

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Index No. **06-CV-1083** (GLS/RTF)
(ECF CASE)

DAVID PRICE, as a candidate for the position for Albany County Republican
Comitteeeman from the 14th Ward 6th District, City of Albany; THE ALBANY
COUNTY REPUBLICAN COMMITTEE, MARTHA McMAHON, and
JAMES THORNTON, Absentee Voters

-Plaintiffs,

-against-

THE ALBANY COUNTY BOARD OF ELECTIONS, THE NEW YORK
STATE BOARD OF ELECTIONS, NEIL W. KELLEHER (in his official
capacity as a Commissioner of the New York State Board of Elections),
DOUGLAS A. KELLNER (in his official capacity as a Commissioner of the
New York State Board of Elections), EVELYN J. AQUILA (in her official
capacity as a Commissioner of the New York State Board of Elections), and
HELENA MOSES DOHOHUE (in her official capacity as a Commissioner of
the New York State Board of Elections),

-Defendants,

NOTICE OF MOTION

NOTICE IS HEREBY GIVEN, that on September 6, 2007, at 9:00 a.m., or as soon
thereafter as counsel may be heard, defendants NEW YORK STATE BOARD OF ELECTIONS and
its Commissioners, will move this Court at the U.S. Courthouse, located in Albany, New York, for
an order pursuant to Rule 12(b)(6), dismissing this action for failure to state a claim upon which
relief may be granted.

This motion is based on this Notice of Motion; and the accompanying Memorandum of Law,
dated July30, 2007; and all the pleadings and papers on file in this action.

DATED: July 30, 2007
Albany, New York

A handwritten signature in black ink, reading "Todd Valentine". The signature is written in a cursive style with a horizontal line underneath.

TODD D. VALENTINE (Bar Roll No. 507572)
Special Counsel, New York State Board of Elections
Attorney for Defendant State Board of Elections
40 Steuben Street, Albany, New York 12207
Tel: (518) 474-6367, Fax: (518) 486-4546