

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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In the Matter of the Application of
MARIO M. CASTRACAN and VINCENT F.
BONELLI, acting Pro Bono Publico,

Petitioners,

Index No.

for an Order, pursuant to Sections
16-100, 16-102, 16-104, 16-106 and
16-116 of the Election Law,

-against-

NOTICE OF
MOTION TO DISMISS

ANTHONY M. COLAVITA, Esq., Chairman,
WESTCHESTER REPUBLICAN COUNTY COMMITTEE,
GUY T. PARISI, Esq., DENNIS MEHIEL, Esq.,
Chairman, WESTCHESTER DEMOCRATIC COUNTY
COMMITTEE, RICHARD L. WEINGARTEN, Esq.,
LOUIS A. BREVETTI, Esq., Hon. FRANCIS A.
NICOLAI, HOWARD MILLER, Esq., ALBERT J.
EMANUELLI, Esq., R. WELLS STOUT,
HELENA DONAHUE, EVELYN AQUILA, Commis-
sioners constituting the NEW YORK STATE
BOARD OF ELECTIONS, ANTONIA R. D'APICE,
MARION B. OLDI, Commissioners constituting
the WESTCHESTER COUNTY BOARD OF ELECTIONS,

Respondents,

for an Order declaring invalid the Certificates
purporting to designate Respondents Hon FRANCIS A.
NICOLAI and HOWARD MILLER, Esq. as candidates for
the office of Justice of the Supreme Court of the
State of New York, Ninth Judicial District, and
the Petitioners purporting to designate ALBERT
J. EMANUELLI, Esq., a candidate for the office
of Surrogate of Westchester County to be held in
the general election of November 6, 1990.

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PLEASE TAKE NOTICE that on the petition herein, and upon the
affirmations of SANFORD S. DRANOFF, ESQ. dated the 11th day of
October, 1990, and HOWARD MILLER, ESQ., dated the 11th day of
October, 1990, annexed hereto, on the return day of this

proceeding, at a Special Term, Part I of this court to be held in and for the County of Albany, at the county court house, Albany, New York, on the 12th day of October, 1990, at 9:30 a.m., or as soon thereafter as counsel can be heard, Respondent HOWARD MILLER, ESQ. will apply to this court, pursuant to section 404 of the Civil Practice Law and Rules, for a judgment dismissing the petition herein upon the grounds that:

1) This court lacks jurisdiction of this matter and personal jurisdiction over the Respondent, HOWARD MILLER, ESQ.;

2) The petition fails to state a cause of action against Respondent HOWARD MILLER, ESQ.;

3) This action is barred by laches and the statute of limitations;

and for such other and further relief as may be just.

Dated: October 11, 1990
Pearl River, New York

SANFORD S. DRANOFF, ESQ.
Attorney for Respondent
HOWARD MILLER, ESQ.
Office & P. O. Address
P. O. Box 1629
One Blue Hill Plaza, Suite 900
Pearl River, New York 10965
(914-735-6200)

TO: DORIS L. SASSOWER, P.C.
Attorney for petitioners
283 Soundview Avenue
White Plains, New York 10606

NEW YORK STATE BOARD OF ELECTIONS
Respondent
99 Washington Avenue
Albany, New York