

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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MILAGROS LECUONA, MICHAEL KRAVER, SAAD  
TURAB SIDDIQUI, and ALAN D. GOLDMAN,

Petitioners,

Index No.: 2335-17

-and-

WILLA R. SWILLER and STEPHEN WALFISH,

-and-

THE WESTCHESTER COUNTY BOARD OF ELECTIONS,

Respondents,

**AFFIDAVIT OF  
MARK M. ELLIOTT**

For an order pursuant to Sections 16-100, 16-102 and  
16-116 of the Election Law, declaring valid the  
designating petition which designated the petitioner's  
as candidates of the Democratic party for the Public  
Office in the City of White Plains in the Democratic  
Party Primary Election to be held on September 12, 2017

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In the Matter of the Application of

WILLA R. SWILLER, STEPHEN WALFISH, THOMAS  
ROACH, JR., JOHN MARTIN JOHN KIRKPATRICK, and  
JUSTIN BRASCH,

Index No.: 2320-17

Petitioners,

- against -

MILAGROS LECUONA, MICHAEL KRAVER,  
SAAD TURAB SIDDIQUI, ALAN D. GOLDMAN  
and DOUGLAS A. COLETY and REGINALD LAFAYETTE,  
as Commissioners of the Westchester County Board of Elections,

Respondents.

For an Order pursuant to the Election Law

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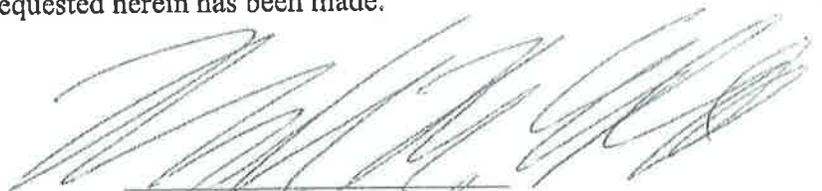


pursuant to NY CPLR § 1012 because the representation of our interests by the parties in the above-captioned action is or may be inadequate and we may be bound and our rights infringed by any judgment in the above-captioned action. Alternatively, we seek to intervene with the Court's permission pursuant to NY CPLR § 1013 because our claims share a common question or law or fact with the instant action.

9. Our efforts to intervene are timely under the circumstances and need not cause any material delay, and I do not believe that intervention will prejudice the rights of any party.

10. Attached hereto as Exhibit B is the Intervenor's proposed Verified Petition.

11. No prior application for the relief requested herein has been made.



Mark M. Elliott

Sworn to before me this  
10<sup>th</sup> day of August, 2017.



Notary Public

MARC ANDREW LANDIS  
NOTARY PUBLIC, State of New York  
No. 02LA5038311  
Qualified in New York County  
Commission Expires January 23, 2019

# EXHIBIT A



THE BIRTHPLACE OF THE STATE OF NEW YORK  
**OFFICE OF THE MAYOR**

THOMAS M. ROACH  
MAYOR

t: 914.422.1411  
f: 914.422.1395

October 13, 2016

Mark M. Elliott, Esq.  
2 Arborwood Lane  
White Plains, New York 10603

Dear Mr. Elliott:

It is with great pleasure that I appoint you to serve as a member of the Judicial Screening Committee to interview candidates for the position of White Plains City Court Judge and review and report on their qualifications to the Common Council.

Corporation Counsel John G. Callahan will be contacting you soon regarding details concerning the initial meeting of the Committee.

Thank you for accepting this important position and for your commitment to the City and its citizens.

Sincerely,

Thomas M. Roach  
Mayor

# EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

----- x  
MARK M. ELLIOTT and ALEXIS G.  
HEIDENBERG, on behalf of themselves and all others  
similarly situated, :

INDEX NOS. 2335-17 / 2320-17

Petitioners-Aggrieved Voters, :

-against- :

**VERIFIED PETITION**

THE WESTCHESTER COUNTY BOARD OF  
ELECTIONS, :

Respondent. :

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Petitioners Mark M. Elliott and Alexis G. Heidenberg, by their attorneys Phillips Nizer LLP, on behalf of themselves and all other similarly situated registered voters, allege as follows:

1. Petitioner-Aggrieved Voter Mark M. Elliott, is a long-time resident of the City of White Plains, County of Westchester, State of New York. Mr. Elliott resides at 2 Arborwood Lane, White Plains, New York 10603. Mr. Elliott is currently the Chair of the City of White Plains Board of Ethics and a member of the City of White Plains Judicial Screening Committee.
2. Petitioner-Aggrieved Voter Alexis G. Heidenberg, is a long-time resident of the City of White Plains, County of Westchester, State of New York. Ms. Heidenberg resides at 121 North Broadway, Apt. 41-B, White Plains, New York 10603. Ms. Heidenberg's father, the Honorable Robert Greer, was the Chair of the City of White Plains Democratic Committee for many years and was a member of the City of White Plains Common Council.

3. Petitioners herein are registered Democratic Party voters, registered to vote in Westchester County.
4. Respondent Board of Elections is charged with the responsibility of the supervision of the conduct of official elections held in the County of Westchester, including the duties of receiving and filing designating petitions for public office in political subdivisions located entirely within the County of Westchester, the review and determination of Objections and Specifications of Objections to such designating petitions, notification of a determination of noncompliance, maintaining the permanent personal voter registration poll records of voters and official maps for all election districts located within the County of Westchester, and the preparation of official Primary, General and Special Election ballots for use in the County of Westchester and the City of White Plains.
5. The City of White Plains is a political subdivision located entirely within the County of Westchester.
6. Petitioners duly signed Democratic Party Designating Petition Sheets designating Milagros Lecuona, Michael Kraver, Saad Turab Siddiqui, and Alan D. Goldman as candidates for the offices of Mayor of the City of White Plains and Members of the Common Council of the City of White Plains, respectively, and provided all other requisite information.
7. Upon information and belief, the signatures of Petitioners herein have been challenged for the purpose of invalidating them before the Board of Elections and/or are the subject of legal proceedings before this Court. The purported basis for this challenge is that the

city listed next to Petitioners' names was abbreviated as "WP" rather than "White Plains."

8. Petitioners learned this information on August 9, 2017. Petitioners received no notification from the Board of Elections regarding this, nor do they have any remedy before that body.
9. Petitioners meet all requirements to be, and are, in fact, registered Democratic Party voters in the City of White Plains, County of Westchester. They have been injured by the foregoing.

#### CLASS ACTION

10. The putative class is so numerous that joinder of all members is impracticable.
11. The questions of law and/or fact that are common to the class predominate over any questions affecting only individual members.
12. The claims of the representative parties are typical of the claims of the class.
13. The representative parties will fairly and adequately protect the interests of the class.
14. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

#### AS AND FOR A FIRST CAUSE OF ACTION

15. Petitioners incorporate and reallege the information contained in paragraphs 1 - 14 above as if fully set forth herein.

16. Such challenge and efforts to invalidate their signatures on nominating petitions does not comply with New York Election Law § 6-134(5) relating to designating petitions, which specifically states that “[t]he use of customary abbreviations of addresses of such signers or witnesses[] shall not invalidate such signatures or witness statement provided that the identity of the signer or witness as a registered voter can be established by reference to the signature on the petition and that of a person whose name appears in the registration poll ledgers.”

AS AND FOR A SECOND CAUSE OF ACTION

17. Petitioners incorporate and reallege the information contained in paragraphs 1 - 16 above as if fully set forth herein.

18. Such challenge to and potential disqualification of Petitioners’ signatures have the practical effect of disenfranchising them as eligible Westchester County voters, in violation of their rights under the First Amendment of the United States Constitution, specifically Petitioners’ rights to free speech and free association. The foregoing acts also violate the free speech provisions of the New York State Constitution.

AS AND FOR A THIRD CAUSE OF ACTION

19. Petitioners incorporate and reallege the information contained in paragraphs 1 - 18 above as if fully set forth herein.

20. Such challenge to and potential disqualification of Petitioners’ signatures have the practical effect of disenfranchising them as eligible Westchester County voters, in violation of their rights under the Fourteenth Amendment of the United States

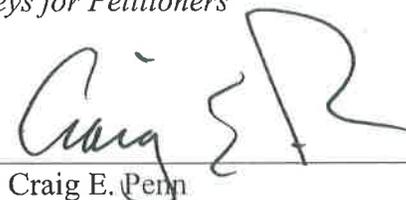
Constitution, specifically Petitioners' rights to due process and equal protection under the law.

WHEREFORE, Petitioners demand that (i) Respondent be barred from challenging, invalidating, or disqualifying Petitioners' signatures on any nominating petitions on the basis that the city listed next to their names was abbreviated as "WP" rather than "White Plains," and (ii) the signatures on the foregoing petitions of Petitioners and all similarly situated registered voters be accepted for all purposes under applicable law as valid.

Dated: New York, New York  
August 10, 2017

PHILLIPS NIZER LLP  
*Attorneys for Petitioners*

By: \_\_\_\_\_



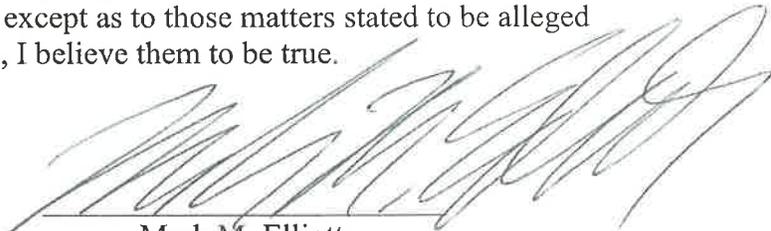
Craig E. Penn  
Marc A. Landis  
Julian D. Perlman  
Jeffrey L. Shore  
666 Fifth Avenue  
New York, New York 10103-0084  
(212) 977-9700

**VERIFICATION**

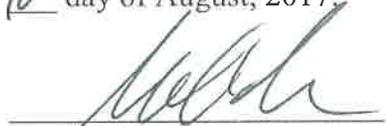
STATE OF NEW YORK    )  
  ) ss:  
COUNTY OF NEW YORK )

Mark M. Elliott, being duly sworn, deposes and says that:

I am a Petitioner herein. I have read the foregoing Petition and know the contents thereof. The same is true to my own knowledge, except as to those matters stated to be alleged upon information and belief, and to those matters, I believe them to be true.

  
\_\_\_\_\_  
Mark M. Elliott

Sworn to before me this  
10<sup>th</sup> day of August, 2017.

  
\_\_\_\_\_  
Notary Public

MARC ANDREW LANDIS  
NOTARY PUBLIC, State of New York  
No. 02LA5038311  
Qualified in New York County  
Commission Expires January 23, 2019