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ANDREW P. O'ROURKE
County Executive

DEPARTMENT OF LAW

MARILYN J. SLAATTEN
County Attorney

December 12, 1990

FEDERAL EXPRESS

Chief Clerk Michael J. Novack
Appellate Division
Third Department
P.O. Box 7288
Capitol Station, Albany, New York 12224

Re: In the Matter of the Application
of Mario M. Castracan and Vincent F.
Bonelli v. Anthony J. Colavita, Esq., et al

Dear Mr. Novack:

Please be advised that the two-member Westchester County Board of Elections, Respondents herein, takes no position in response to the above-captioned appeal insofar as the merits of the underlying issue concerning the cross-endorsement of judicial candidates by the major political parties addressed by the lower Court (KAHN, J.).

To the extent, however, this Court should reach any of the procedural arguments raised below, the Westchester County Board of Elections reaffirms its arguments asserted below, to wit:

1. The Petitioners-Appellants' have failed to state a cause of action against the Westchester County Board of Elections.

2. Petitioners-Appellants' proceeding should be dismissed for failure to join the necessary parties, including, but not limited to, the Boards of Elections of Putnam, Dutchess, Rockland and Orange Counties; the New York State Attorney General; and former candidate George H. Roberts, Esq. and former candidate Joan B. Lefkowitz, Esq. and now Judge-Elect, nominated at the Republican Judicial Convention and Democratic Judicial Convention, respectively; and

3. Petitioners-Appellants have no standing to challenge the nomination of Respondent Albert J. Emanuelli, Esq., former candidate for the office of the Surrogate of Westchester County and now Judge-Elect, on the grounds that Petitioners-Appellants failed to timely file objections to the Designating Petition of Respondent Emanuelli under the Election Law.

Very truly yours,



VINCENT M. CASCIO
Assistant County Attorney
Attorney for Respondent
Westchester County
Board of Elections
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VMC/mmc