

By Fax and Regular Mail

October 19, 1990

Clerk of the Court
Appellate Division
Third Department
Justice Building
Albany, New York

ATT: Michael J. Novack, Esq.
Clerk of the Court

RE: Castracan v. Colovita
Index No. 6056/90

Dear Mr. Novack:

Confirming our telephone conversation a few minutes ago, following my discussion with Hon. Ann T. Mikoll, and the suggestion made by Her Honor, I am willing to waive oral argument of the above appeal and submit on the papers, in order to facilitate the promptest possible decision by the Court on this most significant case brought pursuant to Sections 16-100, 102, 104, 106, and 116 of the Election Law. Her Honor further suggested that a date be fixed for the Respondents' briefs to be served and filed without delay so that the appeal can be decided prior to the November 6, 1990 election. I served and filed my Briefs and Record on Appeal on Wednesday, October 17th--within 24 hours of Justice Kahn's Decision/Order. I would certainly expect that Respondents could do likewise.

This would serve to satisfy the mandated requirement under your own Court rules that entitles these Petitioners to an immediate preference. See Supreme Court Rules, Third Department, Article 3, Part 300, Section 800.16, providing a preference as a matter of right:

"Appeals in proceedings brought pursuant to any provision of the election law [as is true in the case at bar]...shall be given preference..." (emphasis added)

This is particularly appropriate, in view of the above Court rule mandating such preference, and the transcendent state-wide public interest involved in the issues raised in this appeal, recognized in the Lower Court's own So-Ordered Decision, in which Justice Kahn expressly acknowledged that because: "...this decision must

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be rendered in an exceedingly expeditious matter, the Court shall directly address the merits of the Petition itself, in order that the inevitable appeal process may be commenced in a timely fashion." (emphasis added).

It is respectfully submitted that it would serve the public interest if the issues could be heard and determined on the merits by the Appellate Division before the November 6, 1990 election.

Very truly yours,

DORIS L. SASSOWER

DLS/hd

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