

BB-1

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
In the Matter of the Application of
RACHEL SADY et ano.,

Petitioners,

For an Order, Pursuant to Article 16
of the Election Law,

- against -

HON. J. EMMETT MURPHY, et. al., and
WESTCHESTER COUNTY BOARD OF ELECTIONS,

Respondents.
-----X

S I R :

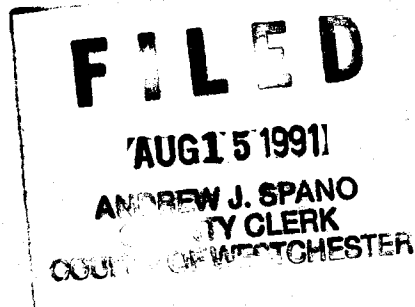
PLEASE TAKE NOTICE that the above-named Petitioners hereby appeal to the Appellate Division, Second Judicial Department from the Order of Hon. VINCENT GURAHIAN of the Supreme Court of the State of New York, County of Westchester, dated August 13, 1991 and entered on August 14, 1991, in the office of the Clerk of said Court, and from each and every part thereof.

Dated: August 15, 1991
White Plains, New York

Yours, etc.
ELI VIGLIANO
Attorney for Petitioners
Post Office Address:
Box 70, Gedney Station
White Plains, NY 10605

TO: GUY T. PARISI, ESQ.
Attorney for Respondent Colavita

ALAN D. SCHEINKMAN, ESQ.
Attorney for Respondents Murphy,
Weingarten and Mehiel





Delete inappropriate italicised words. Attach copy of the notice of appeal.

BB-2

SUPREME COURT
COUNTY OF WESTCHESTER

In the Matter of
RACHEL SADY et al.,
Petitioners.

Index No. 12471/91

CIVIL APPEAL
PRE-ARGUMENT STATEMENT

Appeal taken from Supreme Court

County of Westchester
Judge Vincent Gurahida
Date of entry of the judgment order

— against —
Hon. J. EMMETT MURPHY
et al. and Westchester
County Board of Elections,
Respondents

Notice of appeal filed August 17, 1991
August 15, 1991

Full name of parties: RACHEL SADY & MARIO M. CASTRACANI,
Petitioners

Hon. J. EMMETT MURPHY, ANTHONY J. COLAVITA, ESQ.,
DENNIS MEHIEL, RICHARD L. WEINGARTEN, ESQ.,
VINCENT NATRELLA, LLOYD KING, JR., CAROLEE
SUNDERLAND, Respondents

Changes in parties:

— NONE —

Name of Counsel For Appellant ALI VIGLIANO Address 1250 Central Park Ave Telephone 914
Yonkers, N.Y. 10704 423-073

For Respondent GUY T. PARISI, ESQ. 112 Woods End Road 914
Chappaqua, N.Y. 10514 238-504
ALAN D. SCHEWKMAN, ESQ. 3 Barker Ave 914
White Plains, N.Y. 10601 686-931

Method of disposition in trial court:

- Judgment after Court-Jury trial
- Damages granted denied: Amount \$.....
- Article 78 proceeding:
- Appeal from order: (short description of order)
Motion to Dismiss Petition
Granted.

Brief description of nature of cause of action or special proceeding
(contract, personal services, sale of goods, etc.; tort-personal injury, automobile, sidewalk accident, etc.; equity, specific performance, injunction, etc.):

Election law proceeding to invalidate
 candidacy of J. Emmett Murphy for County
 Court, strike name from Ballot, etc.

State briefly result below: Petition dismissed on motion, for
 failure to state a cause of action
 to permit granting relief requested.

State whether any related action or proceeding is now pending in any court in this or any other jurisdiction, and if so, the status thereof:

State briefly grounds for seeking reversal, annulment or modification:

lower Court erred in holding that a written
 agreement made by political leaders, spanning a
 3 year period, with 7 judges to guarantee their
 election by means of cross-endorsements was not
 illegal nor unconstitutional.

Issues proposed to be raised on appeal:

1. Is bartering judgeships no less illegal than buying and selling the same, in view of § 17-158 Election law prohibitions?
2. Does the use of cross-endorsements to implement and further the above illegal agreement not violate N.Y. State Constitution Article 6, §§ 6, 10, 11 which mandates election of judges?

Attach a copy of the opinion, if any, or if applicable a short form order which contains a memorandum. State whether there is any additional appeal pending in the same action. If so, date of entry of the order or judgment Attach a copy of the notice of appeal and the preargument statement.

Second Department appeals require the following information:

- I, attorney for appellant, hereby certify that satisfactory arrangements have been made with the court reporter for payment of the cost of the transcript.
- I have already ordered the transcript to be prepared; OR other arrangements have been made in accordance with the order of Justice dated 19
- The appeal is taken from an order where there were no minutes taken.

Dated August 15 1991

Sh. V. [Signature]
COUNSEL FOR APPELLANT
K. H. ULSHIAN

SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF

Pre-Argument Statement

Docket or Index No.

vs. *Plaintiff* Attorney(s) for Plaintiff
Post Office Address & Tel. No.

Defendant

Service of a pre-argument statement of which the within is a copy admitted on 19

State of New York, County of *ss.: State of New York, County of Westchester*
being duly sworn, deposes and says; that deponent is not a party to the action, is *attorney* being duly sworn, deposes and says; that deponent is not a party to the action, is *attorney*
over 18 years of age and resides at *White Plains N.Y.*

That on 19 deponent served the within That on August 15 1991 deponent served the within
paper on paper on

attorney(s) for attorney(s) for
herein, at the attorney(s) office at
during the attorney(s) absence from said office the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in — a post office — official depository under the exclusive care and custody of the United States Postal Service within New York State.

strike out either (a) or (b)
(a) by then and there leaving a true copy with a person having charge of said office.
(b) and said office being closed, by depositing a true copy enclosed in a sealed wrapper directed to said attorney(s), in the office letter drop or box.

Sworn to before me, on 19 Sworn to before me, on 19

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

Index No. 12471/91

BB-3

In the Matter of the Application of RACHEL
SADY, et ano.,

Petitioner
~~XXXXXXXXXX~~

Calendar No.

against

JUDICIAL SUBPOENA
DUCES TECUM

HON. J. EMMETT MURPHY, et al., and WESTCHESTER
COUNTY BOARD OF ELECTIONS,

~~XXXXXXXXXX~~
Respondents

The People of the State of New York

TO WESTCHESTER COUNTY CLERK
111 GROVE STREET, WHITE PLAINS, NY 10601

GREETING:

WE COMMAND YOU, That all business and excuses being laid aside, you and each of you appear and attend before The APPELLATE DIVISION, SECOND DEPARTMENT at 45 Monroe Place, Brooklyn, New York on the 20th day of August 19 91 at 10:00 o'clock, in the fore noon, and at any recessed or adjourned date to give testimony in this action on the part of the

and that you bring with you, and produce at the time and place aforesaid, a certain the original record of the above-entitled matter,

FILED
AUG 5 1991
ANDREW J. SPANO
COUNTY CLERK
COUNTY OF WEST

now in your custody, and all other deeds, evidences and writings, which you have in your custody or power, concerning the premises.

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

WITNESS, Honorable Vincent Gurahian
of said Court, at the Courthouse

one of the Justices
the 15th day of August 19 91.

ELI VIGLIANO

Attorney(s) for Petitioner

~~XXXXXXXXXX~~ Post Office Address
Box 70, Gedney Station
White Plains, NY 10605