



**NINTH JUDICIAL COMMITTEE**

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FROM: \_\_\_\_\_

MESSAGE:

F O R G E N E R A L R E L E A S E

Week of October 1, 1990

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JUDICIAL NOMINATIONS SUBJECT OF COURT CHALLENGE:

Lawsuit Seeks to Set Aside Cross-Endorsements as "Illegal Contract"

In a move to reform the way judges are nominated, a legal proceeding to set aside the judicial nominations of both the Republican and Democratic Parties in the Ninth Judicial District--encompassing Westchester, Putnam, Dutchess, Rockland, and Orange Counties--has been commenced. A Show Cause Order, to be heard at the Albany County Courthouse on October 12, 1990, was served upon the Westchester Republican County Committee, the Westchester Democratic County Committee, and various other officials, calling for the invalidation of the nominations of Hon. Francis A. Nicolai and Howard Miller, Esq. to the Supreme Court of the Ninth Judicial District, and Albert J. Emanuelli, Esq. to the office of Surrogate of Westchester County.

A Petition filed by Mario M. Castracan, a registered Republican, and Vincent F. Bonelli, a registered Democrat, "acting pro bono publico", alleges that the nominations of Nicolai, Miller and Emanuelli resulted from an illegal contract in 1989 between Anthony J. Colavita, as Chairman of the Westchester Republican

County Committee, and Richard L. Weingarten, the then Chairman of the Westchester Democratic County Committee. Such contract, adopted and ratified in 1990 by the current Chairman of the Westchester Democratic County Committee, Dennis Mehiel, was alleged to be part of a "Three Year Plan" between the two political party leaders, whereby the parties agreed to cross-endorse identical judicial candidates--leaving Republican and Democratic voters no choice between the two major political parties in the general election. The Petitioners charge that "the electors of the Ninth Judicial District were, in 1989, and will be, in 1990 and 1991, deprived of their right of 'election' between opposing candidates of the Democratic and Republican Parties to fill said judicial offices, all in flagrant violation of the provisions of the Constitution of the State of New York and the Election Law of the State of New York".

Also particularly complained of was a provision of the 1989 "Three Year Plan" under which the Republican Party was assured the Surrogate vacancy in 1990. Through the political contract, Albert Emanuelli, a Republican, was cross-endorsed and elected in 1989 to a 14-year term as a Supreme Court Judge--on the express condition that he would resign in August 1990 to run for the vacant Surrogate position without opposition from the Democrats in 1990--with the Democrats procuring an agreement that a Democrat, Francis A. Nicolai, would run unopposed for Mr. Emanuelli's vacant Supreme Court judgeship.

The Petitioners are requesting that the Court declare the contract "illegal, invalid, void, and against public policy". The New York State Board of Elections will rule on Petitioners' objections to the Republican nominations on October 4, 1990, and on Petitioners' objections to the Democratic nominations the following week. A Supreme Court hearing at the Albany County Courthouse is scheduled for Friday, October 12, 1990.

Counsel for Petitioners is Doris L. Sassower, P.C., of White Plains, New York.