

At an I.A.S. Part     , of the Supreme Court of the State of New York, held in and for the County of Westchester, at the County Courthouse, on the 2<sup>nd</sup> day of August, 1991.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X  
In the Matter of the Application of RACHEL SADY  
and MARIO M. CASTRACAN,

Petitioners,

Index No.

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

12471/91  
ORDER TO  
SHOW CAUSE

-vs-

Hon. J. EMMETT MURPHY, Administrative Judge of the City Court of the City of Yonkers, State of New York, ANTHONY J. COLAVITA, Esq., Individually and as Chairman, WESTCHESTER REPUBLICAN COUNTY COMMITTEE, DENNIS MEHIEL, Individually and as Chairman, WESTCHESTER DEMOCRATIC COUNTY COMMITTEE, RICHARD L. WEINGARTEN, Esq., Individually and as former Chairman, WESTCHESTER DEMOCRATIC COUNTY COMMITTEE, VINCENT NATRELLA, Individually and as Chairman, WESTCHESTER CONSERVATIVE COUNTY COMMITTEE, LLOYD KING, JR. and Hon. CAROLEE C. SUNDERLAND, Commissioners constituting the WESTCHESTER COUNTY BOARD OF ELECTIONS of the State of New York,

Respondents,

for an Order (1) declaring invalid the three Petitions purporting to designate Respondent Hon. J. EMMETT MURPHY as candidate for nomination by the Democratic Party, Republican Party and Conservative Party for the public office of Judge of the County Court of the County of Westchester, State of New York, in the Primary Elections to be held on September 12, 1991, and as the nominee for such office of said three political parties, in the general election to be held on November 5, 1991, and (2) striking his name from the respective ballots to be used in the Primary Elections and in the general election to be held on said respective dates.

Upon reading the annexed petition of RACHEL SADY and MARIO M. CATRACAN, verified the 2 day of August, 1991, and upon the original respective three (3) designating petitions designating the Respondents, Hon. J. EMMETT MURPHY, as a candidate for nomination by the Democratic, Republican and Conservative Parties for the public office of Judge of the County Court of Westchester County, New York, in the Primary Election to be held September 12, 1991, as more fully set forth in the annexed petition, and upon all the proceedings heretofore had herein, it is hereby

ORDERED, that the Respondents herein show cause before this Court, at an I.A.S. Part 8 thereof, to be held at the County Courthouse, on 111 Grove Street, in the City of White Plains, <sup>Courthouse 1801</sup> New York, on the 2<sup>nd</sup> day of August, 1991, at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, why an order should not be made and entered herein:

1. that the Contract embodying the Three Year Plan of the party leaders, also known as "Cross-Endorsements", entered into by Respondents, COLAVITA and WEINGARTEN, and thereafter adopted and ratified by Respondent, MEHIEL, and the contracts entered into by Respondent, COLAVITA with Respondent, NATRELLA, be declared illegal, invalid, void and against public policy,
2. that Respondent, Hon. J. EMMETT MURPHY, be declared ineligible to serve as a Judge of the County Court of Westchester County, and disqualified from being the

candidate of any party for election to such office,

3. that the designating petition or petitions filed by or on behalf of the above-named Respondent candidate, with Respondent, Westchester County Board of Elections, purporting to designate said Respondent candidate as a candidate for the Democratic, Republican and Conservative nominations for the public office of County Judge of Westchester County, New York, in the Primary Election to be held the 12 day of September, 1991, be declared insufficient, defective, invalid, null and void; and

4. that Respondent, Westchester County Board of Elections be enjoined, restrained and prohibited from printing and placing the name of the said Respondent, Hon. J. EMMETT MURPHY as a candidate for the Democratic, Republican and Conservative nominations for the public office of County Judge, Westchester County, New York, on the ballots to be used at the Primary Election to be held on September 12, 1991; and the general election to be held on November 5, 1991; and for such other and further relief as to this Court may seem just and proper in the premises; and it is further

ORDERED, that the respondents herein constituting the Westchester County Board of Elections, be, and they hereby are, ordered and directed to produce upon the hearing of this Order to Show Cause, the aforesaid three (3) designating petition or petitions purporting to designate the said respondent candidate

for nomination by the Democratic, Republican and Conservative Parties for the said public office of Judge of the County Court, Westchester County, New York, and to produce the permanent personal registration poll cards of voters in said county.

Sufficient reason appearing therefor, it is further

ORDERED, that service of a copy of this order, together with a copy of the papers upon which it is granted on the respondents constituting the Westchester County Board of Elections be made by leaving a copy thereof at the Office of the said Westchester County Board of Elections at 134 Grand Street, in the City of White Plains, New York, on or before the 5<sup>th</sup> day of August, 1991, and that service of a copy of this order, together with a copy of the papers upon which it is granted, upon said Respondent candidate, Hon. J. EMMETT MURPHY, ANTHONY J. COLAVITA, Esq., Hon. DENNIS MEHIEL, RICHARD L. WEINGARTEN, Esq., and VINCENT NATRELLA be made either: (1) by enclosing the same in a securely sealed and duly postpaid wrapper, addressed to each such Respondent at the respective addresses set forth in such designating petitions, except that with respect to Respondents, Hon. DENNIS MEHIEL and RICHARD L. WEINGARTEN, Esq., the same shall be addressed c/o The Westchester Democratic County Committee, 2 William Street, White Plains, New York 10601, and by depositing the same in a Post Office branch or Post Office box, regularly maintained by the United States Postal Service in the County of Westchester, State of New York, by EXPRESS MAIL on or before 5:00 p.m., the 3<sup>rd</sup> day

of August, 1991; or (2) by delivering the same to each such Respondents on or before the 5<sup>th</sup> day of August, 1991, that such service shall be deemed good and sufficient service thereof.

ENTER / HON. VINCENT GURAHIAN  
S / J.S.C.  
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J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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In the Matter of the Application of RACHEL SADY  
and MARIO M. CASTRACAN,

Petitioners,

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

Index No.

12471/91  
PETITION

-vs-

Hon. J. EMMETT MURPHY, Administrative Judge of  
the City Court of the City of Yonkers, State of  
New York, ANTHONY J. COLAVITA, Esq., Individually  
and as Chairman, WESTCHESTER REPUBLICAN COUNTY  
COMMITTEE, DENNIS MEHIEL, Individually and as  
Chairman, WESTCHESTER DEMOCRATIC COUNTY COMMITTEE,  
RICHARD L. WEINGARTEN, Esq., Individually and as  
former Chairman, WESTCHESTER DEMOCRATIC COUNTY  
COMMITTEE, VINCENT NATRELLA, Individually and as  
Chairman, WESTCHESTER CONSERVATIVE COUNTY COMMITTEE,  
LLOYD KING, JR. and Hon. CAROLEE C. SUNDERLAND,  
Commissioners constituting the WESTCHESTER COUNTY  
BOARD OF ELECTIONS of the State of New York,

Respondents,

for an Order (1) declaring invalid the three  
Petitions purporting to designate Respondent Hon.  
J. EMMETT MURPHY as candidate for nomination by the  
Democratic Party, Republican Party and Conservative  
Party for the public office of Judge of the County  
Court of the County of Westchester, State of New York,  
in the Primary Elections to be held on September  
12, 1991, and as the nominee for such office of said  
three political parties, in the general election to  
be held on November 5, 1991, and (2) striking his name  
from the respective ballots to be used in the Primary  
Elections and in the general election to be held on  
said respective dates.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

RACHEL SADY and MARIO M. CASTRACAN, as and for their  
Petition, respectfully allege the following, on information and  
belief:

1. Petitioner RACHEL SADY ("SADY") is a duly

registered voter enrolled in the Democratic Party, residing in the Town of Greenburgh, Westchester County, New York, in the 23d Election District of the 86th Assembly District of the State of New York.

2. Petitioner MARIO M. CASTRACAN ("CASTRACAN") is a duly registered voter enrolled in the Republican Party, residing in the Town of New Castle, Westchester County, New York, in the 14th Election District of the 89th Assembly District of the State of New York.

3. Respondents, Hon. LLOYD KING, JR. and Hon. CAROLEE C. SUNDERLAND, constitute the Board of Elections of Westchester County ("Board of Elections").

4. Respondent, ANTHONY J. COLAVITA, Esq. ("COLAVITA") is Chairman of Respondent, Westchester Republican County Committee for Westchester County, State of New York ("REPUBLICAN C.C.").

5. Respondent, DENNIS MEHIEL ("MEHIEL") is the Chairman of Respondent, Westchester Democratic County Committee for Westchester County, State of New York ("DEMOCRATIC C.C.").

6. Respondent RICHARD L. WEINGARTEN, Esq. ("WEINGARTEN"), at all times hereinafter mentioned in 1989 and until December 31, 1989, was Chairman of the DEMOCRATIC C.C.

7. Respondent, VINCENT NATRELLA, ("NATRELLA") at all times hereinafter mentioned, was Chairman of the Westchester Conservative County Committee for Westchester County, State of New York ("CONSERVATIVE C.C.").

8. Respondent, Hon. J. EMMETT MURPHY is the person designated as the candidate for the nomination of the Democratic Party, Republican Party and Conservative Party for the public office of Judge of the County Court of Westchester County, State of New York in the Primary Elections to be held on September 12, 1991 on three separate petitions filed with Respondent, BOARD OF ELECTIONS.

9. The Committee on Vacancies designated on a certain designating petition relating to Respondent, Hon. J. EMMETT MURPHY, more particularly hereinafter described, filed by the Democratic C.C. with the Board of Elections are RALPH ARRED, DEAN G. BRASLOW, Esq., Hon. DAVID A. FORD, ALISON E. GREENE, JAY B. HASHMALL, Esq., MARC S. OXMAN, Esq., CLINTON B. SMITH.

10. The Committee on Vacancies designated on a certain designating petition relating to Respondent, Hon. J. EMMETT MURPHY, more particularly hereinafter described, filed by the Republican C.C. with the Board of Elections are ANTHONY J. COLAVITA, Esq., GUY PARISI, Esq., PETER T. MANOS, Esq., ROSEMARY P. CUNEO, Hon. EDWARD N. VETRANO, and FRANK COPPOLA.

11. The Committee on Vacancies designated on a certain designating petition relating to Respondent, Hon. J. EMMETT MURPHY, more particularly hereinafter described, filed by the Conservative C.C. with the Board of Elections are VINCENT NATRELLA, ANTHONY AURRICHIO, and NICHOLAS J. CAPUTO.

12. On or about September 22, 1989, a Judicial Convention, in and for the Ninth Judicial District of the State



of New York, was convened by the REPUBLICAN C.C. at the White Plains YMCA at 250 Mamaroneck Avenue, White Plains, County of Westchester, New York to nominate three (3) Republican candidates for election to the Office of Justice of the Supreme Court of the State of New York for said District.

13. On or about September 25, 1989, a Certificate purporting to nominate one, Hon. JOSEPH JIUDICE ("JIUDICE") one, Hon. SAMUEL G. FREDMAN ("FREDMAN") and one, Hon. ALBERT J. EMANUELLI ("EMANUELLI") as the candidates of the Republican Party for election to said offices, was filed with the New York State Board of Elections at its office located in Albany, New York (the "Republican Certificate").

14. On or about September 19, 1989, a Judicial Convention in and for the Ninth Judicial District of the State of New York, was convened by the DEMOCRATIC C.C. at the Tarrytown Hilton, at Albany Post Road, in the Town of Tarrytown, County of Westchester, New York to nominate three (3) Democratic candidates for election to the office of Justice of the Supreme Court of the State of New York for said District.

15. On or about September 22, 1989, a Certificate purporting to nominate said JIUDICE, FREDMAN and EMANUELLI as the candidates of the Democratic Party for election to said offices was filed with the New York State Board of Elections at its office located in Albany, New York (the "Democratic Certificate").

16. On or about September 18, 1990, a Judicial

Convention, in and for the Ninth Judicial District of the State of New York, was convened by the REPUBLICAN C.C. at the Westchester Marriott Hotel at 670 White Plains Road, Tarrytown, County of Westchester, New York to nominate three (3) Republican candidates for election to the Office of Justice of the Supreme Court of the State of New York for said District.

17. On or about September 19, 1990, a Certificate purporting to nominate one, GEORGE H. ROBERTS ("ROBERTS"), one, FRANCIS A. NICOLAI ("NICOLAI") and one, HOWARD MILLER, Esq. ("MILLER") as the candidates of the Republican Party for election to said offices, was filed with the New York State Board of Elections at its office located in Albany, New York ("Republican Certificate").

18. On or about September 24, 1990, a Judicial Convention in and for the Ninth Judicial District of the State of New York, was convened by the DEMOCRATIC C.C. at Days' Inn on Tarrytown Road, in the Town of Greenburgh, County of Westchester, New York to nominate three (3) Democratic candidates for election to the office of Justice of the Supreme Court of the State of New York for said District.

19. On or about September 25, 1990, a Certificate purporting to nominate one, JOAN LEFKOWITZ ("LEFKOWITZ") and NICOLAI and MILLER as the candidates of the Democratic Party for election to said offices was filed with the New York State Board of Elections at its office located in Albany, New York (the "Democratic Certificate").

20. On September 24, 1990, Petitioners duly filed with the New York State Board of Elections, at its office located in Albany, New York, Objections to said Republican Certificate filed on September 19, 1990 by said Republican Party, and on October 1, 1990 Specifications in amplifications thereof, which objections were thereafter not sustained by said Board.

21. On September 28, 1990 Petitioners duly filed with the New York State Board of Elections at its office located in Albany, New York, Objections to said Democratic Certificate filed on September 25, 1990 by said Democratic Party, and on October 4, 1990, Specifications in amplification thereof, which objections were thereafter not sustained by said Board.

22. Pursuant to the provisions of: (a) Article 6, Section 6(c) of the Constitution of the State of New York, Justices of the Supreme Court for the State of New York, including the Ninth Judicial District "shall be chosen by the electors of the judicial district in which they are to serve", and (b) the pertinent provisions of the Judiciary Law of the State of New York, Judges of the Surrogate Court, County Court and Family Court of Westchester County are chosen by the electors of the said County.

23. The provisions contained in the Election Law of the State of New York, Article 6, and specifically Sections 6-124 and 6-126, implement the aforesaid State Constitutional provision by setting forth in detail the specific procedure for calling a Judicial Convention, electing the delegates and alternate

delegates thereto, as well as the procedure to be followed in conducting and transacting the business of the Convention: the nomination of candidates for such judicial offices by political parties.

24. In late August and early September, 1989, Respondent, COLAVITA, acting by his legal counsel, one, GUY T. PARISI, Esq., and Respondent, WEINGARTEN, acting by his legal counsel, one, LOUIS A. BREVETTI, Esq., in concert with one another and as part and parcel of a common plan and design, conspired to violate the Constitution of the State of New York and the Judiciary Law and Election Law of the State of New York by entering into a plan, scheme and design, hereinafter referred to as "the Three Year Plan", whereby the electors of the Ninth Judicial District, including Westchester County, duly registered to vote at the General Elections to be held in 1989, 1990, and 1991, were to be disenfranchised and deprived of their aforesaid constitutional and statutory right to choose (A) Justices of the Supreme Court of the State of New York for the Ninth Judicial District, in the years 1989 and 1990, (B) Surrogate Judge for the County of Westchester, in the year 1990, (C) Judge of the Family Court for the County of Westchester in the year 1991, and (D) Judge of the County Court for the County of Westchester in the year 1991.

25. The said "Three Year Plan", also referred to by the party leaders as "cross-endorsements", was to be effectuated by Respondents COLAVITA and WEINGARTEN's combining, conspiring,

and contracting to endorse the identical three candidates for the three offices of Justice of the Supreme Court of the State of New York for the Ninth Judicial District, to be voted upon in the General Election held November, 1989, to wit, Hon. SAMUEL G. FREDMAN, Hon. JOSEPH JIUDICE, and Hon. ALBERT J. EMANUELLI ("EMANUELLI"), irrespective of their party affiliation.

26. Respondents COLAVITA and WEINGARTEN further contracted that in the General Election to be held in the calendar year 1990, the proposed nominees of both the Republican Party and Democratic Party to fill the vacancy in the office of Justice of the Supreme Court of the State of New York to be created as hereinafter described and for the office of Surrogate of Westchester County would likewise be identical.

27. Pursuant to the "Three Year Plan" contractually agreed upon by the said Respondents, Republican and Democratic Party leaders, a vacancy in the office of Justice of the Supreme Court for the Ninth Judicial District was to be created by causing EMANUELLI, a Republican, (the 1989 cross-endorsed candidate of Respondents COLAVITA and WEINGARTEN for the 14-year term of office of Justice as the Supreme Court of the State of New York for the Ninth Judicial District) after having been elected thereto in 1989, to resign therefrom in 1990. Such contracted-for resignation by EMANUELLI would then permit him to be designated to fill the office of Surrogate of Westchester County by the filing of Designating Petitions procured by both the Republican Party for Westchester County and Democratic Party

for Westchester County, and, thus, permit the elevation of Hon. FRANCIS A. NICOLAI ("NICOLAI"). NICOLAI at that time was a Judge of the County Court of Westchester County, and by the aforesaid contract was to be the candidate of both the Republican Party and Democratic Party to fill the vacancy in the office of Justice of the Supreme Court created by EMANUELLI's said contracted-for resignation.

28. Respondents COLAVITA and WEINGARTEN, in addition, bound themselves and their respective political party to a contract, with the knowledge and consent of Respondent, Hon. J. EMMETT MURPHY, whereby in the General Election to be held in the year 1991, the vacancy created by the resignation of NICOLAI, a Westchester County Court Judge, would be filled by Respondent J. EMMETT MURPHY, a Judge of the City Court of the City of Yonkers and Democratic Party member, and further, that the Republican Party and Democratic Party would then cross-endorse Judge ADRIENNE H. SCANCARELLI, a Republican, for re-election as a Westchester County Family Court Judge.

29. The Executive Committee of the Westchester Democratic County Committee at a meeting held on August 23, 1989, adopted a Resolution to implement the aforesaid contract entered into by Respondents COLAVITA and WEINGARTEN, on the express condition that the Executive Committee of the Westchester Republican County Committee would likewise adopt an identical Resolution at its meeting scheduled to be held the very next night, i.e., on August 24, 1989.

30. Said Republican Party Executive Committee, in fact, did adopt said identical Resolution the following night. A copy of said Resolution, embodying the foregoing contract provisions, is annexed hereto as Exhibit "A".

31. The respective Executive Committees of the Democratic Party and the Republican Party for the Counties of Rockland, Orange, Dutchess and Putnam in the State of New York thereafter, likewise, adopted the Resolution, hereinabove referred to in Paragraphs 29 and 30 hereof, embodying the aforesaid contract provisions entered into by Respondents COLAVITA and WEINGARTEN, unanimously consenting to the nomination by the respective Judicial Conventions of the Democratic Party and Republican Party to be held in September, 1989 of the said SAMUEL G. FREDMAN, JOSEPH JIUDICE and EMANUELLI as the candidates of the Democratic and Republican Parties, thereby assuring and guaranteeing their election.

32. In late August and early September, 1989, Respondent, COLAVITA, and Respondent, NATRELLA, in concert with one another and as part and parcel of a common plan and design, conspired to violate the Constitution of the State of New York, and the Judiciary Law and Election Law of the State of New York by entering into a plan, scheme and design, whereby the electors of the Ninth Judicial District, including Westchester County, duly registered to vote at the General Elections to be held in 1989, 1990, and 1991, were to be disenfranchised and deprived of their aforesaid constitutional right to choose (A) Justices of

the Supreme Court of the State of New York for the Ninth Judicial District, in the years 1989 and 1990, (B) Surrogate Judge for the County of Westchester, in the year 1990, (C) Judge of the Family Court for the County of Westchester in the year 1991, and (D) Judge of the County Court for the County of Westchester in the year 1991.

33. Pursuant to the aforesaid plan, scheme and design, hereinabove described in the next preceding paragraph, Respondent, NATRELLA, caused said JIUDICE and EMANUELLI to be nominated as the candidates of the Conservative Party for election to the office of Justice of the Supreme Court in the general election in the year 1989, and said NICOLAI and MILLER to be nominated as the candidates of the Conservative Party for election to the office of Justice of the Supreme Court in the general election in the year 1990.

34. At the General Election, held in November, 1989, said three cross-endorsed candidates, SAMUEL G. FREDMAN, JOSEPH JIUDICE and Respondent EMANUELLI, were, in fact, elected to the office of Justice of the Supreme Court for the State of New York, Ninth Judicial District, and at the general election held in November, 1990, said two cross-endorsed candidates, NICOLAI and MILLER were elected to the office of Justice of the Supreme Court for the State of New York, Ninth Judicial District, said cross-endorsed candidate EMANUELLI was elected to the office of Surrogate Judge of Westchester County as hereinafter described.

35. Said six candidates elected, as aforesaid, were



thereafter inducted into office, and respectively commenced their full fourteen-year terms in January, 1990, and January, 1991.

36. EMANUELLI, thereafter, attended numerous seminars, workshops, and lectures to educate and indoctrinate him in the proper performance of his duties as Justice of the Supreme Court of the State of New York, Ninth Judicial District.

37. By virtue of said contract and in furtherance thereof, EMANUELLI was, nevertheless, compelled to, and did thereafter, resign his position of Justice of the Supreme Court of the State of New York, Ninth Judicial District eight (8) months later, i.e., in or about August, 1990, to create the contracted-for vacancy which was intended to, and did, permit NICOLAI to move up from the County Court into his position as a Supreme Court Justice, and to permit EMANUELLI to become the candidate of both the Democratic and Republican Parties of Westchester County for the office of Surrogate of Westchester County by reason of Designating Petitions having been filed with Respondent, Westchester County Board of Elections by the Republican Party and the Democratic Party designating him as such candidate, and no petitions having been filed in opposition thereto. By reason thereof, Respondent EMANUELLI thus became the candidate of both the Republican and Democratic Parties for the office of Surrogate Judge of Westchester County in the election which was held on November 6, 1990, and was consequently guaranteed of election thereto.

38. Supplementing said Three Year Plan, Respondents

COLAVITA, WEINGARTEN and MEHIEL agreed in the Summer of 1990 to cross-endorse to fill a second vacancy in the office of Justice of the Supreme Court for the Ninth Judicial District one, Hon. HOWARD MILLER, said vacancy occurring subsequent to the date the Three Year Plan was entered into in 1989.

39. In modification of said Three Year Plan, Respondents, COLAVITA, WEINGARTEN and MEHIEL agreed, in the summer of 1990, to cross-endorse and cause, Hon. ADRIENNE H. SCANCARELLI to be the candidate for the office of Judge of the Family Court for the County of Westchester since her term of office was expiring in December, 1990 rather than December, 1991, as had been contemplated by the Three Year Plan, and Respondent, NATRELLA agreed with Respondent, COLAVITA to cross-endorse and cause, Hon. ADRIENNE H. SCANCARELLI to be candidate of the Conservative Party for the office of Judge of the Family Court for the County of Westchester.

40. Pursuant to the plan, scheme and design hereinabove described in Paragraph 32 hereof, and the modification thereof hereinabove described in Paragraph 39 hereof, Respondent, NATRELLA caused MILLER to be nominated as the candidate of the Conservative Party for election to the office of Justice of the Supreme Court, the Hon. ADRIENNE H. SCANCARELLI as the candidate for Judge of the Family Court of Westchester County and the Hon. ALBERT J. EMANUELLI as the candidate for Surrogate Judge of Westchester County in the general election held in the year 1990.

41. Thereafter, on September 18, 1990, Respondent COLAVITA convened the Judicial Convention hereinabove referred to in Paragraph "16" hereof, and said Convention transacted its judicial nominating business in violation of the mandates of the Election Law of the State of New York as set forth in the Objections filed on September 24, 1990 by Petitioners herein with the New York State Board of Elections.

42. Upon information and belief, Respondent MEHIEL, in January, 1989, succeeded to the office of County Chairman of the Democratic Party of Westchester County and adopted and ratified the aforesaid contract, and in furtherance thereof, convened the Convention hereinabove referred to in Paragraph "18" hereof.

43. The business of said Democratic Convention was not conducted in conformity with the mandatory requirements of the Election Law, as were set forth in the Objections filed on September 28, 1990 by Petitioners herein with the New York State Board of Elections.

44. By reason of the foregoing illegal contract entered into by Respondents COLAVITA and WEINGARTEN, adopted and ratified by Respondent MEHIEL, and Respondent, COLAVITA with Respondent, NATRELLA, and the candidates who were, and are, the beneficiaries of the aforesaid patently illegal Three Year Plan, including Respondent, Hon. J. EMMETT MURPHY, the electors of the Ninth Judicial District, including Westchester County, were, in 1989 and 1990, 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, the Judiciary Law and Election Law of the State of New York.

45. By reason of the foregoing, electors of the Ninth Judicial District, including Westchester County, entitled to vote in the General Election held on November 7, 1989 and November 6, 1990 to fill said judicial offices have suffered, and will suffer, a serious, substantial, and unprecedented violation of their voting rights, as guaranteed by the Constitution of the State of New York, the Constitution of the United States of America and the Federal Voting Rights Act, which rights have been impaired, impeded, and prejudiced by the aforesaid Contract of Respondents COLAVITA and WEINGARTEN, and COLAVITA and NATRELLA.

46. Respondent, NATRELLA thereafter agreed with Respondent, COLAVITA to also designate Respondent, Hon. J. EMMETT MURPHY as the candidate for nomination by the Conservative Party for such judicial office in the Primary Election to be held on September 12, 1991.

47. On or about July 22, 1991 three separate Petitions were filed with the Board of Elections designating Respondent, Hon. J. EMMETT MURPHY, as the candidate of the Democratic Party, Republican Party and Conservative Party, respectively, for nomination for the public office of Judge of the County Court of Westchester County at the Primary Elections to be held September 12, 1991.

48. No petitions were filed designating any other

candidate for the nomination of said three political parties to fill the aforesaid public office in the Primary Elections to be held September 12, 1991.

49. By reason of the foregoing, the name of Respondent, Hon. J. EMMETT MURPHY will appear as the candidate of the Democratic Party, Republican Party and Conservative Party for election to the public office of Judge of the County Court of Westchester County on the ballots to be used at the general election to be held on November 5, 1991, unless the aforesaid three designating petitions are invalidated, and said name stricken from the ballots to be used in said Primary Elections and general election.

50. The signatures appearing on the said three designating petitions were procured, at the instance and request of Respondents, COLAVITA, MEHIEL and NATRELLA and with the knowledge and consent of the candidate, Respondent, Hon. J. EMMETT MURPHY, fraudulently, in furtherance, in implementation and in performance of the illegal agreement, as supplemented and modified, all as hereinabove described as the Three Year Plan, and the illegal agreements ancillary thereto made by Respondent, COLAVITA with Respondent, NATRELLA.

51. Petitioners herein duly filed Objections to said three petitions designating said Respondent, Hon. J. EMMETT MURPHY, respectively, on July 25, 1991 with the Board of Elections and Specifications in amplification thereof on July 31, 1991, copies of which are annexed hereto as Exhibit B-1, B-2 and

B-3, and C-1, C-2 and C-3, respectively.

52. On or about July 19, 1991 Respondent, Hon. J. EMMETT MURPHY, was requested in writing by the Ninth Judicial Committee, a not-for-profit, non-partisan, unincorporated association, acting on behalf of Petitioners herein to decline the designation as candidate of the Republican Party and Conservative Party, and thereby, disavow any participation by him in said illegal agreement known as the Three Year Plan, a copy of which, Exhibit A herein, was furnished to said Respondent.

53. Respondent, Hon. J. EMMETT MURPHY has to the date hereof failed to so decline said designations.

54. By reason of Respondent, Hon. J. EMMETT MURPHY accepting said designations of the Republican Party and the Conservative Party, and failing to decline the same, thereby adopting and ratifying said illegal agreement known as the Three Year Plan, he is thereby rendered ineligible to serve as Judge of the County Court of Westchester County and disqualified from seeking election to such public office by reason of the provisions of Section 17-158 of the Election Law of the State of New York which prohibits securing the nomination to any public office in exchange for a valuable consideration.

55. The bartering of seven judicial offices, spanning a three year period, including the creation of a vacancy by a forced resignation constitutes the exchange of valuable consideration proscribed by said Section 17-158.

56. The Board of Elections has failed to rule upon the

aforesaid Objections referred to in Paragraph 51 hereof to the date hereof.

57. Petitioners are proceeding by Order to Show Cause to comply with the provisions of the Election Law of the State of New York, requiring the institution and initiation of this proceeding no later than fourteen days subsequent to the date of the filing of said designating petitions vis: August 5, 1991, as hereinabove set forth, and additionally, to ensure meaningful relief in view of the abbreviated period of time between now and the General Election to be held on November 5, 1990.

58. No previous application for the same or similar relief as requested herein has been made to this Court or any other Court.

WHEREFORE, Petitioners respectfully pray:

1. that the Contract embodying the Three Year Plan of the party leaders, also known as "Cross-Endorsements", entered into by Respondents, COLAVITA and WEINGARTEN, and thereafter adopted and ratified by Respondent, MEHIEL, and the contracts entered into by Respondent, COLAVITA with Respondent, NATRELLA, be declared illegal, invalid, void and against public policy,
2. that Respondent, Hon. J. EMMETT MURPHY, be declared ineligible to serve as a Judge of the County Court of Westchester County, and disqualified from being the candidate of any party for election to such office,
3. that the designating petition or petitions filed by or

on behalf of the above-named Respondent candidate, with Respondent, Westchester County Board of Elections, purporting to designate said Respondent candidate as a candidate for the Democratic, Republican and Conservative nominations for the public office of County Judge of Westchester County, New York, in the Primary Election to be held the 12 day of September, 1991, be declared insufficient, defective, invalid, null and void; and

4. that Respondent, Westchester County Board of Elections be enjoined, restrained and prohibited from printing and placing the name of the said Respondent, Hon. J. EMMETT MURPHY as a candidate for the Democratic, Republican and Conservative nominations for the public office of County Judge, Westchester County, New York, on the ballots to be used at the Primary Election to be held on September 12, 1991; and the general election to be held on November 5, 1991; and for such other and further relief as to this Court may seem just and proper in the premises.

Dated: White Plains, New York  
August 2, 1991

Rachel Sady  
RACHEL SADY

Mario M. Castracan  
MARIO M. CASTRACAN



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

RACHEL SADY being duly sworn, deposes and says: deponent is a Petitioner in the within action; deponent has read the foregoing Petition and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

Rachel Sady  
RACHEL SADY

Sworn to before me  
on August 2, 1991.

Eligiano  
Notary Public  
ELI VIGLIANO  
Notary Public, State of New York  
No. 4967383  
Qualified in Westchester County  
Commission Expires June 4, 1992

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

MARIO M. CASTRACAN being duly sworn, deposes and says: deponent is a Petitioner in the within action; deponent has read the foregoing Petition and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

Mario M. Castacan  
MARIO M. CASTRACAN

Sworn to before me  
on August 5, 1991.

Eligiano

ELI VIGLIANO  
Notary Public, State of New York  
No. 4967383  
Qualified in Westchester County  
Commission Expires June 4, 1992