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State of New York

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JAMIE ROMEO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

-----X

In the Matter of the Application of

**AARON N BAKER, BRIDGET M HARVEY, CAROL K MOFFIT,
CHRIS L MUELLER, DAVID K GRANT, DEREK R MEIXELL,
HANNA M HEBERT, JAMES V VALERIO, JOHN A
MASTRELLA JR, JOHN D MOFFITT JR, KELLEY L
SWAGLER, KIRK A MORRIS, LISA M SANTILLO, MARY LOU
MORRIS, MATTHEW J RICH, PATRICK J REILLY, PATRICK
M HERMAN, REILLY J O'BRIEN, ROBERT J LYLE JR,
WILLIAM J MULLIGAN JR, Objector(s),
Petitioner(s)**

-against-

**ASHLEY A TEAGUE, DANIEL E AMAN, DANIELLE M
PALERMO-JIMENEZ, DAVID G LONG, JR, DAVID L COOK,
ELIZABETH A MAXWELL, HOWARD S MAFFUCCI, JAIME J
ERSKINE-PETTIT, JENNA N CURCIO, JEREMY D JORDAN,
JESSICA J VACCHETTO, JOHN B BAYNES, JOSEPH D
MORELLE, JR, JOSHUA I FOLADARE, KENDRA R EVANS,
KIMIE ROMEO, LAFAYETTE D EATON, MARVIN L
STEPHERSON, MARY EILEEN CALLAN, MEGAN K
THOMPSON, MICHAEL B YUDELSON, MICHAEL J
STAFFORD, MILES W CUNNING, MIRIAM RIVERA, PEARL
MC BRUNT, ROBERT BARLEY, JR, ROBIN R WILT, SASHA M
DIMARIA, SHERITA S TRAYWICK, STEPHANIE M
TOWNSEND, STEPHEN L SCHULTZ, STEVE A FLEMMING,
SUSAN E BOYNTON-FRYKHOLM, SUSAN K HUGHES-SMITH,
TERRY H DANIELE, THERESA E MAY, YVERSHA M ROMAN,
candidate(s), and**

INDEX NO.

JACKIE ORTIZ and LISA P NICOLAY

**Commissioners constituting the
Monroe County Board of Elections, and**

**THE WORKING FAMILIES PARTY,
THE EXECUTIVE BOARD OF THE
WORKING FAMILIES PARTY (WFP), AND
JONATHAN WESTIN & DANIEL LANGENBUCHER,
PRESIDING OFFICER AND SECRETARY OF THE
WFP AUTHORIZATION MEETING**

VERIFIED

Respondents,

PETITION

For an Order Pursuant to Sections 16-100,
16-102 and 16-116 of the Election Law,
Declaring Invalid the Respondent’s Authorization and Designation
for the Working Families Party in the June 2021 Primary Election,
and Restraining said Board from placing the name of
from placing the name of Respondent Candidate(s) on the ballot.

-----X

**TO THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE:**

Your Petitioners, by their attorney Adam Fusco, Esq., for a Verified Petition, respectfully
show to the Court and allege:

1. This is a hybrid proceeding commenced under the provisions of the Election Law, and is simultaneously plead under the provisions of Article 78 CPLR and Section 3001 CPLR (Declaratory Judgment).
2. That, at all times hereinafter mentioned, your above captioned Petitioners **who are Objector Petitioners** were and still are qualified voter(s) of the State of New York, residing in the respective political subdivisions, and are entitled to vote for the Public Office for which they made objections (and for which this invalidation proceeding is brought), and to object under the terms of the Election Law.
3. That, at all times hereinafter mentioned, your above captioned **Petitioners who are Aggrieved Candidate Petitioners** were and still are candidates running for the subject public office for which authorization is challenged herein, entitled to bring this invalidation proceeding before this Court without filing objections at the Board of Elections, and he/she/they each have standing to bring the within proceeding.
4. That at all of the times hereinafter mentioned, the **Respondent County Board of Elections** was and is charged with the responsibility of the supervision of the conduct of

official elections held in such County including the duties of placing a Candidate's name on the ballot as a designee of the Working Families Party for the subject public offices in the June Primary Election; including the review and determination of objections and specifications of objections to such Authorization(s) of Designations for the Working Families Party in the June 2021 Primary Election, maintaining the registration list official maps the county election districts, and the preparation / certification of official ballots for use in such county.

5. The above captioned Commissioners are the Commissioners of said Board and together they Constitute the Board.
6. That on or about March 29-30, 2021, there were filed with the Respondent Board of Elections certain papers allegedly constituting authorization(s) petitions purporting to make designations for the Working Families Party for various public offices to be nominated at the June 2021 Primary Election.
7. On information and belief, that the cover sheet for each such Designating petition of the Working Families Party, for the **Respondent Candidate**, bears the name of an agent granted authority to sign the Cover Sheet of such Designating petition.
8. The above captioned, Petitioner(s) who are citizen – objector(s) are registered voters in the subject political subdivisions, entitled to vote for the offices for which they made objections and challenge herein, on the basis of statutory non-compliance of the certificate(s) of authorization(s).
9. The above captioned, Petitioner(s) who are aggrieved candidate(s) is / are not required to file objections to the subject Designating petition, as he / she / they is / are asserting that there has not been, *inter alia*, compliance with requirements of statute.

10. The **Respondent Board of Elections** is a public agency, and its files are available to the public under FOIL.
11. Said documents, including the acceptances, authorizations, petitions, voter registration records, and other ancillary documents including any objections and specifications of objections are hereby incorporated into these pleadings by reference, as if fully set forth herein, see, Previdi v. Matthews, 186 A.D.2d 101 (2nd Dept., 1992).
12. The **Respondent Working Families Party (WFP)** is one of the four remaining political parties recognized pursuant to law. As such, they are entitled to place nonparty members running for public office on their party line in the Primary Election through the “Wilson – Pakula” process, by which a candidate’s designation is authorized by the party (via a party committee charged with making authorizations by the party rules).
13. The **Respondent Executive Board** of the Working Families Party is, upon information and belief, the committee charged with meeting and making authorizations by the WFP Rules. Said Committee is listed on the subject authorization certificate as having issued the authorization(s) challenged herein.
14. Upon information and belief, Respondents Jonathan Westin and Daniel Langenbucher were the officers of the purported meeting at which said authorization(s) were made.
15. The following **Respondent Candidates’** authorizations were objected to by Petitioners as follows:

RESPONDENT	OBJECTOR / PETITIONER	PUBLIC OFFICE
MARVIN L STEPHERSON	James V Valerio	COUNTY LEGISLATURE 3RD DISTRICT
MIRIAM RIVERA	David K Grant	COUNTY LEGISLATURE 4TH DISTRICT
TERRY H DANIELE	Carol K Moffit	COUNTY LEGISLATURE 5TH DISTRICT
MILES W CUNNING	Mary Lou Morris	COUNTY LEGISLATURE 6TH DISTRICT
MEGAN K THOMPSON	Derek R Meixell	COUNTY LEGISLATURE 8TH DISTRICT
MARY EILEEN CALLAN	Matthew J Rich	COUNTY LEGISLATURE 9TH DISTRICT
HOWARD S MAFFUCCI	John D Moffitt Jr	COUNTY LEGISLATURE 10TH DISTRICT
JOSHUA I FOLADARE	Reilly J O'Brien	COUNTY LEGISLATURE 11TH DISTRICT
MICHAEL B YUDELSON	William J Mulligan Jr	COUNTY LEGISLATURE 13TH DISTRICT
SUSAN K HUGHES-SMITH	Patrick J Reilly	COUNTY LEGISLATURE 14TH DISTRICT
SASHA M DIMARIA	Hanna M Hebert	COUNTY LEGISLATURE 15TH DISTRICT
DAVID G LONG, JR	Bridget M Harvey	COUNTY LEGISLATURE 16TH DISTRICT
JOHN B BAYNES	Chris L Mueller	COUNTY LEGISLATURE 18TH DISTRICT
SHERITA S TRAYWICK	Lisa M Santillo	COUNTY LEGISLATURE 19TH DISTRICT
JAIME J ERSKINE-PETTIT	Aaron N Baker	COUNTY LEGISLATURE 20TH DISTRICT
YVERSHA M ROMAN	John A Mastrella Jr	COUNTY LEGISLATURE 26TH DISTRICT
ROBIN R WILT	Patrick J Reilly	BRIGHTON-MEMBER OF TOWN COUNCIL
DANIEL E AMAN	Patrick J Reilly	BRIGHTON-TOWN CLERK
LAFAYETTE D EATON	Kelley L Swagler	EAST ROCHESTER-VILLAGE TRUSTEE
THERESA E MAY	David K Grant	GATES-MEMBER OF TOWN COUNCIL
JENNA N CURCIO	Mary Lou Morris	GREECE-MEMBER OF TOWN COUNCIL WARD 2
JESSICA J VACCHETTO	Kirk A Morris	GREECE-MEMBER OF TOWN COUNCIL WARD 4
ELIZABETH A MAXWELL	Robert J Lyle Jr	HAMLIN-MEMBER OF TOWN COUNCIL
STEPHEN L SCHULTZ	Patrick M Herman	HENRIETTA-SUPERVISOR
ROBERT BARLEY, JR	Patrick M Herman	HENRIETTA-MEMBER OF TOWN COUNCIL
MICHAEL J STAFFORD	Patrick M Herman	HENRIETTA-MEMBER OF TOWN COUNCIL
JOSEPH D MORELLE, JR	Bridget M Harvey	IRONDEQUOIT-SUPERVISOR
KIMIE ROMEO	Bridget M Harvey	IRONDEQUOIT-MEMBER OF TOWN COUNCIL
DAVID L COOK	Carol K Moffit	MENDON-MEMBER OF TOWN COUNCIL
SUSAN E BOYNTON- FRYKHOLM	Reilly J O'Brien	PERINTON-TOWN CLERK
JEREMY D JORDAN	Reilly J O'Brien	PERINTON-MEMBER OF TOWN COUNCIL
STEVE A FLEMMING	Reilly J O'Brien	PERINTON-MEMBER OF TOWN COUNCIL
KENDRA R EVANS	John D Moffitt Jr	PITTSFORD-SUPERVISOR
PEARL MC BRUNT	John D Moffitt Jr	PITTSFORD-MEMBER OF TOWN COUNCIL
STEPHANIE M TOWNSEND	John D Moffitt Jr	PITTSFORD-MEMBER OF TOWN COUNCIL
DANIELLE M PALERMO- JIMENEZ	Derek R Meixell	WEBSTER-SUPERVISOR
ASHLEY A TEAGUE	Derek R Meixell	WEBSTER-MEMBER OF TOWN COUNCIL

- 16.** Each objector and each candidate aggrieved has standing to challenge the authorization(s) of the **Respondent Candidates** set forth in the preceding paragraphs under the terms of the Election Law.
- 17.** The following Respondents are named because they appear on the same certificate of authorization as the **Respondent Candidates** whose authorization(s) are challenged in this proceeding. They are named in these pleadings as they may be determined to be necessary parties. Petitioners do not claim to have standing to sue them; nor do the Petitioners seek any relief against them. These candidates are named only because they may be determined to be entitled to notice of these proceedings, or necessary parties hereto.

RESPONDENTS

Caroline Edwards-Morrison
 Julie A Cianca
 Van H White
 Rachel A Barnhart
 Mercedes Vazquez-Simmons
 Linda M Hasman
 Rajesh Barnabas
 Dorian L Hall
 Ricky G Frazier
 William T Burgess
 Bridget A O'Toole
 Miguel A Melendez Jr
 Stanley Martin
 Victor H Sanchez
 Jessica A Diaz

PUBLIC OFFICE

County Court Judge
 County Court Judge
 County Court Judge
 County Legislator - 21st District
 County Legislator - 22nd District
 County Legislator - 23rd District
 County Legislator - 24th District
 County Legislator - 25th District
 County Legislator - 28th District
 County Legislator - 29th District
 Greece Town Justice
 Rochester Member of City Council - At Large
 Rochester Member of City Council - At Large
 Rochester Member of City Council - At Large
 Sweden Town Justice

- 18.** Candidates running for Judicial Offices may be included in the subject certificate of authorization. The Election Law does not require an authorization (specifically, Election Law Section 6-120(4)) for a candidate running for Judicial Office.

Accordingly, the validity / invalidity of the authorization of Judicial Candidates has no effect on their designation. Such candidates are, therefore, not named in this proceeding.

19. Upon information and belief, that the said **Respondent Board of Elections** has not yet made a determination on any objections filed against the subject authorizations.
20. Upon information and belief, that the said **Respondent Board of Elections** has not yet made a determination as to compliance with binding, coversheeting and other requirements.
21. Upon information and belief, that the aforesaid alleged Authorization Certificate(s) filed by, or on behalf of, **Respondent Candidate** is insufficient, ineffective, false, fraudulent, and invalid, does not conform to the provisions of the Election Law and other Laws of the State of New York, and the Rules and Regulations of the Respondent County Board of Elections, and is null and void by reasons of the facts and allegations set forth herein.
22. The **Respondent Board of Elections** should be permanently restrained and enjoined from placing the name of said **Respondent Candidate(s)** upon the official ballots of said Primary and General Elections as candidate(s) of the Working Families Party.
23. Some of the matters raised herein are exclusively within the jurisdiction of the Court and should be heard and determined by the Court.
24. That it is possible that the **Respondent County Board of Elections** will not dispose of Objections and Specifications of Objections (if any) before the last day allowed by statute for the commencement of the proceeding. The Order to Show Cause requires that the instant proceeding be commenced on order to protect Petitioner's rights.
25. Upon information and belief, that the aforesaid alleged Certificate of Authorization

filed by, or on behalf of, **Respondents** is insufficient, ineffective, false, fraudulent, and invalid, does not conform to the provisions of the Election Law and other Laws of the State of New York, and the Rules and Regulations of the County Board of Elections, and is null and void by reasons of the facts and allegations set forth herein.

The **Respondent County Board of Elections** and Commissioners thereof should be restrained and enjoined from placing the name of the Respondent Candidate(s) on the 2021 Primary Election ballot as designee(s) of the Working Families Party for public office.

26. Without a valid authorization, the designation of the challenged **Respondent Candidates** must fail, and must be declared to be invalid.
27. Each and every cause of action asserted in this matter is pled alternatively as a proceeding under Election Law, Article 16, Article 78 CPLR, and 3001 CPLR.
28. Upon information and belief, the aforementioned Authorization(s) for public office(s) is / are invalid by reason of the following facts.
29. The document filed is not a genuine document.
30. An examination of the document filed with the Board of Elections, upon information and belief, will reveal that the entire document was produced by way of a printer, xerox machine, facsimile machine, or electronic reproduction.
31. The Law requires the filing of original documents, see *Gentner v. Albany County Bd. of Elections*, 309 A.D.2d 962 (3rd Dept. 2003).
32. In its relevant part, the Third Department of the Appellate Division held, “To permit the **filing of facsimile copies could have the effect of * * * dispensing with the need for an original document altogether**”, *Gentner*, supra, at 963–964 emphasis added.

33. Upon information and belief, the **Respondent Working Families Party** has asserted to Boards of Elections in this state that the use of non-genuine signatures on something other than an original document has been authorized by Governor Cuomo in an Executive Order.
34. There is no statute, rule, regulation or executive order which alters the requirement of the statutory provisions of the Election Law that the actual document (Certificate of Authorization) be filed with the Board of Elections.
35. Simply put, an original document is required to be filed.
36. Accordingly, this copy must be declared null and void as to the candidates challenged herein.

IN AND AS FOR A SECOND CAUSE OF ACTION

37. Each and every allegation in the preceding paragraphs is hereby repeated and re-alleged as if same were fully set forth herein.
38. The document filed does not carry genuine “wet” signatures of party officers as required by law.
39. An examination of the copy of a document that was filed with the Board of Elections shows “grey boxes” with handwriting in them.
40. These purported signatures were obviously clipped from other documents and pasted either manually or mechanically onto the original document which was never filed with the Board of Elections.
41. Said signatures have been copied from some other document. They are not bona fide, genuine, “wet” signatures placed upon the certificate of authorization that is the subject of this matter.

42. The law requires that “The certificate of authorization shall be signed and acknowledged by the presiding officer and the secretary of the meeting at which such authorization was given.” See Election Law § 6-120(3).
43. The statute does not allow for copies of signatures to be pasted into a document.
44. Upon information and belief, the **Respondent Working Families Party** has maintained to Boards of Elections in this state that the use of non-genuine signatures on something other than an original document have been authorized by Governor Andrew Cuomo in an Executive Order.
45. Executive Order 202.7 (as extended through March 24, 2021 by E.O. 202.95) requires *inter alia* that “The person must transmit by fax or electronic means a legible copy of the signed document directly to the Notary on the same date it was signed; The Notary may notarize the transmitted copy of the document and transmit the same back to the person; and The Notary may repeat the notarization of the original signed document as of the date of execution provided the Notary receives such original signed document together with the electronically notarized copy within thirty days after the date of execution.”
46. The Executive Order explicitly refers to the existence of an original document.
47. While the order allows for the use of technology to “remotely” notarize a document and avoid close personal contact during the COVID-19 pandemic; it DOES NOT authorize the filing or acceptance of copies of documents in lieu of originals.
48. The Executive Order also DOES NOT allow for the affixation of non-genuine signatures onto a document.
49. It is the original document, with original signatures, that the Law requires to be filed

with the Board of Elections.

50. Accordingly, the certificate of authorization must be declared invalid, null and void and ineffective to place candidates on the ballot.

IN AND AS FOR A THIRD CAUSE OF ACTION

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

52. The document does not carry the genuine “wet” signature of the notary authenticating the statements appearing on the document.

53. As asserted hereinabove, there must be an original document with an original signature placed on it by the notary.

54. Upon information and belief, the certificate challenged herein has no original signatures on it, including the signature of the Notary.

55. Accordingly, the certificate of authorization must be declared invalid, null and void and ineffective to place candidates on the ballot.

IN AND AS FOR A FOURTH CAUSE OF ACTION

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

57. The acknowledgment executed by the Notary claims that the persons executing the document “personally appeared” before such authenticating officer. If this document was notarized remotely, that statement can not be true.

58. Moreover, the jurats stating the venue in which the signatures were affixed / solemnized are defective as they are not consistent with each other. This is further evidence that the signers of the subject certificate were not personally appearing before the notary.

59. Accordingly, the certificate of authorization must be declared invalid, null and void and ineffective to place candidates on the ballot.

IN AND AS FOR A FIFTH CAUSE OF ACTION

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

61. Upon information and belief, the notarization of the subject authorization was defective and insufficient to authenticate the document.

62. Upon information and belief, the remote notarization of the subject authorization was not properly made, and as it results in placing candidates on the ballot, it constitutes a fraud on the electorate.

63. Accordingly, the certificate of authorization must be declared invalid, null and void and ineffective to place candidates on the ballot.

IN AND AS FOR A SIXTH CAUSE OF ACTION

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

65. Petitioner is asserting permeating fraud due to the fact that the signatures and the document itself are not genuine, and original as required by law.

66. Respondents must be held responsible for using the COVID-19 pandemic as an excuse to avoid their obligations under the law.

67. The Court of Appeals has held that even in the midst of a pandemic, strict compliance with the Election Law will be maintained. See Seawright v. Board of Elections and Hawatmeh v. Board of Elections, 35 N.Y.3d 227 (2020). Petitioners seek nothing less than strict enforcement of the law in this case.

68. Accordingly, the certificate of authorization must be declared invalid, null and void and ineffective to place candidates on the ballot.
69. Petitioner(s) intend to prove to the Court that any decisions rendered by **Respondent Board of Elections** in favor of **Respondent-Candidate(s)** are erroneous and any determination that the subject authorization is valid is erroneous.
70. That, in accordance with the Election Law and the prior decisions of the and other Courts, whose decisions are controlling, Petitioner(s) retain the right to submit proof establishing the invalidity of the authorization, for reasons not heretofore specified, and Petitioner(s) intend to exercise such right.
71. Such proofs may include testimonial and documentary evidence.
72. That your Petitioner(s) request leave and reserve the right to submit upon the argument and hearing of the application, evidence by way of affidavits, testimony, and documentary proof to substantiate and support the application.
73. That Petitioner(s) request an order directing **Respondent County Board of Elections** to produce upon the argument and hearing of the application the aforesaid authorization certificate (“Wilson – Pakula”) the designating petition(s), cover sheet(s) and any amended cover sheet(s), identification number application form(s) and any other documents purporting to designate and/or nominate the said **Respondent(s)-Candidate(s)**, together with any objections and specifications relating to the aforesaid Designating petition, any written notification of a determination of non-compliance together with proof of service upon the candidate or contact person designated therein, any writing purporting to cure or correct said determination of non-compliance the permanent personal voter registration poll records of the candidates, and all worksheets

of and the report of the Clerks of the said Board made on the petitions, any objections or *prima facie* review and specifications and records provided for in the annexed Order to Show Cause.

74. Other than the proceeding, your Petitioner(s) have no adequate, sufficient, or effective remedy at law.
75. In order to effect immediate personal service of the annexed Order to Show Cause and the Petition on the **Respondent Board of Elections**, the Commissioners of whom are required at various times to be on official business at places other than their official business offices, it is respectfully requested that the Court direct that such service may be made upon any Officers of the Board including the Executive Directors, counsels, and other officers of said Board authorized to accept service or by delivering these papers to the Offices of the said Board, or to the County Attorney, including electronic delivery of such papers via e-mail or fax facilities used for such purposes by the Board.
76. The Petitioner(s) request leave to effect service of a copy of the Order to Show Cause, together with as copy of the papers on which it is granted, upon **Respondent Candidate(s)** and / or contact person / agent other than by personal service because:
- (a) The proceeding must be instituted on or before April 9, 2021;
 - (b) Petitioner(s), despite diligent effort, may be unable to effect personal service upon **Respondent Candidate** on or before such date, because such Respondents will, and have, purposely absented themselves from their homes and places of business, as has been expMonroenced by counsel in proceedings of the nature;
 - (c) Petitioner(s) are advised by their attorney that in election matters

governed by Article 16 of the Election Law, orders granting alternative methods of service are routinely granted by Courts in the State in accordance with statute and prior decisional case law.

77. Pursuant to the holding the Court of Appeals in Matter of Angletti, supra., and of the Second Department of the Appellate Division in Marcoccia v. Garfinkle, 307 A.D.2d 1010 (2nd Dept., 2003), **the last day for substituted service upon a respondent this year is April 9, 2021.** Accordingly, such service in accordance with the case law is requested in the annexed order to show cause.

78. No previous application by Petitioner(s) has been made for the relief sought herein or for the Order to Show Cause hereunto the annexed, or for any similar relief to any court.

79. It is respectfully requested that personal appearance on the hearing date by the **Respondent Candidate**, and all challenged subscribing witnesses be ordered.

80. It is respectfully requested that the Court waive the filing of proof of service and order that same be filed with the Court upon the return date, as is customary in Elections Matters.

81. The within pleadings are signed by counsel and are hereby certified as non-frivolous as required by the rules of the Courts of New York.

WHEREFORE, your Petitioner respectfully prays for the relief requested in the annexed Order to Show Cause and for a final Order granting the relief prayed for in the said Order to Show Cause, including the invalidation of the subject Certificate(s) of Authorization and any ancillary instruments of designation / nomination, and for such other and further relief to the Court may seem just and proper in the premises.

DATED: ALBANY, NEW YORK
April 6, 2021

AFUSCO**Adam Fusco, Esq.**

Attorney for the Petitioners

Fusco Law Office

P.O. Box 7114, Albany, NY 12224

Tel: (518) 620-3920 Cell: (315) 246-5816

Fax: (518) 691-9304

Email: afusco@fuscolaw.net

ATTORNEY'S VERIFICATION

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

Adam Fusco, Esq., an attorney duly admitted to the practice of law before the Courts of the State of New York does hereby affirm pursuant to the provisions of the CPLR as follows:

1. He is an attorney for the petitioner(s) in the proceeding.
2. He has personally reviewed copies of the relevant documents on file with the Board of Elections, together with other ancillary papers thereto, contacted the respondent board and made inquiry thereon, and upon the conclusion of the said review, believes the within allegations to be true, to his personal knowledge.
3. He has reviewed the contents of the within petition with his client(s) and/or their workers and at the conclusion of said review believes the contents thereof to be true.
4. All allegations made upon information and belief he believes to be true, based upon a review of the subject documents and an investigation of the attendant facts and circumstances.
5. The verification is used pursuant to the provisions of the CPLR at counsel has offices in the County of Albany and the Petitioner(s) herein reside outside said county.

DATED: ALBANY, NEW YORK
April 6, 2021



Adam Fusco, Esq.
Attorney for the Petitioners
Fusco Law Office
P.O. Box 7114, Albany, NY 12224
Tel: (518) 620-3920 Cell: (315) 246-5816
Fax: (518) 691-9304
Email: afusco@fuscolaw.net

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

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In the Matter of the Application of

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TERRY H DANIELE, THERESA E MAY, YVERSHA M ROMAN,
candidate(s), and**

INDEX NO.

JACKIE ORTIZ and LISA P NICOLAY,

**Commissioners constituting the
Monroe County Board of Elections, and**

**THE WORKING FAMILIES PARTY,
THE EXECUTIVE BOARD OF THE
WORKING FAMILIES PARTY (WFP), AND
JONATHAN WESTIN & DANIEL LANGENBUCHER,
PRESIDING OFFICER AND SECRETARY OF THE
WFP AUTHORIZATION MEETING**

AFFIRMATION

Respondents,

For an Order Pursuant to Sections 16-100,
16-102 and 16-116 of the Election Law,
Declaring Invalid the Respondent's Authorization & Designation
for the Working Families Party in the June 2021 Primary Election,
and Restraining said Board from placing the name of
Respondent Candidate(s) on the ballot.

-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Adam Fusco, Esq., an attorney duly admitted to the practice of law before the Courts of the State of New York does hereby affirm under the penalties of perjury, as follows:

1. I am an attorney for the Petitioner(s) in the above captioned proceeding.
2. The affirmation is offered to the Court to explain why the matter is of the most urgent nature and requires the Court's immediate attention.
3. The is an Election Law proceeding, and as such, the matter has a statutory preference over all other matters on the Court's calendar, see, Election Law Section 16 - 116.
4. The matter is subject to an incredibly short statute of limitations. The last day to commence the proceeding is **April 9, 2021**. As a practical matter, the case must receive immediate attention so that the Court can achieve jurisdiction.
5. Further, the Court of Appeals has determined that Elections Matters are always to be given the highest priority by the Courts. It is respectfully submitted that the circumstances described in the petition present the court with an emergency situation requiring immediate action, and further that the very nature of an election proceeding, particularly with regard to ballot access challenges which have a very short statute of limitations, presents an exemption to any rule which might delay or bar the court's action in other circumstances, Banko v. Webber, 7 NY2d 758 (1959).
6. It is respectfully submitted that the statute and case law require the immediate consideration of the matter by the Supreme Court.

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

DATED: April 7, 2021

AMC

Adam Fusco, Esq.

Attorney for the Petitioners

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

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In the Matter of the Application of

**AARON N BAKER, BRIDGET M HARVEY, CAROL K MOFFIT,
CHRIS L MUELLER, DAVID K GRANT, DEREK R MEIXELL,
HANNA M HEBERT, JAMES V VALERIO, JOHN A
MASTRELLA JR, JOHN D MOFFITT JR, KELLEY L
SWAGLER, KIRK A MORRIS, LISA M SANTILLO, MARY LOU
MORRIS, MATTHEW J RICH, PATRICK J REILLY, PATRICK
M HERMAN, REILLY J O'BRIEN, ROBERT J LYLE JR,
WILLIAM J MULLIGAN JR, Objector(s), and
Petitioner(s)**

-against-

**ASHLEY A TEAGUE, DANIEL E AMAN, DANIELLE M
PALERMO-JIMENEZ, DAVID G LONG, JR, DAVID L COOK,
ELIZABETH A MAXWELL, HOWARD S MAFFUCCI, JAIME J
ERSKINE-PETTIT, JENNA N CURCIO, JEREMY D JORDAN,
JESSICA J VACCHETTO, JOHN B BAYNES, JOSEPH D
MORELLE, JR, JOSHUA I FOLADARE, KENDRA R EVANS,
KIMIE ROMEO, LAFAYETTE D EATON, MARVIN L
STEPHERSON, MARY EILEEN CALLAN, MEGAN K
THOMPSON, MICHAEL B YUDELSON, MICHAEL J
STAFFORD, MILES W CUNNING, MIRIAM RIVERA, PEARL
MC BRUNT, ROBERT BARLEY, JR, ROBIN R WILT, SASHA M
DIMARIA, SHERITA S TRAYWICK, STEPHANIE M
TOWNSEND, STEPHEN L SCHULTZ, STEVE A FLEMMING,
SUSAN E BOYNTON-FRYKHOLM, SUSAN K HUGHES-SMITH,
TERRY H DANIELE, THERESA E MAY, YVERSHA M ROMAN,
candidate(s), and**

INDEX NO.

JACKIE ORTIZ and LISA P NICOLAY,

**Commissioners constituting the
Monroe County Board of Elections, and**

**THE WORKING FAMILIES PARTY,
THE EXECUTIVE BOARD OF THE
WORKING FAMILIES PARTY (WFP), AND
JONATHAN WESTIN & DANIEL LANGENBUCHER,
PRESIDING OFFICER AND SECRETARY OF THE
WFP AUTHORIZATION MEETING**

Respondents,

For an Order Pursuant to Sections 16-100,
16-102 and 16-116 of the Election Law,
Declaring Invalid the Respondent's Authorization & Designation
for the Working Families Party in the June 2021 Primary Election,
and Restraining said Board from placing the name of
Respondent Candidate(s) on the ballot.

-----X

ORDER TO SHOW CAUSE AND VERIFIED PETITION

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