CASE NO. 2020-

Time Requested: 15 minutes
To Be Argued By:
LAWRENCE A. MANDELKER

Supreme Court of the State of New York
Appellate Division: First Judicial Department

In the Matter of the Application of LOUIS PULIAFITO,
Petitioner-Appellant,

-against-

REBECCA A. SEAWRIGHT,
Respondent-Respondent,

and BOARD OF ELECTIONS IN THE CITY OF NEW YORK,
Respondent,

PLAINTIFF-APPELLANT'S BRIEF

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In the Matter of the Application of

LOUIS A PULIAFITO,

Petitioner-Appellant,

-against-

THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK,

Respondent,

And REBECCA Seawright,

Respondent-Respondent.

----------X

New York County
Index No.
100433/2020
100432/2020

PETITIONER-APPELLANT'S BRIEF IN SUPPORT OF HIS APPEAL FROM ORDERS DENYING BOTH PETITIONS TO INVALIDATE

PRE-ARGUMENT STATEMENT PURSUANT TO CPLR SECTION 5531

1. The index numbers of the proceedings below were New York County Index Nos. 100432/2020 and 100433/2020.

2. The full names of the original parties are as set forth above. There have been no changes.

3. The proceedings were commenced below in the Supreme Court, New York County.

4. The proceedings below were commenced by orders to show cause signed on April 1, 2020 and returnable on May 5, 2020.

5. Petitioner-Appellant sought orders invalidating the Democratic Party designating petition and the Working Families Party designating petition purporting to designate Respondent-Respondent, respectively as each Party's candidate for nomination for Member of the Assembly for the 76th Assembly District at their respective June 23, 2020 Primary Elections.

6. Petitioner-Appellant appeals from the orders granted by the Supreme Court, New York County (Edmead, J.) on May 8, 2020 validating Respondent-Respondent's designating petitions.

7. The appeal is taken under special provisions for election law appeals.

QUESTIONS PRESENTED

Question 1: Where the Legislature amended the Election Law to make the failure to timely file a document on the date it is due a fatal defect and where the Court of Appeals has repeatedly held that compliance with filing deadlines is mandatory, that failure to comply is not a technical defect and that courts are without jurisdiction to excuse the failure to comply with filing deadlines, regardless of how innocent, harmless or non-prejudicial the failure or how compelling the circumstances, should the Court below have allowed the candidate to file her cover sheet 12 days after they were due and her Certificate of Acceptance 8 days after it was due?

Answer 1: The Court below said "yes."

Question 2: Where during an ongoing public health emergency, the candidate's campaign staff and volunteers circulated her designating petitions and obtained the signatures thereon, reviewed the signatures, bound the sheets into volumes, paginated each volume and timely filed the petitions, should the existence of a public health emergency have excused the campaign staff and volunteers from failing to timely filing the cover sheet and certificate of acceptance?

Answer 2: The Court below said "yes."

PRELIMINARY STATEMENT

Petitioner-Appellant ("Appellant") appeals from so much of a "Decision and Order on Motion" granted on May 8, 2020 by the Supreme Court, New York County (Edmead, J.) that found that the Democratic and Working Families Party ("WFP") Petitions filed on behalf of Respondent-Respondent Seawright ("respondent Seawright") valid and effective even though the cover sheet for her Democratic petition was filed 12 days late and her certificate of acceptance for her WFP petition was filed 8 days late. The petitions purported to designate her, respectively, as the candidate of the Democratic Party and of the WFP for nomination for election to Member of the Assembly for the 76th Assembly District.

Ever since the adoption of Chap 529 of the Laws of 1969 on May 10, 1969, it has been Black Letter Election Law jurisprudence that the failure to file a document required under Article 6 of the Election Law – be it a cover sheet or a certificate of acceptance--by the last date on which may be filed is a fatal defect. Election Law § 1-106 (2); *Matter of Hutson v. Bass,* 54 NY 2d 772, 774 (1981) (no interest of justice jurisdiction to validate designating petition where cover sheet filed 15 minutes late); *Matter of Carr v, New York State Board of Elections,* 40 NY 2d 556 (1976) (Legislature enacted Sec. 143 (12) [now Sec 1-106 (2)] to make the "time limitations provided therefor absolute and not a matter subject to the exercise of discretion by our courts."); *Matter of Baker v. Monahan*, 42 NY 2d 1074, 1075 (1977) (intent and

effect of amendment were to make it 'crystal clear that the time limitations for filing are mandatory' and to foreclose the judiciary from fashioning exceptions, however reasonable they might be made to appear.")

Despite the existence of Election Law §1-106 (2), including the legislative history demonstrating that the Legislature added the "fatal defect" language to Sec 143 (12) in order "to overcome the trend of recent court decisions which have had the effect of impairing the mandatory nature of the timetable, NY Legis. Ann. 1969, pp. 249-250, the Court below ignored the binding precedents about the lack of interest of justice jurisdiction and instead cited the cases to which the Legislative history was referring, namely, *Matter of Rosen v. McNab,* 25 NY 2d 789 (1969); *Battista v. Power,* 10 NY 2d 867 (1961); and *Matter of Powell v. Marchi*, 153 AD 2d 540 (1st Dep't 1989) in order to exercise such jurisdiction to allow the Democratic three term incumbent Member of the Assembly a privilege accorded to no other candidate, the ability to file her Democratic cover sheet 12 days after it was due and her WFP Certificate of Acceptance, 8 days after it was due. Indeed, as the record on appeal amply demonstrates, although Respondent-Respondent attempted to clothe herself in her legislative and constituent responsibilities, and although she evoked her own illness and quarantine, no explanation was offered--none at all-- why her campaign staff and volunteers who gathered and reviewed the Democratic signatures, bound the Democratic petition sheets in two volumes, consecutively

numbered the sheets of each volume, affixed petition identification numbers on each volume and filed the Democratic and WFP petitions a day before they were due, did not file a cover sheet for the Democratic petition until 13 days later, 12 days after it was due, and did not file the Certificate of Acceptance for the WFP petition until 13 days later, 8 days after it was due.

STATEMENT OF FACTS

Appellant is an enrolled Republican registered to vote from the 76th Assembly District on the upper east side in Manhattan. He is a doorman. Prior to March 20, 2020 he duly filed a petition designating him as a candidate for the Republican nomination for Member of the Assembly for the 76th Assembly District at the June 23, 2020 Republican Primary. No objections were filed to his designating petition; and no other designating petitions were filed on behalf of candidates seeking to contest Appellant's Republican nomination at the Primary. As a result, Appellant became the Republican nominee for Member of the Assembly for the 76th Assembly District without balloting.[1]

Respondent Seawright is an enrolled Democrat and is registered to vote from the 76th Assembly District on the upper east side of Manhattan. On April 19, 2020, Respondent Seawright's campaign timely filed two designating petitions with the Board"), seeking to be designated, respectively, as the Democratic and Working

[1] See, Election Law §§ 6-154 (1) and 6-160 (2)

Families Party ("WFP") nominee for Member of the Assembly for the 76th Assembly District at the June 23, 2020 Democratic and WFP Primary Elections. Respondent Seawright's Democratic petition was filed on March 19, 2020. It contained two bound volumes, each with consecutively numbered pages and its own petition identification number. Her WFP petition consisted of two sheets with their own petition identification number. It too was filed on March 19, 2020.

Pursuant to Chap 24 of the 2020 Laws, the final day to file designating petitions was March 20, 2020. Respondent Seawright concedes that the cover sheet for her Democratic petition was not filed until April 2, 2020. Respondent Seawright's WFP petition did not require a cover sheet. However, it required a Certificate of Authorization, which certificate was timely filed on March 20, 2020, and a Certificate of Acceptance, which had to be filed no later than four days after the last date to file designating petitions, i.e., March 24, 2020.[2] Respondent Seawright concedes that her campaign did not file a Certificate of Acceptance for her WFP designating petition until April 2, 2020, eight days after the last date to file such certificates.

Respondent Seawright submitted an affidavit below seeking to excuse the aforesaid late filings by describing her various legislative and constituent responsibilities and her illness and quarantine during the period when her

[2] See, Election Law §§ 6-146 (1) and 6-158 (2)

designating petitions were circulated and filed. But in his own affidavit, Appellant explained that campaigns for election are conducted on behalf of a candidate – and particularly a three term Democratic incumbent running in a Democratic district – by the candidate's campaign staff and volunteers. Even if respondent Seawright hadn't fallen ill and been quarantined, no one expected her to: gather and review all the signatures on her Democratic petition; obtain petition identification numbers from the Board; bind the Democratic sheets into two volumes, paginate each volume, affix a petition identification number on each volume (and on her WFP petition) and file the petitions. But someone did. And that someone was respondent Seawright's campaign staff and volunteers.

No explanation has been tendered – none – purporting to explain why, after filing Petitioner's Democratic and WFP designating petitions prior to March 20, 2020—the last date provided therefor in Chap 24 of the 2020 Laws of New York—respondent Seawright's campaign staff and volunteers failed to file the cover sheet for the Democratic petition and the Certificate of Acceptance for the WFP petition[3] on the dates when they were due. Respondent Seawright falls back on the existence of a public health emergency and that the time to file petitions had been accelerated. But as a member of the Assembly leadership team, she knew that the Legislature

[3] Petitioner even claimed that she couldn't sign and acknowledge the Certificate of Acceptance in the presence of notary because she was quarantined, totally ignoring Executive Order 202.7 issued on March 19, 2020 which inter alia provided for the use of audio-video technology to notarize documents.

was to meet in emergency session on March 18, 2020 to pass what became Chap 24 of the Laws of 2020, even if she was too ill to attend. Her petitions were timely filed on the very next day.

Respondent Seawright acts as if she was the only individual in New York City whose life was affected by the public health emergency. The Coronavirus Pandemic affected the lives of everyone in the City, including Appellant. Nevertheless, his campaign was able to timely file his designating petition with a cover sheet. Indeed, "[m]ore than 1,000 other designating petitions with cover sheets were timely and properly filed [with the Board] during this period—most by or on behalf of people who were not part of the legislative process that resulted in the accelerated filing period [Board's Mem in Opp. NYCEF Doc 23, page 2], including Appellant.

ARGUMENT

POINT I

THE COURT BELOW IGNORED MORE THAN 50 YEARS OF BEING BLACK LETTER LAW ESTABLISHED BY THE LEGISLATURE AND REPEATEDLY CONFIRMED BY THE COURT OF APPEALS THAT THE FAILURE TO TIMELY FILE IS AN INCURABLE FATAL DEFECT AND THAT THE COURTS LACK JURISDICTION TO EXCUSE A NON-PREJUDICIAL UNTIMELY FILING IN THE INTEREST OF JUSTICE

Respondent Seawright argued below that there is no clear statutory imperative anywhere in the Election Law or the regulations that the failure to file a cover sheet is a fatal defect. This ignores the language of Election Law § 1-106 (2) and Rules C1 and A1 of the Rules of the Board. In *Matter of Hutson v. Bass*, 54 NY 2d 772

(1981), the Court dealt with a cover sheet that was filed 15 minutes late. The Appellate Division had reversed the lower court's invalidation of the designating petition on the law and in the interest of justice. The Court of Appeals held that there was no interest of justice jurisdiction. On the law, it stated "Additionally, the undisputed fact that the cover sheets for the designating petitions…were not filed within the time prescribed by statute, although late by only 15 minutes, was a fatal defect (Election Law § 1-106, subd. 2)"), *Matter of Hutson v. Bass, supra., at* 774).

Although not cited in *Matter of Hutson,* the holding in that case was consistent with, and followed the seminal precedents, *Matter of Carr v. New York State Board of Elections,* 40 NY 2d 556 (1976) and *Matter of Baker v. Monahan,* 42 NY 2d 1074 (1977). *Matter of Carr* involved Certificates of Nomination that had been inadvertently mailed 1 day late. The supreme court and the Second Department directed the Board of Elections to accept the Certificate as there was no prejudice and the Board was not impeded. The Court of Appeals reversed. It explained that notwithstanding that compliance with statutory time requirements under the Election Law were termed mandatory, prior to May 10, 1969, courts[4] construed former Election Law §143 (12) as not fixing "'fatal finality' to the last day for filing such certificates in instances of errors or mistakes which in reason or justice should be

[4] Presumably acting under the authority of former Election Law § 330 (courts to make such order as justice requires).

corrected so that elections should be fair and the will of all electors ascertained.[5]' " *Matter of Carr, supra., at* 557 (internal citations omitted).

On May 10, 1969, Chap. 529 of the Laws of 1969 amending Election Law § 143 (12) became effective. It added the following sentence to the end of Section 143 (12), "The failure to file any petition or certificate relating to the designation or nomination of a candidate for party position or public office or to the acceptance or declination of such designation or nomination within the time prescribed by the provisions of this chapter shall be a fatal defect (emphasis added)."[6] The Department of State's memorandum in support of the amendment stated:

> The bill will insure the prompt filing of petitions and certificates relating to the designation or nomination of candidates or to the acceptance or declination thereof by making the time limitations provided therefor absolute and not a matter subject to the exercise of discretion by the courts
>
> ***
>
> The purpose of the election timetable is to establish an orderly progression of events culminating in the election of candidates to public office or party position. The mandatory nature of the provisions of the Election Law relating to the time for filing establishes the rules of the game, which should be applied to all with equal effect.
>
> ***
>
> The Legislature, in making the time limitations for filing mandatory, intended that such provisions be construed strictly. A liberal construction of such provisions would diminish their effect, resulting in confusion and inequality.
>
> ***

[5] See, e. g., *Matter Rosen v. McNab,* 25 NY 2d 789 (1969) (decided on June 11, 1969 based on a petition filed prior to May 10, 1969, the effective date of Chap 529 of the 1969 Laws.

[6] The quoted language is now found in Election Law Sec. 1-106, subd. 2.

> The purpose of this bill is to overcome the trend of recent court decisions which have had the effect of impairing the mandatory nature of the timetable.
>
> ***
>
> It is therefore of paramount importance that it be made crystal clear that the time limitations for filing are mandatory

NY Legis. Ann. 1969, pp. 249-250. As a result, even though Election Law § 330 (the predecessor to Election Law § 16-100) continued to "vest jurisdiction in the supreme court to summarily determine any question of law or fact arising in respect to the nomination of any candidate, same to be construed liberally and with a direction for the courts to make such order as justice may require,)[7]" the Court held that the explicit words of Chap 529 of the Laws of 1969 control over the general words of Section 330, particularly "where it is apparent that the Legislature enacted [Sec. 143 (12)] to make the 'time limitations provided therefor absolute and not a matter subject to the exercise of discretion by our courts.' " *Matter of Carr, supra., at* 559.[8]

In *Matter of Baker v. Monahan,* 42 NY 2d 1074 (1977), The Court held that the failure to timely file certificates of declination were fatal even though the board of elections failed to notify designee of the last date to decline. The Court stated:

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[7] In contrast, Sec 16-100 (1) now vests the supreme court "with jurisdiction to summarily determine any question of law or fact arising from any subject set forth in this article, which shall be construed liberally." The direction for the courts to make such order as justice may require has been deleted.

[8] The principles enunciated in *Matter of Carr* were so important that the Court decided the case and issued its opinion despite the fact that the election to which the certificate of nominations related had been long since held *Matter of Carr,* supra., *at* 559.

"The mandate of subdivision 12 of section 143 is explicit. The Legislature has directed, as all concede that it has power to do, that failures to comply with the time prescriptions of the Election Law shall be fatal defects. The intent and effect were to make it 'crystal clear that the time limitations for filing are mandatory' and to foreclose the judiciary from fashioning exceptions, however reasonable they might be made to appear." *Matter of Baker v. Monahan, supra., at* 1075.

The viability of these seminal precedents continues to date. *Matter of Jasikoff v. Commissioners,* __AD 3d __, [2020 NY Slip Op 02742] (2d Dep't 2020). In that case, the candidate claiming that he was unaware that the last date to file designating petitions had been accelerated to Friday, March 20, 2020 until after the deadline had passed, filed his designating petition on the following Monday, March 23. The board of elections invalidated the designating petition, the Supreme Court granted the Petition to Validate and the Second Department reversed as a matter of law. Citing Matter of *Hutson, Matter of Carr and Matter of Monahan,* it stated "The courts of this State have repeatedly determined that the filing deadlines in the Election Law are mandatory and absolute, and are not subject to the discretion of the courts or the judicial fashioning of exceptions, regardless of how reasonable they may appear to be."

When interpreting a statute such as Election Law § 1-106 (2), a court's " 'primary consideration is to ascertain and give effect to the intention of the

Legislature.' 'In this endeavor we are guided by the principle that the text of the provision is the clearest indicator of legislative intent and courts should construe unambiguous language to give effect to its plain meaning.' " *Matter of O'Donnell v. Erie County*, __NY3d__,___, 2020 NY Slip Op 02095. The Court below simply ignored the explicit language of Election Law § 1-106 (2) and cases such as *Matter of Carr v. New York State Board of Elections, supra.; Matter of Baker v. Monahan, supra. and Matter of Hutson v. Bass, supra.*, all of which hold that courts are without the power to excuse a late filing, no matter how compelling the circumstances or unjust the result.

Simply stated, wholly apart from *Matter of Armwood v. McCloy*, 109 AD 3d 558 (2d Dept 2013*) lv. to app. den* 21 NY 3d 851 (2013), because failure to comply with an Article 6 Election Law filing timetable has been decreed by the Legislature to have been a fatal defect, and because the Court of Appeals had repeatedly held that courts were without jurisdiction to modify the mandatory nature of the filing timetable, no matter how innocent and non-prejudicial the mistake or compelling the excuse, it was a fundamental error for the Court below to have determined that under the circumstances of this proceeding, filing a cover sheet 12 days late was a only a non-prejudicial technical defect that had been cured.

The Court below concluded her Decision and Order as follows:

> There is no claim by any party that Seawright's errors "defrauded or mislead the public" or were "used for any improper purpose" and

> thus the errors *do not implicate policy considerations that override "the right of electorate [sic] to exercise its franchise," Matter of Flacks v. Board of Elections*, 109 AD 3d 423 (1st Dep't 2013) (scrivener's error on timely filed amended cover sheet not fatal)

(Emphasis Added).

The policy considerations were articulated in *Matter of Pierce v. Breen*, 86 NY 2d 455, 458-459 (1995), another case that the Court below chose to ignore. In that case, a Party Committee nominated a candidate pursuant to Election Law § 6-116. A Party nomination pursuant to Election Law § 6-116 "shall be made after the day of the primary election." The Certificate of Nomination was filed a month before the primary.

The candidate argued that the Certificate's premature filing was a harmless innocent error. The Court of Appeals disagreed, stating "The premature August filing of the certificate of nomination, not in compliance with the strict election timetable, did not constitute a timely filing as contemplated by Election Law §§ 6-116 and 6-158 (6). To find otherwise not only would dilute the integrity of the election process but would jeopardize the enforcement of the mandatory filing requirements set forth in the election law." (internal citations omitted) Significantly, the Court then added that the Election Reform Act [which added Election Law § 6-134 (2)] does not alter the strict filing provisions of Election Law § 1-106. Thus, the failure to file 'within the time prescribed ***shall be a fatal defect.' "

POINT II

MATTER OF ARMWOOD V. MCCLOY IS GOOD LAW AND SHOULD BE FOLLOWED

In *Matter of Armwood v. McCloy*, 109 AD 3d 558, 559-560 (2d Dep't 2013), *lv to app den* 21 NY 3d 861 (2013), a multi-volume designating petition was filed without a cover sheet and with sheets of the petition not bound. The Nassau County Board of Elections gave the candidate notice of the defects and an opportunity to cure. Within three days, the candidate filed amended cover sheets attached to photocopies of the sheets of the petition. The Board and the Supreme Court ruled that the corrected petition was valid. The Second Department reversed.

Citing *Matter of Magelener v. Park, 32 AD 3d 487,488* for the proposition that certain cover sheets deficiencies can be cured, the Court distinguished between technical defects that could be cured "and the complete failure to comply with the requirements in 9 NYCRR 6215.1, which may not be cured pursuant to Election Law § 6-134 and 9 NYCRR 6215.6." The Court could have cited *Matter of Carr v New York State Board of Elections, supra; Matter of Baker v. Monahan, supra; Matter of Hutson v. Bass, supra; and Matter of Pierce v Breen, supra* and held that the failure to file a cover sheet when due was a fatal defect under Election Law § 1-106 (2) that could not be cured pursuant to Election Law § 6-134 (2). Instead it said, "[A] candidate may not 'amend' a cover sheet which was never filed in the first place…"

The Court below distinguished *Matter of Armwood*[9] because unlike in that case, in the instant proceeding the Board did not provide the candidate with notice of defect and an opportunity to cure; and because *Armwood* did not occur during a public health emergency that abruptly truncated the filing deadlines. Taking them in reverse order, first, as a member of the Assembly Leadership team, respondent Seawright had advance knowledge that on March 18, 2020, the Legislature was being called into session to pass legislation that would accelerate the last date to file designating petitions. Indeed, her campaign filed her Democratic and WFP petitions on March 19, the day before the accelerated last date to file. Second, the Court of Appeals had already noted in *Matter of Pierce*, *supra at* 458-459 that there is no right to cure a failure to timely file under Sec 1-106 (2) (the Election Reform Act [which added Election Law § 6-134 (2)] does not alter the strict filing provisions of Election Law § 1-106. Thus, the failure to file 'within the time prescribed ***shall be a fatal defect.').

Third, respondent Seawright was also given notice of the defect and the right to contest that it was fatal. On April 15, 2020, the Board notified respondent Seawright that the Board's staff had noted that that a cover sheet had not been timely

[9] In contrast to the Supreme Court Bronx County (Carter, J.) citing *Matter of Armwood,* held in *Matter of Mejia v. Board of Elections,* Bronx County Index No. 260287/2020 and *Matter of Mujumder v. Board of Elections,* Bronx County Index No. 260286/2020 that the failure to file a cover sheet within the time prescribed was a fatal defect not subject to cure.

filed with her Democratic petition and a Certificate of Acceptance had not been timely filed with respect to her WFP petition; and the Board's staff had preliminarily determined that both defects were fatal and not subject to being cured. Respondent Seawright was invited to attend a hearing at the Board on April 21 to present evidence and argument why the preliminary determinations were not correct.

Respondent Seawright appeared by counsel and made her case why the preliminary determinations were incorrect. Appellant appeared by counsel and made his case why the preliminary determinations were correct. The Board unanimously confirmed the preliminary determinations and invalidated both petitions.

POINT III

THE FAILURE TO TIMELY FILE A CERTIFICATE OF ACCEPTANCE IS A FATAL DEFECT THAT IS NOT SUBJECT TO CURE UNDER SEC 6-134 (2)

By its very terms, Election Law § 6-134 (2) provides for notice and an opportunity to cure when a candidate has not complied with the provisions of 9 NYCRR Part 6215. The requirement that a candidate who is designated for public office by a political party in which she is not enrolled must accept the designation in a writing signed and acknowledged by her is found in Election Law § 6-146 (1), not in the regulations. The date by which this must be done (four days after the last date to file the designation) is found in Election Law § 6-158 (2). Petitioner's failure to

file her Certificate on March 24, 2020 was a fatal defect, Election Law § 1-106 (2), which made her WFP designation null and void. Election Law § 6-146 (1).

The Court below distinguished *Matter of Plunkett v. Mahoney,* 76 NY 2d 848, 850, *modfg. on dissenting memo below* 164 AD 2d 976 (1990), because she erroneously believed that although it invalidated the designation, it afforded the candidate the equitable remedy of an opportunity to ballot. In fact, the Court held just the opposite, namely that a candidate who failed to timely file a certificate of authorization could not seek the equitable remedy of an opportunity to ballot. The Court stated, "We add only that failure to timely file a certificate of authorization, which was required in this instance in order for there to be a valid designating petition (Election Law § 6-120 [3]), constituted a 'fatal defect' under Election Law § 1-106 (2). Moreover, because the petition is void under the statute, the defect cannot be considered merely 'technical'."

The Court below was incorrect. Respondent Seawright's failure to timely file her cover sheet was not a technical defect. It was a fatal defect under Election Law § 1-106 (2) that nullified her Democratic Designating Petition. Likewise, respondent Seawright's failure to timely file her Certificate of Acceptance was not a technical defect. It was a fatal defect that nullified her WFP Designating Petition.

CONCLUSION

Appellant prays for an order reversing the Decision and Order on Motion in the proceedings under New York County Index Nos. 100432/2020 and 100433 by a) invalidating respondent Seawright's Democratic and Working Families Party designating petitions purporting to designate her as, respectively, the candidate of the Democratic Party and the candidate of the Working Families Party for nomination at the upcoming June 23, 2020 Primary Elections for the public office of Member of the Assembly for the 76th Assembly District and declaring said designating petitions to be null and void; b) directing respondent Board not to print and place respondent Seawright's name on the ballots to be used in the June 23, 2020 Democratic and Working Families Party Primary Elections, respectively, as a candidate for nomination for election for the office of Member of the Assembly for the 76th Assembly District; c) dismissing both Petitions to Validate and; d) granting such other and further relief to Appellant as shall seem just and proper to the Court.

Respectfully submitted,
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PRINTING SPECIFICATIONS STATEMENT

Pursuant to 22 NYCRR 1250.8 (5), I hereby certify that the following brief was prepared on a computer using Microsoft Word.

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I hereby certify pursuant to 22 NYCRR 130-1.1-a that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the contentions in Appellant's Brief are not frivolous as defined in 22 NYCRR 130-1.1 (c)

Dated: Westchester, New York
May 9, 2020

EISEMAN LEVINE LEHRHAUPT &
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FYI

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>
> Matter of Seawright. Brief page 17, first full paragraph, sentence reads “Respondent Seawright appeared by counsel and made her case why the preliminary determinations were correct”. It should have been “....why the preliminary determinations were not correct.”
>
> Matter of Puliafito. Brief page 21, First full paragraph: Same Sentence and correction as above
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