008 and that I select the name RENT Is Too Damn High as the name of the independent body making the nomination (or nominations) and RENT Is Too Damn High as the emblem of such body.

**RENT
Is Too Damn High**

Name of Candidate JIMMY McMILLAN	Public Office or Party Position STATE SENATOR 21ST DISTRICT - Senatorial	Place of Residence 1996 Nostrand Ave - Brooklyn, NY. 11210
--	--	---

I do hereby appoint (here insert the name and address or at least three persons, all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

DATE	Name of Signer (SIGNATURE)	ADDRESS	Enter Town or County except in NC enter County
8/18/2008	<i>Timothy Crowell</i>	446 Alabama Ave	Kings County
8/18/2008	<i>Haendel Mathieu</i>	1225 Bushwick Ave	Brooklyn NY
8/18/2008	<i>TERRY Williams</i>	417 Ocean Ave	Brooklyn NY
8/18/2008	<i>Batony Sarmetoe</i>	31 EAST 31 Street	Brooklyn NY
8/18/2008	<i>Tamika Fleming</i>	1123 Forest Ave	Brooklyn NY
8/18/2008	<i>D. McHugh</i>	82 Cooke Ave	Brooklyn NY
8/18/2008	<i>Diana Sapp</i>	60 Clarkson Ave #3A	Brooklyn NY
8/18/2008	<i>Henry D</i>	2015 DORCHESTER ROAD	Brooklyn NY
8/18/2008	<i>Joe Salf</i>	2054 87th St	Brooklyn NY
8/18/2008	<i>Cherelle Hamble</i>	425 E 25th	Brooklyn NY

STATEMENT OF WITNESS

I, JAMES McMILLAN state; I am a duly qualified voter of the State of New York and am also duly qualified to sign the petition. I now reside at 1996 NOSTRAND AVE. Each of the individuals whose name are subscribed to this petition sheet containing 10 signatures, subscribed the same in my presence on the date above indicated and identified himself to be the individual who sign this sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and if it contains a false statement shall subject me to the same penalties as if I had been duly sworn.

8/18/2008
DATE



* K G 0 8 1 2 0 9 7 *

[Signature]
Signature of witness

WITNESS IDENTIFICATION INFORMATION:

The following information for the witness named above must be completed prior to filing with the board of elections in order for this petition sheet to be valid
Town of City: Brooklyn County: Kings

RECEIVED BY THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK
 THIS IS TO CERTIFY THAT THIS IS A TRUE COPY OF THE ORIGINAL DOCUMENT
 2008 AUG 19 P 8:43
 MFC

Independent Nominating Petition Sec 1 Election Law

I, the undersigned, do hereby state that I am registered voter of the State of New York and a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto and that I do hereby nominate that following named person (or persons) as a candidate (candidates) for election to public office (or public offices) to be voted for at the election to be held on the 4 day of NOVEMBER, 2008 and that I select the name RENT Is Too Damn High as the name of the independent body making the nomination (or nominations) and **RENT Is Too Damn High** as the emblem of such body.

**RENT
Is Too Damn High**

Name of Candidate JIMMY McMILLAN	Public Office or Party Position STATE SENATOR 21ST DISTRICT - SENATORIAL	Place of Residence 1996 Nostrand Ave - Brooklyn, NY. 11210
--	--	---

I do hereby appoint (here insert the name and address or at least three persons, all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

DATE	Name of Signer (SIGNATURE)	ADDRESS	Enter Town or County except in NC enter County
9/18/2008	<i>Ann George</i>	162 Eade St	Kings Brooklyn NY
9/18/2008	<i>Justine Reynolds</i>	107 Rogers Ave	Kings Brooklyn NY 11224
9/18/2008	<i>[Signature]</i>	425 [unclear] m. [unclear]	Kings NY 10550
9/18/2008	<i>L. Jack</i>	Thomas Bayland	Kings NY 11223
9/18/2008	<i>Brittany Lucas</i>	22nd 23rd Cortellyour	Kings NY 11226
9/18/2008	<i>[Signature]</i>	1404 Brooklyn	Kings NY 11210
9/18/2008	<i>E. [unclear]</i>	214 E 37 Brooklyn	Kings NY 11213
1/2008			
1/2008			
1/2008			

STATEMENT OF WITNESS

I, JAMES McMillan state, I am a duly qualified voter of the State of New York and am also duly qualified to sign the petition. I now reside at 1996 NOSTRAND AVE
 Each of the individuals whose name are subscribed to this petition sheet containing 7 signatures, subscribed the same in my presence on the date above indicated and identified himself to be the individual who sign this sheet.
 I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement shall subject me to the same penalties as if I had been duly sworn.

9/18/2008
DATE

[Signature]
Signature of witness

WITNESS IDENTIFICATION INFORMATION: The following information for the witness named above must be completed prior to filing with the board of elections in order for this petition sheet to be valid

Town of City: Brooklyn County Kings

Independent Nominating Petition Section Election Law

I, the undersigned, do hereby state that I am registered voter of the State of New York and a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto and that I do hereby nominate that following named person (or persons) as a candidate (candidates) for election to public office (or public offices) to be voted for at the election to be held on the 4 day of **NOVEMBER, 2008** and that I select the name **RENT Is Too Damn High** as the name of the independent body making the nomination (or nominations) and **RENT Is Too Damn High** as the emblem of such body.

**RENT
Is Too Damn High**

Name of Candidate JIMMY McMILLAN	Public Office or Party Position STATE SENATOR 21ST DISTRICT - SENATORIAL	Place of Residence 1996 Nostrand Ave - Brooklyn, NY. 11210
--	--	---

I do hereby appoint (here insert the name and address or at least three persons, all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

DATE	Name of Signer (SIGNATURE)	ADDRESS	Enter Town or County except in NC enter County
8/16/2008		214 Rockaway Pkwy. Brooklyn, N.Y. 11212	Kings County Brooklyn
8/16/2008		537 Clinton Ave 311 11238	Kings County BKLYN
8/16/2008		1964 Nostrand	Kings County BKLYN
8/18/2008		1318 New York Ave 11203 Bklyn Ave	Kings County BKLYN
8/18/2008		296 Jerome Ave	Kings County BKLYN
8/18/2008		2047 Nostrand Ave	Kings County BKLYN
8/18/2008		388 St. Marks Ave 11238 Bklyn. N.Y.	Kings County BKLYN
8/18/2008		221 Tappin Av Brooklyn NY	Kings County
8/18/2008		131 E 21 St APT 3D	Kings County BKLYN
8/16/2008		324 New York Ave	Kings County BKLYN

STATEMENT OF WITNESS

I, JAMES McMillan state, I am a duly qualified voter of the State of New York and am also duly qualified to sign the petition. I now reside at 1996 Nostrand Ave
 Each of the individuals whose name are subscribed to this petition sheet containing 10 signatures, subscribed the same in my presence on the date above indicated and identified himself to be the individual who sign this sheet.
 I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement shall subject me to the same penalties as if I had been duly sworn.

9/19/2008
DATE

Signature of witness

WITNESS IDENTIFICATION INFORMATION: The following information for the witness named above must be completed prior to filing with the board of elections in order for this petition sheet to be valid

Town of City: Brooklyn County: Kings

Independent Nominating Petition Sec 140, Election Law

I, the undersigned, do hereby state that I am registered voter of the State of New York and a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto and that I do hereby nominate that following named person (or persons) as a candidate (candidates) for election to public office (or public offices) to be voted for at the election to be held on the 4 day of NOVEMBER, 2008 and that I select the name RENT Is Too Damn High as the name of the independent body making the nomination (or nominations) and **RENT Is Too Damn High** as the emblem of such body.

**RENT
Is Too Damn High**

Name of Candidate JIMMY McMILLAN	Public Office or Party Position STATE SENATOR 21ST DISTRICT - SENATORIAL	Place of Residence 1996 Nostrand Ave - Brooklyn, NY. 11210
--	--	---

I do hereby appoint (here insert the name and address or at least three persons, all of whom shall be enrolled voters of said party). as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

DATE	Name of Signer (SIGNATURE)	ADDRESS	Enter Town or County except in NC enter County
1 8/18/2008	<i>James James</i>	3303 Foster ave	Brooklyn NY 11210
2 8/18/2008	<i>Raymond Wood</i>	218-39 112 AVE	Kings County NY Queens Village
3 8/18/2008	RHAPSODY SIMON	667 EAST 34 STREET	BROOKLYN NY
4 8/18/2008	<i>Shiavonne Manswell</i>	137 E. 32ND STREET BKLYN NY 11210	Kings County
5 8/18/2008	<i>Chester Butler</i>	161A Hull St Brooklyn 11233	Brooklyn NY 11233
6 8/18/2008	<i>Angela</i>	205 East 43 Street	Brooklyn NY 11203
7 8/18/2008	<i>Williamfred Maylor</i>	135 Hawthorne St APT 1-H	Brooklyn, NY 112
8 8/18/2008	<i>Patricia Ferron</i>	1250 Ocean ave Apt B H	BKlyn NY 1123
9 8/18/2008	<i>Janet Jayette</i>	68-46 MANSE ST ROOSE	FURER HILLS NY 11374
10 8/18/2008	<i>Frank Pearson</i>	665 New York Ave Brooklyn NY 11203	BKlyn NY 11203

STATEMENT OF WITNESS

I, JAMES McMILLAN state, I am a duly qualified voter of the State of New York and am also duly qualified to sign the petition. I now reside at 1996 NOSTRAND AVE. Each of the individuals whose name are subscribed to this petition sheet containing 10 signatures, subscribed the same in my presence on the date above indicated and identified himself to be the individual who sign this sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement shall subject me to the same penalties as if I had been duly sworn.

8/18/2008
DATE

[Signature]
Signature of witness

WITNESS IDENTIFICATION INFORMATION: The following information for the witness named above must be completed prior to filing with the board of elections in order for this petition sheet to be valid

Town of City Kings Brooklyn County Kings



**STATEMENT AND RETURN REPORT
BY Senatorial District**

**General Election 2006 - 11/07/2006
Kings County - All Parties and Independent Bodies**

**FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC)
NO. OF CANDIDATES TO BE ELECTED 1**



STATEMENT AND RETURN REPORT BY Senatorial District
 General Election 2006 - 11/07/2006
 Kings County
 All Parties and Independent Bodies



FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC) NO. OF CANDIDATES TO BE ELECTED 1

Senatorial District 17

Public Counter	35,148
Emergency	415
Absentee/Military	404
Affidavit	1,149
TOTAL BALLOTS	37,203
John J Faso / C Scott Vanderhoef (Republican)	1,988
Eliot Spitzer / David A Paterson (Democratic)	26,017
Eliot Spitzer / David A Paterson (Independence)	944
John J Faso / C Scott Vanderhoef (Conservative)	328
Eliot Spitzer / David A Paterson (Working Families)	2,100
Malachy McCourt / Alison Duncan (Green)	581
John Clifton / Donald Silberger (Libertarian)	133
Jimmy McMillan (Rent Is Too High)	200
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	69
JOHN FASO (Write-In)	1
MATTHEW J. SANABRIA (Write-In)	1
RABBI YEHRDA LEVIN (Write-In)	1
TOTAL VOTES	32,363
UNRECORDED	4,840

Senatorial District 18

Public Counter	53,350
Emergency	287
Absentee/Military	857
Affidavit	1,586
TOTAL BALLOTS	56,247
John J Faso / C Scott Vanderhoef (Republican)	1,496
Eliot Spitzer / David A Paterson (Democratic)	39,365
Eliot Spitzer / David A Paterson (Independence)	1,672
John J Faso / C Scott Vanderhoef (Conservative)	354
Eliot Spitzer / David A Paterson (Working Families)	7,004
Malachy McCourt / Alison Duncan (Green)	1,069
John Clifton / Donald Silberger (Libertarian)	114
Jimmy McMillan (Rent Is Too High)	379
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	77
AL SHARPTON (Write-In)	1
ALTON MADDOX (Write-In)	2
BENJAMIN A MARSHALL (Write-In)	2
CHARLES BARLEY (Write-In)	1
CHARLES BARRON (Write-In)	13
KEVIN CUMMINS (Write-In)	1
MCCOURT (Write-In)	1
MCLACAY (Write-In)	1
NOAM CHOMSKY (Write-In)	1
TOM SUOZZI (Write-In)	1
TOTAL VOTES	51,554
UNRECORDED	4,693

STATEMENT AND RETURN REPORT BY Senatorial District
 General Election 2006 - 11/07/2006
 Kings County
 All Parties and Independent Bodies



FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC) NO. OF CANDIDATES TO BE ELECTED 1

Senatorial District 19

Public Counter	44,426
Emergency	64
Absentee/Military	544
Affidavit	747
TOTAL BALLOTS	45,864
John J Faso / C Scott Vanderhoef (Republican)	1,841
Eliot Spitzer / David A Paterson (Democratic)	35,406
Eliot Spitzer / David A Paterson (Independence)	1,110
John J Faso / C Scott Vanderhoef (Conservative)	393
Eliot Spitzer / David A Paterson (Working Families)	1,647
Malachy McCourt / Alison Duncan (Green)	103
John Clifton / Donald Silberger (Libertarian)	55
Jimmy McMillan (Rent Is Too High)	185
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	36
CHARLES BARRON (Write-In)	4
MARY FRANCE/ RON DANIELS (Write-In)	2
SHAKA ZULU (Write-In)	1
TOTAL VOTES	40,783
UNRECORDED	5,081

Senatorial District 20

Public Counter	52,101
Emergency	238
Absentee/Military	931
Affidavit	1,220
TOTAL BALLOTS	54,729
John J Faso / C Scott Vanderhoef (Republican)	2,523
Eliot Spitzer / David A Paterson (Democratic)	37,945
Eliot Spitzer / David A Paterson (Independence)	1,499
John J Faso / C Scott Vanderhoef (Conservative)	532
Eliot Spitzer / David A Paterson (Working Families)	6,646
Malachy McCourt / Alison Duncan (Green)	947
John Clifton / Donald Silberger (Libertarian)	115
Jimmy McMillan (Rent Is Too High)	267
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	64
BILL WELD (Write-In)	1
CHARLES BARRON (Write-In)	1
HOWARD PHILLIPS (Write-In)	2
JIM DIMINI (Write-In)	1
JOHNATHAN TASINI (Write-In)	1
JONATHAN A KOLLEENY (Write-In)	1
LEWIS CUMMING (Write-In)	1
TERRY MORRIS (Write-In)	1
YISROEL DAVID ROSENBERG (Write-In)	1
TOTAL VOTES	50,548
UNRECORDED	4,181

STATEMENT AND RETURN REPORT BY Senatorial District
 General Election 2006 - 11/07/2006
 Kings County
 All Parties and Independent Bodies



FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC) NO. OF CANDIDATES TO BE ELECTED 1

Senatorial District 21

Public Counter	43,281
Emergency	310
Absentee/Military	607
Affidavit	706
TOTAL BALLOTS	45,057
John J Faso / C Scott Vanderhoef (Republican)	3,003
Eliot Spitzer / David A Paterson (Democratic)	33,071
Eliot Spitzer / David A Paterson (Independence)	1,143
John J Faso / C Scott Vanderhoef (Conservative)	489
Eliot Spitzer / David A Paterson (Working Families)	2,342
Malachy McCourt / Alison Duncan (Green)	270
John Clifton / Donald Silberger (Libertarian)	68
Jimmy McMillan (Rent Is Too High)	175
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	21
CHARLES BARRON (Write-In)	3
JOHN JACOB (Write-In)	1
MS. GITTEL FEINTUCH (Write-In)	1
SINGEL HEIMER SCHMIDT (Write-In)	1
TOTAL VOTES	40,588
UNRECORDED	4,469

Senatorial District 22

Public Counter	41,867
Emergency	127
Absentee/Military	1,027
Affidavit	582
TOTAL BALLOTS	43,786
John J Faso / C Scott Vanderhoef (Republican)	11,246
Eliot Spitzer / David A Paterson (Democratic)	24,278
Eliot Spitzer / David A Paterson (Independence)	1,135
John J Faso / C Scott Vanderhoef (Conservative)	1,878
Eliot Spitzer / David A Paterson (Working Families)	1,296
Malachy McCourt / Alison Duncan (Green)	427
John Clifton / Donald Silberger (Libertarian)	114
Jimmy McMillan (Rent Is Too High)	113
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	41
BILL MURAWSKI (Write-In)	1
BILL O'REILLY (Write-In)	2
BRUNO A. FRUSTASI (Write-In)	1
MATTHEW E. ENDLICH, ESQ (Write-In)	1
MICHAEL BLOOMBERG (Write-In)	1
SEAN HANNIKY (Write-In)	1
TOTAL VOTES	40,535
UNRECORDED	3,251

STATEMENT AND RETURN REPORT BY Senatorial District
General Election 2006 - 11/07/2006
Kings County
All Parties and Independent Bodies



FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC) NO. OF CANDIDATES TO BE ELECTED 1

Senatorial District 23

Public Counter	16,969
Emergency	22
Absentee/Military	498
Affidavit	227
TOTAL BALLOTS	17,804
John J Faso / C Scott Vanderhoef (Republican)	2,741
Eliot Spitzer / David A Paterson (Democratic)	11,367
Eliot Spitzer / David A Paterson (Independence)	428
John J Faso / C Scott Vanderhoef (Conservative)	297
Eliot Spitzer / David A Paterson (Working Families)	577
Malachy McCourt / Alison Duncan (Green)	110
John Clifton / Donald Silberger (Libertarian)	42
Jimmy McMillan (Rent Is Too High)	84
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	15
TOTAL VOTES	15,661
UNRECORDED	2,143

Senatorial District 25

Public Counter	21,649
Emergency	11
Absentee/Military	551
Affidavit	731
TOTAL BALLOTS	23,239
John J Faso / C Scott Vanderhoef (Republican)	1,843
Eliot Spitzer / David A Paterson (Democratic)	14,667
Eliot Spitzer / David A Paterson (Independence)	887
John J Faso / C Scott Vanderhoef (Conservative)	205
Eliot Spitzer / David A Paterson (Working Families)	3,763
Malachy McCourt / Alison Duncan (Green)	567
John Clifton / Donald Silberger (Libertarian)	80
Jimmy McMillan (Rent Is Too High)	94
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	22
BILL CLINTON (Write-In)	1
CHARLES BARRON (Write-In)	1
JOHN FASO (Write-In)	1
PATAKI (Write-In)	1
RABBY ARON TIETELBAUM (Write-In)	2
TOTAL VOTES	22,134
UNRECORDED	1,105

STATEMENT AND RETURN REPORT BY Senatorial District
General Election 2006 - 11/07/2006
Kings County
All Parties and Independent Bodies



FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC) NO. OF CANDIDATES TO BE ELECTED 1

Senatorial District 27

Public Counter	42,412
Emergency	325
Absentee/Military	1,077
Affidavit	490
TOTAL BALLOTS	44,583
John J Faso / C Scott Vanderhoef (Republican)	8,137
Eliot Spitzer / David A Paterson (Democratic)	28,553
Eliot Spitzer / David A Paterson (Independence)	1,163
John J Faso / C Scott Vanderhoef (Conservative)	905
Eliot Spitzer / David A Paterson (Working Families)	1,237
Malachy McCourt / Alison Duncan (Green)	284
John Clifton / Donald Silberger (Libertarian)	113
Jimmy McMillan (Rent Is Too High)	104
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	19
ARTHUR GAMS (Write-In)	1
BETH S. KLEIN (Write-In)	1
BILL BRADLEY (Write-In)	1
BILL QUIRSPEAR (Write-In)	1
JOHN LANDERS (Write-In)	1
UTRICE LEID (Write-In)	1
TOTAL VOTES	40,521
UNRECORDED	4,062

STATEMENT AND RETURN REPORT BY Senatorial District
 General Election 2006 - 11/07/2006
 Kings County
 All Parties and Independent Bodies



FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC) NO. OF CANDIDATES TO BE ELECTED 1

TOTAL FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC) - Kings County

Public Counter	351,203
Emergency	1,799
Absentee/Military	6,496
Affidavit	7,438
TOTAL BALLOTS	368,512
John J Faso / C Scott Vanderhoef (Republican)	34,818
Eliot Spitzer / David A Paterson (Democratic)	250,669
Eliot Spitzer / David A Paterson (Independence)	9,981
John J Faso / C Scott Vanderhoef (Conservative)	5,381
Eliot Spitzer / David A Paterson (Working Families)	26,612
Malachy McCourt / Alison Duncan (Green)	4,358
John Clifton / Donald Silberger (Libertarian)	834
Jimmy McMillan (Rent Is Too High)	1,601
Maura DeLuca / Ben O'Shaughnessy (Socialist Workers)	364
AL SHARPTON (Write-In)	1
ALTON MADDUX (Write-In)	2
ARTHUR GAMS (Write-In)	1
BENJAMIN A MARSHALL (Write-In)	2
BETH S. KLEIN (Write-In)	1
BILL BRADLEY (Write-In)	1
BILL CLINTON (Write-In)	1
BILL MURAWSKI (Write-In)	1
BILL O'REILLY (Write-In)	2
BILL QUIRSPEAR (Write-In)	1
BILL WELD (Write-In)	1
BRUNO A. FRUSTASI (Write-In)	1
CHARLES BARLEY (Write-In)	1
CHARLES BARRON (Write-In)	22
HOWARD PHILLIPS (Write-In)	2
JIM DIMINI (Write-In)	1
JOHN FASO (Write-In)	2
JOHN JACOB (Write-In)	1
JOHN LANDERS (Write-In)	1
JOHNATHAN TASINI (Write-In)	1
JONATHAN A KOLLEENY (Write-In)	1
KEVIN CUMMINS (Write-In)	1
LEWIS CUMMING (Write-In)	1
MARY FRANCE/ RON DANIELS (Write-In)	2
MATTHEW E. ENDLICH, ESQ (Write-In)	1
MATTHEW J. SANABRIA (Write-In)	1
MCCOURT (Write-In)	1
MCLACAY (Write-In)	1
MICHAEL BLOOMBERG (Write-In)	1
MS. GITTEL FEINTUCH (Write-In)	1
NOAM CHOMSKY (Write-In)	1
PATAKI (Write-In)	1
RABBI YEHRDA LEVIN (Write-In)	1
RABBY ARON TIETELBAUM (Write-In)	2

BOARD OF ELECTIONS
IN THE CITY OF NEW YORK
PRINTED AS OF:
5/6/2009 5:08:06PM

STATEMENT AND RETURN REPORT BY Senatorial District
General Election 2006 - 11/07/2006
Kings County
All Parties and Independent Bodies



FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC) NO. OF CANDIDATES TO BE ELECTED 1

TOTAL FOR GOVERNOR/LIEUTENANT GOVERNOR (NYC) - Kings County

SEAN HANNIKY (Write-In)	1
SHAKA ZULU (Write-In)	1
SINGEL HEIMER SCHMIDT (Write-In)	1
TERRY MORRIS (Write-In)	1
TOM SUOZZI (Write-In)	1
UTRICE LEID (Write-In)	1
YISROEL DAVID ROSENBERG (Write-In)	1
TOTAL VOTES	334,687
UNRECORDED	33,825

CERTIFICATE OF SERVICE

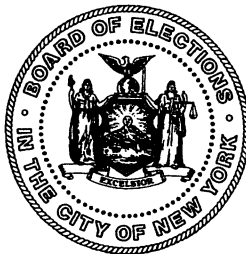
I, Stephen Kitzyngier, hereby certify that a copy of the attached Notice of Motion was caused to be served on the party listed below by first-class mail, postage prepaid, on May 8, 2009.

Jimmy McMillan
1996 Nostrand Avenue
Brooklyn, New York 11210

Dated: New York, New York
May 8, 2009

s/Stephen Kitzyngier
STEPHEN KITZYNGIER

County
F12



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
JAMES J. SAMPEL
NANCY MOTTOLA-SCHACHER
NAOMI C. SILIE
J.P. SIPP
GREGORY C. SOUMAS
JUDITH D. STUPP
COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

STEVEN H. RICHMAN
GENERAL COUNSEL
Tel: (212) 498-5338
Fax: (212) 497-5342
E-Mail:
srichman@boe.nyc.ny.us

Via Telefax (212) 788-1633 & First Class Mail

May 7, 2009

Eric Proshansky, Esq.
Deputy Chief
Affirmative Litigation Division
New York City Law Department
100 Church Street – Room 3-158
New York, NY 10007

RE: New York State Board of Elections
proposed change to Part
6217.5(C), NYCRR – Voter
Registration and Processing

Dear Eric:

The New York State Board of Elections in their May 1, 2009 Status Report (copy enclosed – see page 2 of the Report) to the U.S. District Court for the Northern District of New York and the U.S. Department of Justice advised that they have posted for comment the proposed change to Part 6217.5(C)/NYCRR (copy enclosed) which has heretofore been shared with you.

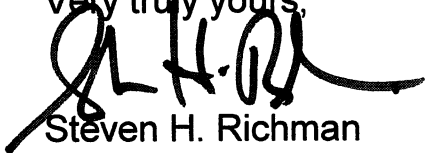
At their meeting held on Tuesday, May 5, 2009, the Commissioners directed that I contact you regarding the proposed change to:

- (a) advise you of this action and inquire if this changed the potential for successful affirmative litigation with this new state action; and
- (b) request your advice and guidance on the content and format that the City Board's comments in opposition to this change should be made.

I would appreciate the opportunity to discuss this matter with you after you have had a chance to review the attachments and consider the issues presented above.

I want to thank you in advance for your continued cooperation and assistance in this matter.

Very truly yours,



Steven H. Richman
General Counsel

Attachments

Copy: Michael A. Cardozo, Esq., Corporation Counsel of the City of
New York

Board of Elections in the City of New York

Commissioners of Elections

Marcus Cederqvist, Executive Director

George Gonzalez, Deputy Executive Director

Pamela Perkins, Administrative Manager

Steve Ferguson, Director, Management Information Systems

John Owens, Esq., Director of Campaign Finance Enforcement

Steven Denkberg, Esq., Counsel to the Commissioners

Charles Webb, III, Esq., Counsel to the Commissioners



State of New York
STATE BOARD OF ELECTIONS

James A. Walsh
Chair
Douglas A. Kellner
Chair
Gregory P. Peterson
Commissioner
Evelyn J. Aquila
Commissioner

40 STEUBEN STREET
ALBANY, N.Y. 12207
Phone: 518/474-6367 Fax: 518/486-4546
website: www.elections.state.ny.us

Todd D. Valentine
Executive Director
Stanley L. Zalen
Executive Director
Kimberly A. Galvin
Special Counsel
Paul M. Collins
Deputy Counsel

May 1, 2009

Honorable Gary L. Sharpe
United States District Court
for the Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Re: *United States v. New York State Board of Elections, et al.*
Civil Action No. 06-CV-0263 (GLS)

Dear Judge Sharpe,

We enclose herewith Status Report of the Defendant New York State Board of Elections for the week ending April 30, 2009.

Respectfully submitted,

s/ _____
Kimberly A. Galvin (505011)
Special Counsel

s/ _____
Paul M. Collins (101384)
Deputy Special Counsel

NEW YORK STATE BOARD OF ELECTIONS

HAVA COMPLIANCE UPDATE
Activities & Progress for the Week of 4/23/09-4/30/09

Following is a detailed report concerning the previous week's progress in implementing the terms of the Court's Orders.

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are *in jeopardy and behind schedule*.

Contracting with Voting System Vendors

Status of tasks in this category: *on schedule*

- Contract negotiations have concluded and are awaiting sign off by the vendors and OSC.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *in jeopardy and behind schedule*

- Overall progress of testing :
 - SBOE, SysTest, and NYSTEC continue conference calls with vendors.
 - Vendors will be providing the versions of software that are to be tested by close of business 4/30/09. Vendors will be given until 5/06/09 to make any supplemental additions required by SysTest.
 - Testing will begin on 5/12/09.
 - SBOE, the AG's office and the DOJ are finalizing the details of the pilot program. After finalization, a joint motion will be made to the Court for approval of the pilot plan. Full certification efforts continue on a parallel track.

NEW YORK STATE BOARD OF ELECTIONS

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- SBOE presented multiple new procedures to County Board Commissioners at the NYSBOE Annual Conference on 4/29/09; including Pre-Qualification Test, Maintenance Log Test & Procedures, and Test Deck Creation & Implementation.
- SBOE and NYSTEC provided a security policy presentation to the County Commissioners at the NYSBOE Annual Conference on 4/29/09.

HAVA COMPLAINT PROCESS

NYC HAVA Complaint

The Changes to the **Part 6217.5(C) Voter Registration Processing** have been posted to the SBOE Web Site and the comment period has commenced. Still awaiting a response from NYC.

1 **Subtitle V of Title 9 of the Official Compilation of Codes, Rules and Regulations of the**
2 **State of New York is hereby amended by amending Part 6217.5(C) Voter Registration**
3 **Processing, to read as follows:**

4

5 C. All voter registration activity must be done by a bipartisan team of workers, to assure
6 fairness and uniformity in the process.

7 1. Bipartisan processing:

8 i. Staff member(s) of one major political party review(s) and enters the
9 information from either an individual application or a batch of
10 applications[, electronically signing their work].

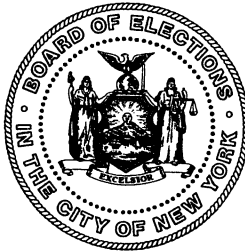
11 ii. The work on [that] such application or batch of applications is proofread
12 and reviewed by a staff member(s) of the opposite major political party[,
13 who also electronically signs their work].

14 iii. Any edits or changes to the information initially entered must be made
15 and [signed] approved, in a bipartisan process, by the two staff [persons]
16 members of opposite parties.

17 iv. Once [signed] completed by two staff [persons] members of opposite
18 parties, the information is sent from the county registration system to
19 NYSVoter for inclusion on the statewide list of registered voters, and
20 verification of each voter's identity.

EXPLANATION: Matter underscored is new; matter bracketed [] is old regulation to be omitted.

FI



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
JAMES J. SAMPÉL
NANCY MOTTOLA-SCHACHER
NAOMI C. SILIE
J.P. SIPP
GREGORY C. SOUMAS
JUDITH D. STUPP
COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

STEVEN H. RICHMAN
GENERAL COUNSEL
Tel: (212) 498-5338
Fax: (212) 497-5342
E-Mail:
srichman@boe.nyc.ny.us

May 7, 2009

TO: ✓ The Commissioners of Elections

FROM: Steven H. Richman, General Counsel 

COPIES: Marcus Cederqvist, George Gonzalez, Pamela Perkins, Steve Ferguson, Charles Webb, & Steven Denkberg, & OCG Files; Chief Clerk & Deputy Chief Clerk, Brooklyn

RE: DEPARTMENT OF JUSTICE PRE - CLEARANCE OF SUBMISSIONS NUMBERED 2009- K01

Attached hereto is a copy of a letter dated April 30, 2009 from Christopher Coates, Chief of the Voting Section, Civil Rights Division, U.S. Department of Justice advising that the Attorney General of the United States does not object to our pre-clearance submission 2009 K-01, (dated March 2, 2009) making poll site changes in the 43rd, 52nd, 57th, and 59th Assembly Districts, County of Kings for the September 2009 Primary Election.

Therefore, the changes are effective as of April 30, 2009.

Thank you for your attention to this matter.

Attachment



U.S. Department of Justice

Civil Rights Division

CC:MSR:JKI:maf
DJ 166-012-3
2009-0836

Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

April 30, 2009


Steven H. Richman, Esq.
General Counsel
Board of Elections
32 Broadway, 7th Floor
New York, New York 10004-1609

Dear Mr. Richman:

This refers to eight polling place changes for the Borough of Brooklyn of the City of New York in Kings County, New York, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on March 5, 2009.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

for 
Christopher Coates
Chief, Voting Section

RECEIVED
GENERAL COUNSEL
BD. OF ELECTIONS
IN THE CITY OF NEW YORK
2009 MAY -5 PM 4:40

Com mly
FYI

Steven H. Richman

From: Majerus, Kenneth [kmajerus@law.nyc.gov]
Sent: Wednesday, May 06, 2009 6:26 PM
To: Marcus Cederqvist; Steven H. Richman
Subject: STATEMENT OF COST, MARCH 2009

Attached is your agency's statement for March 2009. We have arranged the cases by division to assist you in identifying the matters. We have included all or part of both the plaintiff and defendant names, also to help identify the matters. Included is a running total of each division's hours. This is located after the last matter for each division.

We are also coming to the end of an extensive initiative to regularize the naming conventions in LawManager. In the past, the main client could be the agency itself or it could also be a subdivision of an agency. If the name of a subdivision was used, it was possible for the system to not recognize the client agency. If that happened, the case could be misattributed. Over the next few months, you may see cases in the statement that haven't appeared before because of the corrections we have been making to client names. As before, if you see a case you believe is erroneously attributed to your agency, please let me know.

Thank you.

Ken Majerus
Chief of Operations
City of New York Law Department
100 Church Street
New York, NY 10007
(212) 788-0373
(212) 788-0386 - fax
kmajerus@law.nyc.gov



Date: 5/4/2009
 Summary Charges to BOARD OF ELECTIONS
 for Mar. 1, 2009 - Mar. 31, 2009

Number of Matters	4							
Total Attorney Hours	99.75			Attorney Hours YTD	1079			
Total Attorney Charges	\$13,785.78			Attorney Charges YTD	\$147,566.15			
Total Disbursement	\$0.00			Disbursement YTD	\$1,307.93			
Total Workers' Compensation Administrative Cost	\$414.00	for	20	WC Admin Cost YTD	\$3,671.00			
Tort - Labor Attribution Summary	\$0.00		claims	Tort Labor Costs YTD	\$0.00			
Grand Total	\$14,199.78			Grand Total YTD	\$152,545.08			
<hr/>								
Total Workers' Compensation Actual Expenditure	\$53,762.00			Workers' Comp Actual Expenditure YTD *	\$140,225.00			

YTD = July 1, 2008 to Present
 * = WC Actual Expenditure July 1, 2008 to Present
 Monday, May 04, 2009

Appendix A

Matters Detail BOARD OF ELECTIONS

for Mar. 1, 2009 - Mar. 31, 2009

Caption	Matter Number	Date	Staff	Hour Rate	Description	Amount
Affirmative Litigation						
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/19/2009	BERNHARDT, DORIS	4.00	\$124.17 Research	\$496.68
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/20/2009	BERNHARDT, DORIS	0.50	\$124.17 Conference	\$62.08
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/20/2009	BERNHARDT, DORIS	3.00	\$124.17 Research	\$372.51
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/23/2009	BERNHARDT, DORIS	1.50	\$124.17 Correspondence	\$186.25
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/25/2009	BERNHARDT, DORIS	4.00	\$124.17 Research	\$496.68
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/26/2009	BERNHARDT, DORIS	0.50	\$124.17 Correspondence	\$62.08
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/26/2009	BERNHARDT, DORIS	2.00	\$124.17 Research	\$248.34
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/27/2009	BERNHARDT, DORIS	0.75	\$124.17 Conference	\$93.13
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/27/2009	BERNHARDT, DORIS	0.25	\$124.17 Correspondence	\$31.04
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/30/2009	BERNHARDT, DORIS	0.50	\$124.17 Conference	\$62.08
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/30/2009	BERNHARDT, DORIS	0.50	\$124.17 Research	\$62.08
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	3/31/2009	BERNHARDT, DORIS	4.00	\$124.17 Research	\$496.68

Total Hours: 21.50

Case Attorney Total YTD:	\$2,669.63	Case Attorney Total:	\$2,669.63
Disbursement YTD:	\$0.00	Disbursement Total:	\$0.00
Matter Total YTD:	\$2,669.63	Matter Total:	\$2,669.63

Appendix A

Division Attorney Total YTD: \$2,669.63 **Total Hours:** 21.50 **Division Attorney Total:** \$2,669.63
Disbursement YTD: \$0.00 **Disbursement Total:** \$0.00
Matter Total YTD: \$2,669.63 **Matter Total:** \$2,669.63

Caption	Matter Number	Date	Staff	Hour Rate	Description	Amount
Appeals						
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/10/2009	MCGRATH, STEPHEN	2.00	\$159.42 Brief Preparation	\$318.83
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/11/2009	MCGRATH, STEPHEN	2.00	\$159.42 Brief Preparation	\$318.83
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/4/2009	PAYER, CHERYL	7.00	\$138.75 Motion Practice	\$971.23
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/5/2009	PAYER, CHERYL	7.00	\$138.75 Motion Practice	\$971.23
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/11/2009	PAYER, CHERYL	7.00	\$138.75 Motion Practice	\$971.23
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/12/2009	PAYER, CHERYL	7.00	\$138.75 Motion Practice	\$971.23
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/18/2009	PAYER, CHERYL	7.00	\$138.75 Motion Practice	\$971.23
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/19/2009	PAYER, CHERYL	2.00	\$138.75 Motion Practice	\$277.49
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/20/2009	PAYER, CHERYL	7.00	\$138.75 Motion Practice	\$971.23
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/24/2009	PAYER, CHERYL	4.00	\$138.75 Motion Practice	\$554.99
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/25/2009	PAYER, CHERYL	7.00	\$138.75 Motion Practice	\$971.23

Case Attorney Total YTD: \$8,268.77 **Total Hours:** 59.00 **Case Attorney Total:** \$8,268.77
Disbursement YTD: \$0.00 **Disbursement Total:** \$0.00
Matter Total YTD: \$8,268.77 **Matter Total:** \$8,268.77

Appendix A

Division Attorney Total YTD: \$54,781.29 **Total Hours:** 59.00 **Division Attorney Total:** \$8,268.77
Disbursement YTD: \$0.00 **Disbursement Total:** \$0.00
Matter Total YTD: \$54,781.29 **Matter Total:** \$8,268.77

Caption	Matter Number	Date	Staff	Hour Rate	Description	Amount
---------	---------------	------	-------	-----------	-------------	--------

Contracts and Real Estate

CONT & RE ADM TIME-BD OF EL	04CR900036	3/20/2009	COHEN , ANDREA	0.25	\$143.60 Counseling/Opinion/Memo	\$35.90
-----------------------------	------------	-----------	----------------	------	----------------------------------	---------

Total Hours: 0.25

Case Attorney Total YTD: \$2,338.08 **Case Attorney Total:** \$35.90
Disbursement YTD: \$0.00 **Disbursement Total:** \$0.00
Matter Total YTD: \$2,338.08 **Matter Total:** \$35.90

Total Hours: 0.25

Division Attorney Total YTD: \$2,338.08 **Division Attorney Total:** \$35.90
Disbursement YTD: \$0.00 **Disbursement Total:** \$0.00
Matter Total YTD: \$2,338.08 **Matter Total:** \$35.90

Caption	Matter Number	Date	Staff	Hour Rate	Description	Amount
---------	---------------	------	-------	-----------	-------------	--------

General Litigation

GEN LIT ADM TIME - ELECTIONS, BOARD OF VS	04GL900014	3/18/2009	KITZINGER , STEPHEN	1.50	\$144.94 Brief/Motion	\$217.40
GEN LIT ADM TIME - ELECTIONS, BOARD OF VS	04GL900014	3/18/2009	KITZINGER , STEPHEN	0.50	\$144.94 Communication with Client	\$72.47
GEN LIT ADM TIME - ELECTIONS, BOARD OF VS	04GL900014	3/18/2009	KITZINGER , STEPHEN	0.50	\$144.94 Intra Office Conf/Communicatn	\$72.47
GEN LIT ADM TIME - ELECTIONS, BOARD OF VS	04GL900014	3/19/2009	KITZINGER , STEPHEN	2.50	\$144.94 Brief/Motion	\$362.34

Appendix A

GEN LIT ADM TIME - ELECTIONS, BOARD OF vs	04GL900014	3/19/2009	KITZINGER , STEPHEN	1.50	\$144.94	Intra Office Conf/Communicatn	\$217.40
GEN LIT ADM TIME - ELECTIONS, BOARD OF vs	04GL900014	3/23/2009	KITZINGER , STEPHEN	2.00	\$144.94	Brief/Motion	\$289.87
GEN LIT ADM TIME - ELECTIONS, BOARD OF vs	04GL900014	3/23/2009	KITZINGER , STEPHEN	1.00	\$144.94	Intra Office Conf/Communicatn	\$144.94

Total Hours: 9.50

Case Attorney Total YTD:	\$13,032.94	Case Attorney Total:	\$1,376.89
Disbursement YTD:	\$0.00	Disbursement Total:	\$0.00
Matter Total YTD:	\$13,032.94	Matter Total:	\$1,376.89

TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/3/2009	BIRNBAUM , JANICE	0.25	\$151.01	Communication with Client	\$37.75
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/3/2009	BIRNBAUM , JANICE	0.25	\$151.01	Intra Office Conf/Communicatn	\$37.75
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/4/2009	BIRNBAUM , JANICE	0.25	\$151.01	Communication with Adversary	\$37.75
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/5/2009	BIRNBAUM , JANICE	0.50	\$151.01	Communication With Court	\$75.50
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/5/2009	BIRNBAUM , JANICE	0.25	\$151.01	Intra Office Conf/Communicatn	\$37.75
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/6/2009	BIRNBAUM , JANICE	0.25	\$151.01	Communication with Client	\$37.75
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/10/2009	BIRNBAUM , JANICE	2.00	\$151.01	Research	\$302.02
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/11/2009	BIRNBAUM , JANICE	0.75	\$151.01	Administrative Tasks	\$113.26
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/11/2009	BIRNBAUM , JANICE	1.00	\$151.01	Court Appearance	\$151.01
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/11/2009	BIRNBAUM , JANICE	1.50	\$151.01	Travel Time	\$226.51
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/13/2009	BIRNBAUM , JANICE	0.50	\$151.01	Intra Office Conf/Communicatn	\$75.50
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/13/2009	BIRNBAUM , JANICE	1.00	\$151.01	Review of Documents	\$151.01
TABACCO, JOHN A. VS VITUCCI, JOHN W., ET AL.	2009006630	3/19/2009	BIRNBAUM , JANICE	1.00	\$151.01	Intra Office Conf/Communicatn	\$151.01

Appendix A

	Total Hours:	9.50		
Case Attorney Total YTD:	\$9,626.85		Case Attorney Total:	\$1,434.59
Disbursement YTD:	\$0.00		Disbursement Total:	\$0.00
Matter Total YTD:	\$9,626.85		Matter Total:	\$1,434.59
	Total Hours:	19.00		
Division Attorney Total YTD:	\$79,782.98		Division Attorney Total:	\$2,811.48
Disbursement YTD:	\$604.50		Disbursement Total:	\$0.00
Matter Total YTD:	\$80,387.48		Matter Total:	\$2,811.48
Agency Attorney Total YTD:	\$147,566.15		Agency Total Attorney Dollars:	\$13,785.78
Disbursement YTD:	\$1,307.93		Total Disbursement:	\$0.00
Matter Total YTD:	\$148,874.08		Grand Matter Total:	\$13,785.78



RECEIVED
S.O. BOARD OF ELECTIONS
IN THE STATE OF NEW YORK

2009 MAY -5 AM 11:27

James A. Walsh
Co-Chair

STATE BOARD OF ELECTIONS

Douglas A. Kellner
Co-Chair

Gregory P. Peterson
Commissioner

40 STEUBEN STREET
ALBANY, N.Y. 12207-2108

Evelyn J. Aquila
Commissioner

Todd D. Valentine
Co-Executive Director

Phone: 518/474-6336 Fax: 518/474-1008
URL: <http://www.elections.state.ny.us>

Stanley L. Zalen
Co-Executive Director

CERTIFICATION OF VACANCY

To the Board of Elections: New York City (Bronx County)

We certify, under Section 4-106(4) of the Election Law, that a vacancy in the office of Member of Assembly from the 85th Assembly District occurred on April 30, 2009, due to the resignation of Assemblyman Ruben Diaz, Jr..

GIVEN under our hands and official seal of office of the State Board of Elections at the City of Albany, this 30th day of April, Two thousand nine.

Todd D. Valentine
Co-Executive Director

Stanley L. Zalen
Co-Executive Director

TDV/SLZ/lis



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

SHELDON SILVER
Speaker

Room 932
Legislative Office Building
Albany, New York 12248
(518) 455-3791

April 30, 2009

Honorable Lorraine A. Cortéz-Vásquez
Secretary of State
Department of State
One Commerce Plaza
99 Washington Avenue, 11th Floor
Albany, NY 12231

Honorable Stanley L. Zalen ✓
Co-Executive Director
NYS Board of Elections
40 Steuben Street
Albany, NY 12207-2108

Re: Resignation of Member of Assembly Ruben Diaz, Jr.
85th Assembly District

Dear Secretary Cortéz-Vásquez and Executive Director Zalen:

Pursuant to the provisions of section 31 of the Public Officers Law, I hereby advise you that I am in receipt of the attached letter of resignation of Ruben Diaz, Jr. from the office of Member of the Assembly representing the 85th Assembly District.

Very truly yours,

Sheldon Silver
Speaker

SS:ads

cc: Ruben Diaz, Jr.

BRONX



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

RUBEN DIAZ, JR.
85th Assembly District
Bronx County

RECEIVED

APR 30 2009

SPEAKER SHELDON SILVER

CHAIR
Election Law Committee
COMMITTEES
Children and Families
Education
Environmental Conservation
Steering
Transportation
Ways and Means
LEGISLATIVE COMMISSION
Black, Puerto Rican, Hispanic and Asian
Legislative Caucus
TASK FORCES
Puerto Rican/Hispanic Task Force

April 30, 2009

Hon. Sheldon Silver
Speaker
NYS Assembly
250 Broadway, 23rd Floor
New York, NY 10007

Dear Speaker Silver:

Please be advised that I hereby resign the public office of Member of Assembly, 85th District, Bronx County, effective the close of business on Thursday, April 30, 2009.

Very truly yours,

Ruben Diaz, Jr.
RUBEN DIAZ, JR.



RECEIVED
S.O. BOARD OF ELECTIONS
IN THE CITY OF ALBANY, N.Y.

2009 MAY -5 AM 11: 27

James A. Walsh
Co-Chair

STATE BOARD OF ELECTIONS

Douglas A. Kellner
Co-Chair

Gregory P. Peterson
Commissioner

40 STEUBEN STREET
ALBANY, N.Y. 12207-2108

Evelyn J. Aquila
Commissioner

Todd D. Valentine
Co-Executive Director

Phone: 518/474-6336 Fax: 518/474-1008
URL: <http://www.elections.state.ny.us>

Stanley L. Zalen
Co-Executive Director

CERTIFICATION OF VACANCY

To the Board of Elections: New York City (Bronx County)

We certify, under Section 4-106(4) of the Election Law, that a vacancy in the office of Member of Assembly from the 77th Assembly District occurred on April 30, 2009, due to the resignation of Assemblywoman Aurelia Greene.

GIVEN under our hands and official seal of office of the State Board of Elections at the City of Albany, this 30th day of April, Two thousand nine.

Todd D. Valentine
Co-Executive Director

Stanley L. Zalen
Co-Executive Director

TDV/SLZ/lis



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

BRONX CO

AURELIA GREENE
Assemblywoman 77th District

930 Grand Concourse - Suite 1E
Bronx, New York 10451
(718) 538-8000
FAX (718) 538-0310

Room 546
Legislative Office Building
Albany, New York 12248
(518) 436-8871
FAX (518) 456-5461

RECEIVED

APR 30 2009

SPEAKER SHELDON SILVER

April 30, 2009

SPEAKER PRO TEMPORE

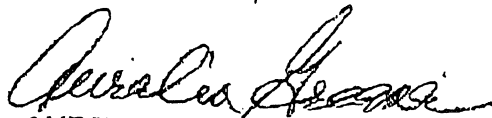
COMMITTEES
: Child
Education
Rules
Social Services
Ways & Means

Hon. Sheldon Silver
Speaker
NYS Assembly
250 Broadway, 23rd Floor
New York, NY 10007

Dear Speaker Silver:

Please be advised that I hereby resign the public office of Member of Assembly, 77th District, Bronx County, effective the close of business on Thursday, April 30, 2009.

Very truly yours,


AURELIA GREENE



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

SHELDON SILVER
Speaker

Room 932
Legislative Office Building
Albany, New York 12248
(518) 455-3791

April 30, 2009

Honorable Lorraine A. Cortéz-Vásquez
Secretary of State
Department of State
One Commerce Plaza
99 Washington Avenue, 11th Floor
Albany, NY 12231

Honorable Stanley L. Zalen ✓
Co-Executive Director
NYS Board of Elections
40 Steuben Street
Albany, NY 12207-2108

Re: Resignation of Member of Assembly Aurelia Greene
77th Assembly District

Dear Secretary Cortéz-Vásquez and Executive Director Zalen:

Pursuant to the provisions of section 31 of the Public Officers Law, I hereby advise you that I am in receipt of the attached letter of resignation of Aurelia Greene from the office of Member of the Assembly representing the 77th Assembly District.

Very truly yours,

Sheldon Silver
Speaker

SS:ads

cc: Aurelia Greene

TUESDAY, MAY 5, 2009

MAY 6 2009

10:30 AM--ELECTION LAW ROOM 715 LOB (GALEF)

Assembly Print:

584-A

CAHILL, WEISENBERG, JOHN, EDDINGTON, WRIGHT, PAULIN, BRADLEY, ESPAILLAT,
TITUS, KAVANAGH, BROOK-KRASNY, KELLNER, SPANO, SCHIMEL, GORDON,
BENJAMIN, LATIMER, ZEBROWSKI, MAISEL, ALESSI, MAGNARELLI, TITONE,
PHEFFER, LANCMAN--

An act to amend the election law, in relation to requiring polling places
to be accessible to physically disabled voters

3738

ROON, BRADLEY, WEISENBERG, PAULIN, CUSICK--

An act to amend the election law and the education law, in relation to mak-
ing ballots available in Braille and large-print

Community -
FY 7



Friday, May 8, 2009

Summary - A00584

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Text](#)

A00584 Summary:

BILL NO A00584A

SAME AS Same as S 1058-A

SPONSOR Cahill (MS)

COSPNSR Weisenberg, John, Eddington, Wright, Paulin, Bradley, Espaillat, Titus, Kavanagh, Brook-Krasny, Kellner, Spano, Schimel, Gordon, Benjamin, Latimer, Zebrowski, Maisel, Alessi, Magnarelli, Titone, Pheffer, Lancman

MLTSPNSR Abbate, Benedetto, Bing, Boyland, Brennan, Brodsky, Canestrari, Carrozza, Christensen, Clark, Colton, Cook, Cusick, Cymbrowitz, DelMonte, Destito, Diaz, Dinowitz, Englebright, Farrell, Fields, Galef, Gianaris, Glick, Gottfried, Greene, Gunther, Heastie, Hevesi, Hoyt, Jacobs, Koon, Lavine, Lentol, Lifton, Lupardo, Magee, Markey, McEneny, Millman, Morelle, Ortiz, Peoples, Peralta, Perry, Pretlow, Ramos, Reilly, Rivera J, Rivera P, Rosenthal, Scarborough, Schroeder, Sweeney, Towns, Walker, Weinstein

Amd S4-104, El L

Requires each polling place to be accessible to physically disabled voters and provides guidelines which shall be in accordance with the accessibility requirements mandated pursuant to the federal Americans with Disabilities Act of 1990, as amended.

A00584 Actions:

BILL NO A00584A

01/07/2009 referred to election law

03/25/2009 amend and recommit to election law

03/25/2009 print number 584a

05/05/2009 reported

05/07/2009 advanced to third reading cal.501

A00584 Votes:

A00584 Memo:

Contact Webmaster
Page display time = 0.0231 sec



Friday, May 8, 2009

Summary - S01058

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Text](#)

S01058 Summary:

BILL NO S01058A

SAME AS Same as A 584-A

SPONSOR ADDABBO

COSPNSR

MLTSPNSR

Amd S4-104, E1 L

Requires each polling place to be accessible to physically disabled voters and provides guidelines which shall be in accordance with the accessibility requirements mandated pursuant to the federal Americans with Disabilities Act of 1990, as amended.

S01058 Actions:

BILL NO S01058A

01/22/2009 REFERRED TO ELECTIONS

04/28/2009 AMEND AND RECOMMIT TO ELECTIONS

04/28/2009 PRINT NUMBER 1058A

S01058 Votes:

S01058 Memo:

Contact Webmaster

Page display time = 0.0239 sec



Friday, May 8, 2009

Text - A00584

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Summary](#)

S T A T E O F N E W Y O R K

584--A

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. CAHILL, WEISENBERG, JOHN, EDDINGTON, WRIGHT, PAULIN, BRADLEY, ESPAILLAT, TITUS, KAVANAGH, BROOK-KRASNY, KELLNER, SPANO, SCHIMEL, GORDON, BENJAMIN, LATIMER, ZEBROWSKI, MAISEL, ALESSI, MAGNARELLI, TITONE, PHEFFER -- Multi-Sponsored by -- M. of A. ABBATE, BENEDETTO, BING, BOYLAND, BRENNAN, BRODSKY, CANESTRARI, CARROZZA, CHRISTENSEN, CLARK, COLTON, COOK, CUSICK, CYMBROWITZ, DeMONTE, DESTI-TO, DIAZ, DINOWITZ, ENGLEBRIGHT, FARRELL, FIELDS, GALEF, GIANARIS, GLICK, GOTTFRIED, GREENE, GUNTHER, HEASTIE, HEVESI, HOYT, JACOBS, KOON, LAVINE, LENTOL, LIFTON, LUPARDO, MAGEE, MARKEY, McENENY, MILL- MAN, MORELLE, ORTIZ, PEOPLES, PERALTA, PERRY, PRETLOW, RAMOS, REILLY, J. RIVERA, P. RIVERA, ROSENTHAL, SCARBOROUGH, SCHROEDER, SWEENEY, TOWNS, WALKER, WEINSTEIN -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to requiring polling places to be accessible to physically disabled voters

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivision 1-a of section 4-104 of the election law, as
- 2 amended by chapter 580 of the laws of 1995, is amended and two new
- 3 subdivisions 1-b and 1-c are added to read as follows:
- 4 1-a. Each polling place shall [have at least one entrance that
- 5 provides access, by ramp or otherwise, to physically disabled voters,
- 6 provided, however, that this requirement may be waived in writing by the
- 7 county board of elections upon a petition to the board by the legisla-
- 8 tive body of the city or town designating such polling places showing
- 9 good and sufficient cause. In the city of New York and in counties in
- 10 which polling places are designated by the board of elections, the board
- 11 shall specify in writing why it has determined that it is unable to

12 comply with the provisions of this subdivision. Such petition, waiver,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD00578-03-9

A. 584--A

2

1 and written determination, as provided for in this subdivision, shall be
2 filed in the office of the board and be available for public inspection.
3 Such a waiver may be granted and filed or such a written determination
4 may be filed only where the board of elections determines, with regard
5 to each specific polling place for which a waiver is sought or a written
6 determination is to be filed, (1) that an alternative accessible polling
7 place is not reasonably available in the election district or a contig-
8 uous election district and that specific efforts were undertaken in
9 cooperation with persons with disabilities who have contacted the legis-
10 lative body of the city or town which requested such waiver or the board
11 of elections which filed such written determination to locate such an
12 alternative accessible polling place and such efforts are listed in the
13 petition or written determination, (2) that compliance with the polling
14 place accessibility requirements of this subdivision would require that
15 unreasonable expenses be incurred and paid, pursuant to section 4-136 of
16 this article and that specific information regarding expenses for
17 compliance is listed in the petition or written determination, and (3)
18 that substantial efforts will be undertaken in cooperation with persons
19 with disabilities who have contacted the legislative body of the city or
20 town which requested such waiver or the board of elections which filed
21 such written determination during the period for which the waiver is
22 effective to achieve compliance with the polling place accessibility
23 requirements of this subdivision and that the specific substantial
24 efforts to be undertaken to achieve compliance are listed in the peti-
25 tion or written determination. For purposes of this subdivision, the
26 term "persons with disabilities" shall mean persons with disabilities
27 who shall be entitled to vote in the election district for which a waiv-
28 er is sought and service centers for independent living established
29 pursuant to article twenty-three-A of the education law and other enti-
30 ties which represent the interests of persons with disabilities. A
31 request for a waiver shall be filed at the same time that the list of
32 polling places is submitted to or established by the board of elections.
33 The board of elections shall forthwith prepare a list of all election
34 districts for which a waiver is sought or a written determination filed.
35 Such list together with all such petitions for waiver and written deter-
36 minations shall be public records at the office of the board of
37 elections. Not later than May seventh of each year, the board of
38 elections shall mail a copy of said list by first class mail to every
39 person who has made a written request for such list within the two
40 preceding calendar years. The board of elections shall either grant or
41 deny the waiver no later than June first of the year in which the
42 request is made. The state board of elections shall promulgate regu-
43 lations necessary to ensure proper execution of the provisions of this
44 subdivision] BE ACCESSIBLE TO CITIZENS WITH DISABILITIES AND COMPLY WITH
45 THE ACCESSIBILITY GUIDELINES OF THE AMERICANS WITH DISABILITIES ACT OF
46 1990. THE STATE BOARD OF ELECTIONS SHALL PUBLISH AND DISTRIBUTE TO EACH
47 BOARD OF ELECTIONS WITH THE POWER TO DESIGNATE POLL SITES, A CONCISE,
48 NON-TECHNICAL GUIDE DESCRIBING STANDARDS FOR POLL SITE ACCESSIBILITY,
49 INCLUDING A POLLING SITE ACCESS SURVEY INSTRUMENT, IN ACCORDANCE WITH
50 THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES (ADAAG) AND
51 METHODS TO COMPLY WITH SUCH STANDARDS. SUCH GUIDE AND PROCEDURES SHALL
52 BE DEVELOPED IN CONSULTATION WITH PERSONS, GROUPS OR ENTITIES WITH KNOW-

53 LEDGE ABOUT PUBLIC ACCESS AS THE STATE BOARD OF ELECTIONS SHALL DETER-
54 MINE APPROPRIATE.

55 1-B. THE COUNTY BOARD OF ELECTIONS SHALL CAUSE AN ACCESS SURVEY TO BE
56 CONDUCTED FOR EVERY POLLING SITE TO VERIFY SUBSTANTIAL COMPLIANCE WITH
A. 584--A 3

1 THE ACCESSIBILITY STANDARDS CITED IN THIS SECTION. COMPLETED SURVEYS
2 SHALL BE SUBMITTED TO THE STATE BOARD OF ELECTIONS AND KEPT ON FILE AS A
3 PUBLIC RECORD BY EACH COUNTY. EACH POLLING SITE SHALL BE EVALUATED PRIOR
4 TO ITS DESIGNATION OR UPON CHANGES TO THE FACILITY. A SITE DESIGNATED AS
5 A POLLING PLACE PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL BE
6 EVALUATED WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS SUBDIVISION BY
7 AN INDIVIDUAL QUALIFIED TO DETERMINE WHETHER OR NOT SUCH SITE MEETS THE
8 EXISTING STATE AND FEDERAL ACCESSIBILITY STANDARDS. ANY POLLING PLACE
9 DEEMED NOT TO MEET THE EXISTING ACCESSIBILITY STANDARDS MUST MAKE NECES-
10 SARY CHANGES AND/OR MODIFICATIONS, OR BE MOVED TO A VERIFIED ACCESSIBLE
11 POLLING PLACE WITHIN SIX MONTHS.

12 1-C. THE STATE BOARD OF ELECTIONS SHALL PROMULGATE ANY RULES AND REGU-
13 LATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

14 S 2. This act shall take effect on the fifteenth of December next
15 succeeding the date on which it shall have become a law. Effective imme-
16 diately, the addition, amendment and/or repeal of any rule or regulation
17 necessary for the implementation of this act on its effective date are
18 authorized and directed to be made and completed on or before such
19 effective date.

Contact Webmaster

Page display time = 0.0237 sec



Friday, May 8, 2009

Summary - A03738

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Text](#)

A03738 Summary:

BILL NO A03738

SAME AS Same as S 4843

SPONSOR Koon (MS)

COSPNSR Bradley, Weisenberg, Paulin, Cusick

MLTSPNSR Lavine, Rosenthal

Add S7-107, El L; add S2022-a, Ed L

Provides that ballots for all elections shall be made available in braille, upon request of a blind or visually impaired voter; applies to all elections, including school elections; directs the state board of elections, and the commissioner of education, to promulgate rules for the preparation, distribution, casting, and canvass of braille ballots.

A03738 Actions:

BILL NO A03738

01/28/2009 referred to election law

05/05/2009 reported referred to ways and means

05/05/2009 reported

05/07/2009 advanced to third reading cal.521

A03738 Votes:

A03738 Memo:

BILL NUMBER: A3738

TITLE OF BILL : An act to amend the election law and the education

law, in relation to making ballots available in Braille and large-print

PURPOSE OR GENERAL IDEA OF BILL :

To allow blind and visually impaired individuals access to ballots printed in Braille and large-print.

SUMMARY OF SPECIFIC PROVISIONS :

Section 1: Adds new section 7-107 to the election law to state that ballots printed in Braille and large-print for every election shall be made available upon the request of any registered voter who is blind or visually impaired. These ballots shall be made available at polling places upon request and may be used by a voter in lieu of the voting machine. Persons wishing to use these ballots must give notice to the board of elections no less than 30 days prior to each election day. This section also gives the state board of elections the task of promulgating rules for the preparation, distribution, casting and canvass of these ballots. The ballots shall be developed in consultation with state disability advocacy groups. This section defines "Braille" as grade two Braille and "large-print" is defined as a font 18 point or larger. After the ballots are printed they must be proofread by a qualified Braille reader whose qualifications will be established by the state board of elections and in consultation with advocacy organizations.

Section 2 adds a new section 2022-a to the education law that states ballots printed in Braille and large-print for every election shall be made available upon the request of any registered voter who is blind or visually impaired. These ballots shall be made available at polling places upon request and may be used by a voter in lieu of the voting machine. Persons wishing to use these ballots must give notice to the board of education no less than 30 days prior to each election day. This section also gives the state education commissioner of consulting with the state board of elections in order to promulgate rules for the preparation, distribution, casting and canvass of these ballots. The ballots shall be developed in consultation with state disability advocacy groups. This section defines "Braille" as grade two Braille and "large-print" is defined as a font 18 point or larger. After the ballots are printed they must be proofread by a qualified Braille reader whose qualifications will be established by the state board of education and in consultation with advocacy organizations and the state board of elections.

Section 3 establishes an effective date the first day of December next succeeding the date on which it shall have become law; provided that the promulgation of rules to implement the provisions of this act may commence at any time on or after the date on which this act shall have become law.

JUSTIFICATION :

It is important that people who are blind or visually impaired have equal access to ballots in the voting process. While it is not the intent of this measure to replace the critical need for fully accessible voting machines for all people with disabilities, there are some individuals who either need or wish to vote by absentee ballot.

This act will enable blind and visually impaired persons to request Braille or large-print absentee ballots to be sent to their homes, or such persons can request that accessible ballots be available at their polling places. Currently, blind or visually impaired people must have someone assist them when filling out absentee ballots because they are simply not produced in accessible formats. This situation eliminates the rights of blind or visually impaired people to vote independently, and it forces such individuals to trust that the person assisting them will vote according to their wishes.

PRIOR LEGISLATIVE HISTORY :

2001-2002: A. 6321 2003-2004: A.3726 2005-2006: A.1852 2007-2008:
A.7196

FISCAL IMPLICATIONS :

There will be some cost associated with the production of the Braille and large print ballots.

EFFECTIVE DATE :

The first of December next succeeding the date on which it shall have become law; provided that the promulgation of rules to implement the provisions of this act may commence at any time on or after the date on which this act shall have become law.

Contact Webmaster
Page display time = 0.0183 sec



Friday, May 8, 2009

Summary - S04843

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Text](#)

S04843 Summary:

BILL NO S04843

SAME AS Same as A 3738

SPONSOR AUBERTINE

COSPNSR

MLTSPNSR

Add S7-107, El L; add S2022-a, Ed L

Provides that ballots for all elections shall be made available in braille, upon request of a blind or visually impaired voter; applies to all elections, including school elections; directs the state board of elections, and the commissioner of education, to promulgate rules for the preparation, distribution, casting, and canvass of braille ballots.

S04843 Actions:

BILL NO S04843

04/27/2009 REFERRED TO ELECTIONS

S04843 Votes:

S04843 Memo:

Contact Webmaster
Page display time = 0.0238 sec



Friday, May 8, 2009

Text - A03738

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Summary](#)

S T A T E O F N E W Y O R K

3738

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. KOON, BRADLEY, WEISENBERG, PAULIN, CUSICK --
Multi-Sponsored by -- M. of A. LAVINE, ROSENTHAL -- read once and
referred to the Committee on Election Law

AN ACT to amend the election law and the education law, in relation to
making ballots available in Braille and large-print

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. The election law is amended by adding a new section 7-107
2 to read as follows:
3 S 7-107. BALLOTS IN BRAILLE AND LARGE-PRINT TO BE MADE AVAILABLE. 1.
4 BALLOTS PRINTED IN BRAILLE AND LARGE-PRINT FOR EVERY ELECTION SHALL BE
5 MADE AVAILABLE UPON THE REQUEST OF ANY REGISTERED VOTER WHO IS BLIND OR
6 VISUALLY IMPAIRED. SUCH BALLOTS SHALL BE MADE AVAILABLE AT POLLING PLAC-
7 ES UPON REQUEST, AND MAY BE USED BY A VOTER IN LIEU OF THE VOTING
8 MACHINE. ABSENTEE BALLOTS PRINTED IN BRAILLE AND LARGE-PRINT SHALL ALSO
9 BE MADE AVAILABLE UPON REQUEST. PERSONS WISHING TO RECEIVE BRAILLE OR
10 LARGE-PRINT BALLOTS MUST GIVE NOTICE THEREOF TO THE BOARD OF ELECTIONS
11 NO LESS THAN THIRTY DAYS PRIOR TO EACH ELECTION DAY TO ENABLE THE BOARD
12 TO PREPARE AND DISTRIBUTE SUCH BALLOTS.
13 2. THE STATE BOARD OF ELECTIONS SHALL PROMULGATE RULES FOR THE PREPA-
14 RATION, DISTRIBUTION, CASTING, AND CANVASS OF BRAILLE AND LARGE-PRINT
15 BALLOTS. THE STATE BOARD OF ELECTIONS SHALL DEVELOP THE INITIAL FORMAT
16 FOR BOTH BRAILLE AND LARGE-PRINT BALLOTS IN CONSULTATION WITH AT LEAST
17 THREE NEW YORK STATE ORGANIZATIONS WITH EXPERTISE IN THE FIELD OF ADVO-
18 CACY FOR PEOPLE WITH DISABILITIES AND SUCH OTHER APPROPRIATE PERSONS,
19 GROUPS, ENTITIES OR ORGANIZATIONS AS THE STATE BOARD OF ELECTIONS SHALL
20 DETERMINE. FOR THE PURPOSE OF THIS SECTION, "BRAILLE" REFERS TO GRADE
21 TWO BRAILLE AND "LARGE-PRINT" REFERS TO A FONT OF EIGHTEEN POINT OR
22 LARGER. UPON THE PRINTING OF A BRAILLE BALLOT, THE BOARD OF ELECTIONS
23 SHALL REQUIRE SUCH BRAILLE BALLOT TO BE PROOFREAD BY A QUALIFIED BRAILLE
24 READER. THE STATE BOARD OF ELECTIONS SHALL ESTABLISH THE MINIMUM QUALI-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD02447-01-9

A. 3738

2

1 FICATIONS FOR A BRAILLE BALLOT PROOFREADER IN CONSULTATION WITH AT LEAST
2 THREE NEW YORK STATE ORGANIZATIONS WITH EXPERTISE IN THE FIELD OF ADVO-
3 CACY FOR PEOPLE WITH DISABILITIES AND SUCH OTHER APPROPRIATE PERSONS,
4 GROUPS, ENTITIES OR ORGANIZATIONS AS SUCH BOARD SHALL DETERMINE.

5 S 2. The education law is amended by adding a new section 2022-a to
6 read as follows:

7 S 2022-A. BALLOTS IN BRAILLE AND LARGE-PRINT TO BE MADE AVAILABLE. 1.
8 BALLOTS PRINTED IN BRAILLE AND LARGE-PRINT FOR EVERY ELECTION SHALL BE
9 MADE AVAILABLE UPON THE REQUEST OF ANY REGISTERED VOTER WHO IS BLIND OR
10 VISUALLY IMPAIRED. SUCH BALLOTS SHALL BE MADE AVAILABLE AT POLLING PLAC-
11 ES UPON REQUEST, AND MAY BE USED BY A VOTER IN LIEU OF THE VOTING
12 MACHINE. ABSENTEE BALLOTS PRINTED IN BRAILLE AND LARGE-PRINT SHALL BE
13 MADE AVAILABLE UPON REQUEST. PERSONS WISHING TO RECEIVE BRAILLE AND
14 LARGE-PRINT BALLOTS MUST GIVE NOTICE THEREOF NO LESS THAN THIRTY DAYS
15 PRIOR TO EACH ELECTION DAY TO ENABLE PREPARATION AND DISTRIBUTION OF
16 SUCH BALLOTS.

17 2. THE COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD OF
18 ELECTIONS, SHALL PROMULGATE RULES FOR THE PREPARATION, DISTRIBUTION,
19 CASTING, AND CANVASS OF BRAILLE AND LARGE-PRINT BALLOTS. THE DEPARTMENT
20 OF EDUCATION SHALL DEVELOP THE INITIAL FORMAT FOR BOTH BRAILLE AND
21 LARGE-PRINT BALLOTS IN CONSULTATION WITH AT LEAST THREE NEW YORK STATE
22 ORGANIZATIONS WITH EXPERTISE IN THE FIELD OF ADVOCACY FOR PEOPLE WITH
23 DISABILITIES AND SUCH OTHER APPROPRIATE PERSONS, GROUPS, ENTITIES OR
24 ORGANIZATIONS AS SUCH BOARD SHALL DETERMINE. FOR THE PURPOSES OF THIS
25 SECTION, "BRAILLE" REFERS TO GRADE TWO BRAILLE AND "LARGE-PRINT" REFERS
26 TO A FONT OF EIGHTEEN POINT OR LARGER. UPON THE PRINTING OF A BRAILLE
27 BALLOT, SUCH BRAILLE BALLOT SHALL BE PROOFREAD BY A QUALIFIED BRAILLE
28 READER. THE DEPARTMENT OF EDUCATION SHALL ESTABLISH THE MINIMUM QUALI-
29 FICATIONS FOR A BRAILLE BALLOT PROOFREADER IN CONSULTATION WITH AT LEAST
30 THREE NEW YORK STATE ORGANIZATIONS WITH EXPERTISE IN THE FIELD OF ADVO-
31 CACY FOR PEOPLE WITH DISABILITIES AND SUCH OTHER APPROPRIATE PERSONS,
32 GROUPS, ENTITIES OR ORGANIZATIONS AS SUCH DEPARTMENT SHALL DETERMINE.

33 S 3. This act shall take effect on the first of December next succeed-
34 ing the date on which it shall have become a law. Effective immediate-
35 ly, the addition, amendment and/or repeal of any rule or regulation
36 necessary for the implementation of this act on its effective date are
37 authorized and directed to be made and completed on or before such
38 effective date.

Contact Webmaster
Page display time = 0.0238 sec

Com Mb
FY1

Steven H. Richman

From: Steven H. Richman
Sent: Thursday, April 23, 2009 10:42 AM
To: *Commissioners; *ExecutiveManagement; *Legal Department; *ManagersMeetingGroup; *Chief & Deputy Chief Clerks (all)
Subject: FW: Registration is OPEN -- Fifteenth Citywide Seminar on Ethics in NYC Government

Attached for your information and appropriate action is the announcement of the 15th Annual Citywide Seminar on Ethics in City Government.

Note-THERE IS NOT FEE TO ATTEND FOR THOSE NOT SEEKING CONTINUING LEGAL EDUCATION CREDIT.

STEVEN H. RICHMAN
 General Counsel
 Board of Elections in the City of New York
 32 Broadway, 7th Floor
 New York, NY 10004-1609
 Tel: (212) 487-5338
 Fax: (212) 487-5342
 E-Mail: srichman@boe.nyc.ny.us

-----Original Message-----

From: The Center for New York City Law [<mailto:nycitylaw@nyls.edu>]
Sent: Wednesday, April 22, 2009 8:00 AM
To: Steven H. Richman
Subject: Registration is OPEN -- Fifteenth Citywide Seminar on Ethics in NYC Government



REGISTRATION IS NOW OPEN FOR

THE FIFTEENTH CITYWIDE SEMINAR ON ETHICS IN NEW YORK CITY GOVERNMENT

This year's topics:

- Misuse of Position (Basic)
- Political Activities (Basic)
- Post Employment (Basic)
- Pre-Government Employment: Challenges to the Public Trust and Suggested

Solutions

- **Council Discretionary Grants: Pitfalls and Practice**
- **Playing the Law: The Use of Play in Developing an Understanding of the Law and its Principles**

Date: Wednesday, May 20, 2009

Time: 8:00 a.m. to 1:00 p.m.

[Click here](#) to see the schedule.

[Register](#) for this program today.

[Click here](#) 4 Ethics credits

\$160 registration fee for Government attorneys and NYLS alumni

\$240 registration fee for non-Government attorneys and non-NYLS alumni

No-credit registration is free

Seats will only be held after receiving full payment.

Checks should be made payable to the Center for New York City Law. Registrations by Visa or

MasterCard should be made over the phone at 212-431-2383. Please note that we do not accept

American Express.

Should you require financial aid to attend this program, please click [here](#) to see if you qualify.

Should you require special accommodations, please contact Kristin Daggan at 212-431-2383.

New York Law School has been certified by the New York State Board of Continuing Legal

Education as an Accredited Provider of Continuing Legal Education in the State of New York. This program is approved for newly admitted and experienced attorneys.

Written notice of cancellation must be received by the Center for New York City Law no later than May 13 for refund of registration fee.

CLE inquiries for this program may be addressed to: Kristin Daggan at the Center for New York City Law at kdaggan@nyls.edu.

Forward this Email

 SafeUnsubscribe®

This email was sent to srichman@boe.nyc.ny.us by nycitylaw@nyls.edu.

[Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

Email Marketing by



The Center for New York City Law | New York Law School | 47 Worth Street | New York | NY | 10013

New York Law Journal

Comm
F47

Select '**Print**' in your browser menu to print this document.

Copyright 2009. Incisive Media US Properties, LLC. All rights reserved. New York Law Journal Online

Page printed from: <http://www.nylj.com>

[Back to Article](#)

Free: Four Judges Named For Civil, Criminal Administrative Posts

Joel Stashenko
05-07-2009

ALBANY - Four judges have been appointed to administrative posts that Chief Administrative Judge Ann Pfau ([See Profile](#)) said yesterday are among the most important in the state, especially given dismal public finances and high demand on the courts.

Sylvia O. Hinds-Radix ([See Profile](#)) has been selected as administrative judge for civil courts in Brooklyn; Barry Kamins as Brooklyn criminal court administrative judge; Efrain Alvarado ([See Profile](#)) as Bronx criminal court administrative judge; and Fernando Camacho ([See Profile](#)) as Queens criminal court administrative judge.

The appointments take effect immediately. They were made by Judge Pfau, with Chief Judge Jonathan Lippman's approval, and after consultation with Presiding Justices Luis A. Gonzalez ([See Profile](#)) and A. Gail Prudenti ([See Profile](#)) of the First and Second departments, respectively, of the Appellate Division.

Judge Pfau said an administrative judge needs to be a "hand's on" presence who can keep operations running in trial courts.

"The administrative judge really is one of the most important judges in the system," she said in an interview. "The administrative judge has to focus on what the courts need, has to be somebody who interacts with the judges, who listens to the judges."

Judge Pfau said administrative judges also have to ensure that trial courts have sufficient resources to function properly, which Chief Judge Lippman said will be his overriding concern as long as the state's fiscal and economic difficulties persist ([NYLJ, April 20](#)). Judge Pfau said the new administrators will be responsible for courts that are among the

busiest in the state.

The new administrative judges will continue to hear cases as they assume additional duties, according to Judge Pfau.

"Judging is what our business is," she said. "We have to always keep a hand in our business."

Judge Pfau said she herself hears cases periodically in the civil court term of Supreme Court in Brooklyn.

Administrative judges are paid \$141,500 a year for assuming additional duties, \$4,800 more than other Supreme Court justices.

Under yesterday's appointments:

- Justice Hinds-Radix, 58, will replace Justice Abraham G. Gerges ([See Profile](#)), who has been interim administrative judge in Brooklyn. Justice Gerges, 75, was appointed on an acting basis in March 2008. Justice Hinds-Radix, a Howard University Law School graduate, was elected to the New York Civil Court in 2001 and to the Supreme Court in 2004.
- Judge Kamins, 65, will fill a vacancy created when Governor David A. Paterson appointed the former Brooklyn criminal court administrative judge, L. Priscilla Hall ([See Profile](#)), to the Appellate Division, Second Department ([NYLJ, March 5](#)). A Criminal Court judge since last year, Judge Kamins will be appointed an acting Supreme Court justice. A Rutgers University School of Law graduate and a former prosecutor and defense attorney, Judge Kamins was president of the New York City Bar Association from 2006 to 2008.
- Justice Alvarado, 57, a former Bronx prosecutor, was appointed to Criminal Court in 1988 and as an acting Supreme Court justice in 1994. The New York University Law School graduate will succeed Justice John Collins ([See Profile](#)), 70, who reaches the maximum age for an administrative judge later this year.
- Judge Camacho, 48, was appointed to the Criminal Court in 1997 and to the Court of Claims in 2008. The former prosecutor in Manhattan has sat in the Queens Integrated Domestic Violence Court since last year. He will succeed Supreme Court Justice Jeremy Weinstein ([See Profile](#)), who has been interim criminal court administrator in Queens since Justice Randall T. Eng ([See Profile](#)) was appointed to the Second Department by former Governor Eliot Spitzer ([NYLJ, Jan. 16, 2008](#)). Judge Camacho, a Fordham University School of Law graduate, will also be designated as an acting Supreme Court justice.

As administrative judge for civil matters in Brooklyn, Justice Hinds-Radix, will oversee 43 Supreme Court justices and 18 lower court judges. Judge Kamins will be responsible for 31 Supreme Court justices and 21 lower court judges.

In Queens, Judge Camacho will supervise 25 Supreme Court justices and 13 lower court judges.

In the Bronx, where Supreme Court and lower criminal courts have been merged, Justice Alvarado will oversee the work of 44 judges.

The new administrators will report directly to Justice Fern A. Fisher ([See Profile](#)), the recently named deputy administrative judge for courts in New York City.

Judge Lippman last month eliminated the posts of chief administrative judge for criminal and civil courts in New York City ([NYLJ, April 9](#)).

Joel.Stashenko@incisivemedia.com