

REQUEST FOR JUDICIAL INTERVENTION

UCS-840 (7/2012)

SUPREME COURT, COUNTY OF SARATOGA

Index No: _____ Date Index Issued: 11/24/17

CAPTION: Enter the complete case caption. Do not use et al or et ano. If more space is required, attach a caption rider sheet.

IN THE MATTER OF GORDON BOYD A VOTER QUALIFIED TO VOTE IN THE NOVEMBER 7TH, 2017 GENERAL ELECTION

Plaintiff(s)/Petitioner(s)

against-

WILLIAM FLORES AND ROGER SCHIERA AS COMMISSIONERS OF THE SARATOGA COUNTY BOARD OF ELECTIONS

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING:

Check ONE box only and specify where indicated.

MATRIMONIAL

☐ Contested

NOTE: For all Matrimonial actions where the parties have children under the age of 18, complete and attach the **MATRIMONIAL RJJ Addendum**.

For Uncontested Matrimonial actions, use RJJ form UD-13.

TORTS

☐ Asbestos

☐ Breast Implant

☐ Environmental: _____

(specify)

☐ Medical, Dental, or Podiatric Malpractice

☐ Motor Vehicle

☐ Products Liability: _____

(specify)

☐ Other Negligence: _____

(specify)

☐ Other Professional Malpractice: _____

(specify)

☐ Other Tort: _____

(specify)

OTHER MATTERS

☐ Certificate of Incorporation/Dissolution [see NOTE under Commercial]

☐ Emergency Medical Treatment

☐ Habeas Corpus

☐ Local Court Appeal

☐ Mechanic's Lien

☐ Name Change

☐ Pistol Permit Revocation Hearing

☐ Sale or Finance of Religious/Not-for-Profit Property

☐ Other: _____

(specify)

COMMERCIAL

☐ Business Entity (including corporations, partnerships, LLCs, etc.)

☐ Contract

☐ Insurance (where insurer is a party, except arbitration)

☐ UCC (including sales, negotiable instruments)

☐ Other Commercial: _____

(specify)

NOTE: For Commercial Division assignment requests [22 NYCRR § 202.70(d)], complete and attach the **COMMERCIAL DIV RJJ Addendum**.

REAL PROPERTY: How many properties does the application include? _____

☐ Condemnation

☐ Mortgage Foreclosure (specify): _____

☐ Residential

☐ Commercial

Property Address: _____

NOTE: For Mortgage Foreclosure actions involving a one- to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the **FORECLOSURE RJJ Addendum**.

☐ Tax Certiorari - Section: _____ Block: _____ Lot: _____

☐ Tax Foreclosure

☐ Other Real Property: _____

(specify)

SPECIAL PROCEEDINGS

☐ CPLR Article 75 (Arbitration) [see NOTE under Commercial]

☐ CPLR Article 78 (Body or Officer)

☒ Election Law

☐ MHL Article 9.60 (Kendra's Law)

☐ MHL Article 10 (Sex Offender Confinement-Initial)

☐ MHL Article 10 (Sex Offender Confinement-Review)

☐ MHL Article 81 (Guardianship)

☐ Other Mental Hygiene: _____

(specify)

☐ Other Special Proceeding: _____

STATUS OF ACTION OR PROCEEDING:

Answer YES or NO for EVERY question AND enter additional information where indicated.

Has a summons and complaint or summons w/notice been filed?

YES NO

☐

☒

If yes, date filed: _____/_____/_____

Has a summons and complaint or summons w/notice been served?

☐

☒

If yes, date served: _____/_____/_____

Is this action/proceeding being filed post-judgment?

☐

☒

If yes, judgment date: _____/_____/_____

NATURE OF JUDICIAL INTERVENTION:

Check ONE box only AND enter additional information where indicated.

<input type="checkbox"/> Infant's Compromise	Date Issue Joined: ____/____/____	Return Date: ____/____/____
<input type="checkbox"/> Note of Issue and/or Certificate of Readiness	Relief Sought: _____	Return Date: ____/____/____
<input type="checkbox"/> Notice of Medical, Dental, or Podiatric Malpractice	Relief Sought: _____	Return Date: ____/____/____
<input type="checkbox"/> Notice of Motion	Relief Sought: _____	Return Date: ____/____/____
<input type="checkbox"/> Notice of Petition	Relief Sought: _____	Return Date: ____/____/____
<input type="checkbox"/> Order to Show Cause	Relief Sought: <u>ELECTION LAW</u>	Return Date: ____/____/____
<input type="checkbox"/> Other Ex Parte Application		
<input type="checkbox"/> Poor Person Application		
<input type="checkbox"/> Request for Preliminary Conference		
<input type="checkbox"/> Residential Mortgage Foreclosure Settlement Conference		
<input type="checkbox"/> Writ of Habeas Corpus		
<input type="checkbox"/> Other (specify): _____		

RELATED CASES:

List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases. If additional space is required, complete and attach the RJI Addendum. If none, leave blank.

Case Title	Index/Case No.	Court	Judge (if assigned)	Relationship to Instant Case
NONE				

PARTIES:

For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in space provided. If additional space is required, complete and attach the RJI Addendum.

Un-Rep	Parties:	Attorneys and/or Unrepresented Litigants:	Issue Joined (Y/N):	Insurance Carrier(s):
<input type="checkbox"/>	List parties in caption order and indicate party role(s) (e.g. defendant; 3rd-party plaintiff).	Provide attorney name, firm name, business address, phone number and e-mail address of all attorneys that have appeared in the case. For unrepresented litigants, provide address, phone number and e-mail address.		
<input type="checkbox"/>	Name: <u>BOYD, GORDON</u> Role(s): <u>PETITIONER</u>	<u>A. JOSHUA EHRLICH, ESQ</u> <u>ATTORNEY FOR PETITIONER</u> <u>71 GROVE AVE ALBANY, NY 12208</u> <u>518-334-1502</u> <u>A.JOSUELO@COMcast.COM</u>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: <u>FRUCI WILLIAM</u> Role(s): <u>RESPONDENT</u>	<u>COMMISSIONER SARATOGA COUNTY BOARD OF ELECTION</u> <u>518-885-2249</u>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: <u>SCHIFFER ROGER</u> Role(s): <u>RESPONDENT</u>	<u>COMMISSIONER SARATOGA COUNTY BOARD OF ELECTIONS</u> <u>518-885-2249</u>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: _____ Role(s): _____		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: _____ Role(s): _____		<input type="checkbox"/> YES <input type="checkbox"/> NO	

AFFIRM UNDER THE PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: 11, 24, 2017

1932565
ATTORNEY REGISTRATION NUMBER

A. Joshua Ehrlich
SIGNATURE
A. JOSHUA EHRLICH
PRINT OR TYPE NAME

At an IAS Term of the Supreme Court
held in and for the County of Saratoga
at the Courthouse thereof, Saratoga
County Municipal Center, 30 McMaster
Street, Ballston Spa, New York on the
24th day of November 2017.

PRESENT: THOMAS D. NOLAN, JR.
J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SARATOGA

-----X
In the Matter of the Application of GORDON BOYD
a voter Qualified to vote in the
in the November 7, 2017, General Election,

Petitioner,

ORDER TO SHOW CAUSE
Index No.: _____/2017

-against-

William Fruci and Roger J. Schiera, as Commissioners of the
THE SARATOGA COUNTY BOARD OF ELECTIONS;

Respondents.
-----X

For an Order pursuant to the New York State Election Law to impound all ballots and voting materials used in the General Election for the proposition for a Proposed New City Charter for the City of Saratoga Springs, held on Tuesday, November 7th, 2017 (hereinafter "General Election"), and directing the review of the actions of the inspectors and Board of Elections in that election.

Upon the annexed Verified Petition and upon all of the papers and proceedings heretofore had herein, it is hereby

ORDERED, that Respondents herein show cause before an I.A.S. term of this Court held in and for the County of Saratoga, at the Courthouse thereof, located at 30 McMaster Street, Ballston Spa, County of Saratoga, State of New York on the 20th day of December 2017 at or at such the time and date fixed by the assigned judge in the forenoon or as soon thereafter as counsel may be heard; why an order of this court should not be

made and entered pursuant to the provisions of CPLR, and Articles Eight, Nine, and Sixteen of the New York State Election Law:

1. Determining the validity of affidavit ballots, absentee ballots and military ballots cast in General Election; and
2. Directing the Respondent Board of Elections and the Commissioners thereof to certify the ballot proposition for a Proposed New City Charter of the City of Saratoga Springs, as being adopted by the voters at the General Election, or alternatively, enjoining the improper issuance of a certificate of the subject City Charter proposition being defeated; and
3. Directing the testing and inspection of any voting machines which may have malfunctioned and/or been tampered with, and making appropriate findings of fact, orders preserving evidence and adjustments to the canvass as may be just and proper; and
4. Directing that the canvass of the votes made by the Respondent Board of Elections be corrected and adjusted to reflect a proper tally of the votes for the said City Charter Proposition, together with such other, further, and different relief as this Court may find to be just and proper; and
5. Directing that Respondent Board of Elections complete the recanvass of the voting machines as scheduled by the Board, and upon proper notice to the attorneys for the parties to this proceeding, and that the said Board of Elections shall recount the canvass any paper ballots, unscanned ballots in the said election pending a final resolution of the recanvassed voting machine totals, and pending the inspection of voting machines which may have malfunctioned and/or been tampered with and the hearing, review, and determination of any issues raised regarding the voting machines by this Court, except as hereinafter provided; and

6. Directing that Respondent Board of Elections produce upon the day of the hearing of this order the ballots, canvass sheets, and other records which are the subject of this proceeding, and the determinations of said Board of Elections upon any objections and challenges to voters and/or ballots and/or applications therefore, and any other papers or worksheets relating thereto.


SUFFICIENT CAUSE APPEARING, IT IS HEREBY,

subject city charter Proposition
ORDERED that Respondent Board of Elections shall preserve and separate the ballots for the subject public offices from all others; and it is further,


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~~ORDERED that Respondent Board of Elections shall produce for the Petitioner, upon his/her request, all documents (or copies thereof) including, but not limited to, absentee ballot applications, voter registration records, ballot envelopes, poll books, canvass sheets, challenge reports, machine breakdown reports, mechanic's or custodian logs of inspection and/or setup, affidavits, election day court orders, and any other election related documents, including .tif files, without the need for a subpoena prior to the canvass of ballots; and it is further;~~

ORDERED that Respondent Board of Elections shall prepare all necessary records for the canvass of the votes in the subject election including the registration records of voters casting paper ballots, absentee applications, poll books, and other related documents forthwith; and it is further,

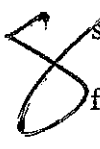
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~~ORDERED that Respondent Board of Elections shall appoint a Board of Inspectors composed of the Commissioners of Elections or alternatively, the two Deputy Commissioners or clerks of different party affiliation for the purposes of conducting a recanvass of all votes cast in the subject General Election. Said Board of Inspectors shall be empowered to hear and make a determination upon any and all objections to the canvassing of any and all ballots pursuant to the provisions of Article Nine of the New York State Election Law and this order, and it is further;~~

 ORDERED that any attorney or his representative be admitted on behalf of Petitioner to the polling location or the place of recanvass of the votes in this election and be allowed full participation in the administrative proceedings of the Board of Elections held in relation thereto, without the need for production and filing of a poll watcher's certificate, and shall have an opportunity to review each ballot and ballot envelope before it is processed by the Board; and it is further

ORDERED that in the interests of justice, the efficient administration of the law, and judicial economy, the objection(s) of the petition hereto to any ballot, ballot envelope, affidavit application or documents relating to the ballots of the 2017 General Election for the subject City Charter Proposition are hereby ordered to be preserved until the time of the recanvass of such ballots, and the hearing before this Court, regardless of whether three days have elapsed, and all such ballots and documents shall be preserved for the review of this Court; and it is further,

 ORDERED that Respondent Board of Elections but, should this Court so determine, not earlier than the day after any hearing and determination which may be ordered by this Court relating to issues regarding malfunctioning and or compromised voting machines, or as soon thereafter as the paper ballots and supporting records can be made available; and it is further,

ORDERED that any machines which may be the subject of testing or further inspection by this Court shall be secured by sealing the said voting machines with a tamper resistant seal; and it is further,

 ORDERED, the Respondent Board of Elections shall place all of the above in a secure storage facility at the Respondent Board's facilities for which there are two separate locks required for access, with each commissioner of elections having a key or combination for only one of the two locks, and that the Board of Elections shall maintain a record of all persons accorded access to

the ballots and related materials, and shall assure that the handling of ballots is done on a bipartisan basis, and it is further

ORDERED that Respondent Board of Elections shall allow the parties hereto, together with the Court or the Court's designee(s), to inspect voting machines with irregular returns and to report the findings of said inspection to the Court, and it is further,

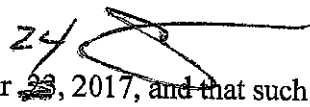
ORDERED that sufficient reason appearing therefore, leave is hereby granted to the Petitioner to submit on the date set for the hearing or the trial of this matter additional witnesses, exhibits, proofs, and other evidence as may be necessary, and, it is hereby,

ORDERED that sufficient reason appearing therefore, leave is hereby granted to the Petitioner to amend his/her pleadings as may be necessary, and it is further,

ORDERED that in the event the canvass of ballots continues beyond the return date specified hereinabove, counsel for the parties hereto may adjourn same by stipulation, and counsel shall obtain approval of the Court by telephone of same immediately upon agreeing thereon, so that the canvass may proceed with all due speed,

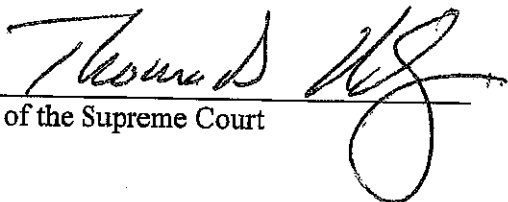
ORDERED, that nothing contained herein shall prevent the Respondent Board of Elections from conducting any audit of the election machines as mandated by the Election Law or removing one (1) and producing to the Petitioner a copy of the memory cards including the .tif files of the two (2) memory cards from the election machines, as soon as possible, to tally the results and print the respective reports, and it is further

ORDERED that Petitioner shall cause a copy of this Order, together with all of the ancillary papers upon which this Order was granted to be served upon the Respondent County Board of Elections, by delivering same to the offices thereof, or by delivering same to any of the Commissioners, Deputy Commissioners, or Counsel thereof, or (in the case of County Board(s) of

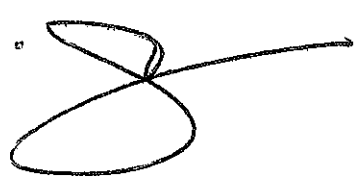
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Elections) their respective County Attorney, on or before November 23, 2017, and that such service shall be deemed good and sufficient service thereof, *and **

DATED: November 24, 2017
Ballston Spa, New York

ENTER:


Justice of the Supreme Court

THOMAS D. NOLAN, JR.

** The commencement of this proceeding by immediate filing today, November 24, 2017 is impossible because the Saratoga County Clerk's office is closed today, it is further ORDERED, pursuant to CPLR 304(a) that the filing of this order and petition and papers upon which it is based on or before November 29, 2017 shall be sufficient to commence the proceeding.* 

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SARATOGA

-----X
In the Matter of the Application of GORDON BOYD
a voter Qualified to vote in the
in the November 7, 2017, General Election,

VERIFIED PETITION
Index No.: _____/2017

Petitioner,

-against-

William Fruci and Roger J. Schiera, as Commissioners of the
THE SARATOGA COUNTY BOARD OF ELECTIONS;

Respondents.
-----X

To the Supreme Court of the State of New York:

The Petitioner respectfully alleges,

1. Petitioner GORDON BOYD is at all times a qualified voter in the City of Saratoga Springs, in the General Election held on Tuesday, November 7, 2017 (hereinafter "General Election"), and served as a member and Treasurer of the Saratoga Springs Charter Review Commission.
2. Petitioner maintains this action under Election Law Sections 16-102, 16-106, 16-110, 16-112 and 16-113 for a complete recanvass of all ballots cast for the Proposed New City Charter of the City of Saratoga Springs in the General Election held on Tuesday, November 7, 2017.
3. The current margin, based upon the polls and the current canvass in this election, it appears that the proposition has been defeated by 10 votes out of more than 8,900 ballots cast, well under the accepted one half of one percent that would require a complete hand count of all of the ballots cast in the subject General Election.

4. The Respondent County Board of Elections is responsible for canvassing the returns of the General Election for the subject jurisdiction of the City of Saratoga Springs and the Commissioners which constitute the Respondent Board certify the results of the election for the subject Proposed New City Charter acting in their capacity as a County Board of Canvassers.

5. Petitioner should not be deprived of his right to review ballots before the results are certified by the Respondent Board. In addition, this Court may be deprived of jurisdiction over ballots that have already been opened and canvassed, without the opportunity to review said ballots for inconsistencies, illegalities, discrepancies, and other mistakes that may void the ballot in accordance with the provisions of the Election Law and decisional case law. Other Courts and many County Boards of Elections give the Petitioner the .tif files to expedite the recount process and avoid a full hand count of all ballots cast in machines. Said machines have been shown to give inaccurate reports of the canvass of ballots on Election night.

6. Therefore, a temporary order staying the immediate Certification of the Result of the Election is requested.

7. It is further respectfully submitted that such a stay remain in place until the Petitioner and Respondent Board of Elections have completed the entire recanvass of the voting machines, by either hand count or review of the .tif files from the subject election.

8. This proceeding has been commenced pursuant to the provisions of Article 78 of the CPLR, and Articles 5, 8, 9, and 16 of the New York State Election Law. Said Articles confer authority upon this Court to determine and resolve any disputes arising out of, or relating to the canvass of ballots, returns for the proposition of the Proposed New City Charter of the City of Saratoga Springs, and the preservation of ballots and machines employed in an election.

9. This Petition is being brought to continue to preserve the ballots, review irregular and possibly fraudulent returns from voting machines, preserve the voting machine ballots and any paper contained therein, and determine whether the subject proposition has been deprived of votes by malfunctioning or tampered with voting machines. Petitioner also asks this Court to protect his rights to have this Court review any and all determinations made by Respondent Board of Elections as is provided for in the Election Law and to supplement and set the parameters for the recanvass. Finally, Petitioner requests that this Court enjoin any certification of election results, which could prejudice the rights of Petitioner and bar any procedural defect which might be asserted to defeat this Court's determinations.

10. Subject to the supervision and review of this Court, Respondent Board of Elections will be conducting a hand recanvass of the results, or .tif file review of this election recorded on voting machines.

11. Said canvass may still be incomplete and the Petitioner awaits the final numbers to be compiled after removal of one (1) of the two (2) memory cards from the election machines, which it is requested be done as soon as possible, so that the results may be fully tallied.

12. Upon information and belief, the unofficial canvass of the votes cast by machine for the subject Proposed New City Charter may be, and often is, incomplete and/or inaccurate.

13. Further, upon information and belief, several of the voting machines in the subject political subdivision may have malfunctioned or broken down and failed to count all of the votes cast for the Proposed New City Charter.

14. Such an occurrence requires Court ordered testing of the subject voting machine(s) and the subsequent adjustment of the canvass to correct the error in vote totals.

15. Continued impoundment and protection of the voting machines and ballots is essential, because any lapse in security or breach of protective measures for the machines and ballots relating to this election would irreparably harm Petitioner and undermine public confidence in the electoral process.

16. Only a review of the final voting machine recanvass from the Board of Elections and a physical inspection using a hand count or review of the .tif files of the subject voting machines and related documents on file with the Board of Elections will reveal any irregularity or fraud.

17. Petitioner requests leave to, and reserves the right to submit further proofs by way of witnesses, affidavits, and evidence on the date set by this Court for the trial and hearing of this matter. Petitioner further requests leave to amend these pleadings to reflect facts regarding the conduct of the subject election and/or facts adduced by the way of further investigation and/or a recanvass of the ballots for the election to the subject office at issue by the Respondent Board of Elections.

18. In the course of the canvass of ballots, there may be erroneous determinations made by the Respondent Board of Elections, and such determinations may be sustained by a unanimous vote of the Commissioners of Elections.

19. In the event the Court chooses not to preserve objections which are unanimously rejected by the Board, it is requested, in the alternative that the Court employ the objection preservation method adopted by the Supreme Court, Kings County, Tomei, J., in *O'Keefe v. New York City Bd. of Elections*.

20. Failure to have a complete hand count or review of the .tif files would irreparably harm your Petitioner.

21. Petitioner may request various information be provided to him/her by the Respondent Board of Elections. This information is required for Petitioner to have a meaningful participatory role in the canvass of paper ballots. It is requested that this be done without the need for a subpoena.

22. In order to expedite the recanvass, an order is requested providing for the production of the documents requested prior to the certification of the results of the proposition without the need for a subpoena.

23. This Court should provide for a process in which the documentation needed for meaningful participation in the administrative process is delivered to Petitioner's counsel at least 24 hours before the recanvass commences.

24. Further, this Court should provide in its order that counsel for Petitioner be afforded an opportunity to view each ballot as it comes up for consideration and that the recanvass be done by teams of inspectors equal to the number of members of the Petitioner's recanvass team.

25. Moreover, without the information requested, this Court and your Petitioner will be unable to see that the mandates of Article II, §7 of the New York State Constitution, requiring that identification of voters be made by their signatures are followed.

26. This information will allow for the full implementation of Sections 8-302, 8-304, 9-104(1)(d), 9-209(2)(a)(1) of the Election Law, in addition to other sections of the law which codify the Constitution's mandate of signature verification to establish the identity of all voters.

27. The information requested by your Petitioner is needed to have the ability to participate in the canvass. The Election Law does not provide for a single voter or a member of the Charter Review Commission and his or her counsel to have watchers present who may object to the casting or canvassing of any ballot, or the refusal to cast or canvass any ballot, (Election Law §9-

209(d)(2)), and to have any determination reviewed by the Supreme Court pursuant to Election Law §16-106.

28. The canvass of ballots may include objections to affidavit and absentee ballots by voters who are not qualified to vote.

29. The failure to enforce the statute, and the inability to adduce any underlying facts would irreparably harm Petitioner and prevent a review on the merits of challenges made based on registration and/or residency.

30. Upon information and belief, the Election Law fails to address the question of the participation of counsel in proceedings on Election Day at the polling place(s) or at the canvass and recanvass of paper ballots. The Election Law merely requires that a poll watcher be a resident of the County where the election is being held.

31. As such, it is respectfully requested that attorneys and those working for attorneys be allowed in polling places as poll watchers without regard to their residency within the State of New York.

32. Additionally, no rational basis appears for the prevention of attorneys from outside the county from practicing law before the Board of Elections on or after Election Day.

33. Counsel's experience has shown that applications such as this are routinely granted by Courts throughout the State.

34. Petitioner prays for an order of this Court, which would prevent Respondent Board of Elections from preventing the Petitioner from having meaningful participation in the process by way of denial of documentation prior to Certification, and/or the processing of ballots by more teams of inspectors than Petitioner's legal team can accommodate.

35. Upon information and belief, the facts alleged in the paragraphs aforementioned show that the final result of this election will hinge upon the recanvass of the various types of paper ballots referenced above as well as a review of the recanvass of machine cast ballots.

36. Because of the foregoing, Petitioner is apt to be without any protection or Court supervision of the post-election process absent the relief prayed for in the order to show cause and verified petition.

37. The Petitioner requests leave to effect service of a copy of the Order to Show Cause, together with a copy of the papers on which it is granted, upon Respondent Board of Elections and or contact person other than by personal service because:

(a) This proceeding must be instituted on or before November 24, 2017;

(b) Petitioner may, despite diligent effort, be unable to effect personal service upon such Respondent(s) on or before such date, because such Respondent(s) may purposely absent themselves from their homes and places of business;

(c) Petitioner is advised by his attorney that in election matters governed by Article 16 of the Election law, orders granting alternative methods of service are and have been routinely granted by this Court in accordance with statute and prior decisional case law.

38. No previous application by Petitioner has been made for the relief sought herein or for the Order to Show Cause hereunto annexed, or for any similar relief.

39. WHEREFORE, Petitioner respectfully demands a judgment of this Court ordering:


- That at the Board secure all paper ballots used in this election at the Respondent Board of Elections; and

- That the Respondent Board of Elections secure all machines and paper ballots used in this election;
- Staying of the Certification of the ballot proposition in accordance with a schedule set forth by the Court;
- Ordering the Respondent Board of Elections to provide the documentation requested herein;
- Ordering that Petitioner's counsel, and counsel for any other party participating in the proceedings have a full and fair opportunity to participate in the recount and recanvass proceedings;
- Enjoining the finalization of the recanvass of votes cast on all voting machines within the political subdivision;
- Ordering the continued security and impoundment of voting machines which appear to have malfunctioned, or have been tampered with;
- Ordering the preservation, testing, and Court inspection of voting machines which appear to have malfunctioned or been tampered with;
- Ordering the Respondent Board of Elections and the Commissioners thereof, to preserve for judicial review, all ballots, ballot envelopes, memory cards and documents relating thereto, which may be subject to a full review by Petitioner from the subject General Election;
- Determining the validity of affidavit ballots, absentee, and military ballots cast for the subject proposition;
- Correcting, adjusting, and finalizing the canvass of returns from the subject General Election, and further ordering the Respondent Board of Elections certify that the

Proposition for a Proposed New City Charter for the City of Saratoga Springs was adopted in the General Election, and ordering the issuance of a certificate of adoption to the City Clerk, or alternatively enjoining the issuance of an improper certificate of election; and

- Awarding to Petitioner all relief prayed for herein and awarding such other, further, and different relief that this Court may deem to be just and proper.

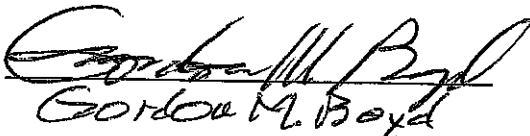
Dated: November 24, 2017
Ballston Spa, New York


A. Joshua Ehrlich, Esq.
Attorney for Petitioners
71 Grove Avenue
Albany, NY 12208
518-334-1502
ajoshe@gmail.com

VERIFICATION

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

GORDON BOYD, being duly sworn, states that he is the Petitioner, and further states that he has read the foregoing Verified Petition and that the contents of same are true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, he believes them to be true; that the grounds of his belief as to all matters not stated upon his knowledge are communications with other individuals knowledgeable about the facts alleged in it.


Gordon M. Boyd

Sworn to before me this
24th day of November 2017


Notary Public

A. JOSHUA EHRLICH
Notary Public, State of New York
No. 02E116045357
Qualified in Albany County
Commission Expires July 8, 2019

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SARATOGA**

(Index No. /17)

In the Matter of the Application of

In the Matter of the Application of GORDON BOYD
a voter Qualified to vote in the
in the November 7, 2017, General Election,
Petitioner

**ORDER TO SHOW
AND VERIFIED
PETITION**

-against-

William Frucci and Roger J. Schiera, as Commissioners of the
THE SARATOGA COUNTY BOARD OF ELECTIONS;

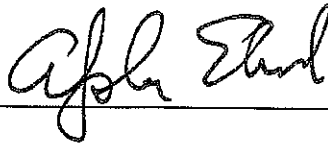
Respondents.

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ATTORNEY'S CERTIFICATION

The undersigned, being an attorney admitted to practice law in and before the Courts of the State of New York, hereby certifies that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the within papers or the contentions therein are not frivolous as defined in 22 NYCRR 103-1.1c.

November 24, 2017



**ORDER TO SHOW CAUSE
and VERIFIED PETITION**

Attorney for Petitioner

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