

SUPREME COURT 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,

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

Index No.

Order to
Show Cause

-vs-

ANTHONY J. 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, Commissioners
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 Petitions 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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Upon the Petition of MARIO M. CASTRACAN and VINCENT F.
BONELLI, verified the 26th day of September 1990, and exhibits

annexed thereto, the original Certificates designating the above-named Respondents NICOLAI and MILLER, and the original Petition designating EMANUELLI, as candidates for judicial office, as more fully set forth in the annexed Petition, the Objections and Specifications filed with respect thereto, and upon all the proceedings heretofore had herein, it is hereby

ORDERED, that the above-named Respondents show cause before this Court at a Special Term, Part I thereof, to be held at the Albany County Court House on the 5th day of October, 1990, at 9:30 a.m., of that day, or as soon thereafter as counsel can be heard, why an Order should not be made and entered herein:

1. Declaring that the Contract embodying the "Three Year Plan", also known as "Cross-Endorsements", entered into by and between Respondents COLAVITA and WEINGARTEN, and thereafter adopted and ratified by Respondent MEHIEL, is illegal, invalid, void and against public policy;

2. Declaring that all actions taken in the performance and implementation of the aforesaid Contract are illegal, invalid, void, and against public policy, and that the Certificates of the Republican Judicial Convention, held on September 18, 1990 and of the Democratic Judicial Convention, held on September 24, 1990, purporting to nominate said Respondents MILLER and NICOLAI, as well as their purported nomination, and the Petition purporting to designate Respondent EMANUELLI, as well as the purported designation, be vacated, annulled and set aside;

3. Directing that the Respondents WESTCHESTER REPUBLICAN COUNTY COMMITTEE and WESTCHESTER DEMOCRATIC COUNTY COMMITTEE, respectively reconvene their Judicial Conventions;

4. Declaring that Respondents NICOLAI and MILLER, as parties and accessories to the aforesaid Contract, be disqualified and barred from nomination as candidates to fill such judicial offices, and that Respondent EMANUELLI as a party and accessory to such Contract be likewise disqualified and barred from designation as a candidate for Surrogate of Westchester County;

5. Directing that said reconvened Judicial Conventions proceed to the nominations of candidates for said judicial offices in strict compliance with the mandatory requirements of the Election Law, most specifically Sections 6-124 and 6-126; and

6. Enjoining, restraining, and prohibiting Respondents NEW YORK STATE BOARD OF ELECTIONS and WESTCHESTER COUNTY BOARD OF ELECTIONS from printing and placing the names of the said Respondent candidates for election to the Supreme Court and Surrogate's Court of Westchester County on the ballots to be used at such General Election to be held on November 6, 1990;

7. Directing Respondents NEW YORK STATE BOARD OF ELECTIONS and WESTCHESTER COUNTY BOARD OF ELECTIONS to produce upon the hearing of this Order to Show Cause, the aforesaid original Certificates purporting to nominate said Respondent candidates NICOLAI and MILLER for election to the Supreme Court, and the original Petition purporting to designate Respondent

EMANUELLI, together with the original Objections and Specifications relating to the aforesaid Certificates and the Report of the Clerks made on such Objections and Specifications; and

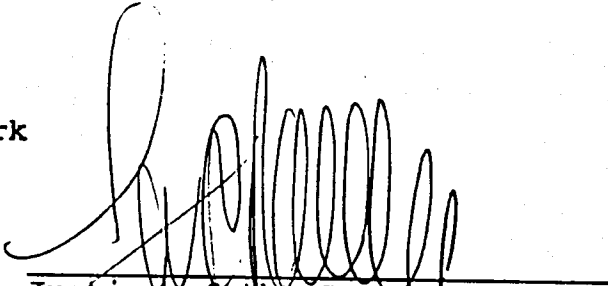
8. Granting such other, further, and different relief as this Court may deem just and proper to provide meaningful relief to the Petitioners.

Sufficient reason appearing therefor, leave is hereby granted to Petitioners to submit, upon the return day of this Order to Show Cause and the argument and hearing thereof, such additional evidence, exhibits and other proof as may be necessary, and it is further

ORDERED, that service of a copy of this Order to Show Cause, together with a copy of the papers upon which it is signed on September 26, 1990, upon the NEW YORK STATE BOARD OF ELECTIONS and the WESTCHESTER COUNTY BOARD OF ELECTIONS, be made by ^{personally} delivering a copy thereof at the offices of the Chief Clerk of the NEW YORK STATE BOARD OF ELECTIONS at 100 Commerce Street, Albany, New York, and at the offices of WESTCHESTER COUNTY BOARD OF ELECTIONS at 134 Court Street, White Plains, New York, on or before the 29th day of September, 1990, and that personal service of the said Order to Show Cause and Petition upon the remaining Respondents by delivery of the aforesaid papers to their respective offices, be deemed good and sufficient service thereof.

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LET Answering Papers be personally served upon counsel
for Petitioners no later than ^{one (1)} ~~two (2)~~ days prior to the return
date hereof.

Dated: White Plains, New York
September 26, 1990



Justice of the Supreme Court
of the State of New York

HON. LOUIS C. PAELLA, JUSTICE