

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Samuel H. Sloan,

**15 CV 6963**

Plaintiff,

Answering Brief  
-against-

Michael Michel, Jose Miguel Araujo, Ronald Castorina Jr., John Flateau, Maria R. Guastella, Michael A. Rendino, Alan Schulkin, Simon Shamoun, Gregory C. Soumas, Michael J. Ryan, Bianka Perez, Steven Howard Richman, Jerry H. Goldfeder, Stanley Kalmon Schlein, Venancio Benny Catala, Daniel Szalkiewicz, Stephen Edward Kitzinger, Douglas Arthur Kellner, Kimberly Galvin, Kathleen O'Keefe, Board of Elections in the City of New York, New York State Board of Elections,

Defendants

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Answering Brief on Motion to Dismiss by Defendants Jerry H. Goldfeder, Stanley Kalmon Schlein, Venancio Benny Catala, Daniel Szalkiewicz, Stephen Edward Kitzinger

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The plaintiff Samuel H. Sloan states:

The Defendants here make the bold and frankly ridiculous statements that they are immune from suit, that the

plaintiff can prove no set of facts that would entitle him to relief and this action is barred by res judicata.

It must be noted that this does not concern a normal partisan election for public office. This concerns the non-partisan nominations for the elections of judges of the New York State Civil and Supreme Courts. Judges serve a term of office of ten years. The civil court judges are nominated (not elected) by judicial delegates. These are non-partisan positions. In theory, both the Republicans and the Democrats, as well as the Green, Working Families and other parties could nominate their own slate of judges who would run against each other for election. However, the reality is that in the Bronx we have the one-party system, if you could even call it a system. The Republicans and the other parties do not bother to nominate judges because they would have no chance. Nobody who is a member of the Republican Party or of any party other than the Democrats has been elected to any public office in the Bronx for many years. Thus, the Democratic votes are essentially appointing all

the judges because when the election day comes in November, only the Democrats will have candidates on the ballot. So, there was no election. The polling places were closed. The Board of Elections workers who are normally at the polling places were not there on election day. No election results were reported in the press.

So, in effect, the all judges were appointed by Stanley Kalmon Schlein, one of the defendants here who is seeking to have this case dismissed. This is because Stanley Kalmon Schlein personally nominated all the candidates for judge and judicial delegate. If you will look at the election petitions which I am seeking to have produced by way of discovery, each and every candidate for judge or for judicial delegate in the Bronx was nominated by Stanley Kalmon Schlein as head of the vacancy committee except for those who were on the slate that I was on, and my slate was thrown off the ballot through the efforts of Stanley Kalmon Schlein in conspiracy with the other defendants who are named as defendants to this suit.

When I went to the Bronx Board of Elections (which is conveniently located near my residence) I asked to see the petitions filed by Stanley Kalmon Schlein for the 82<sup>nd</sup> District, because of the objection that had been made against his petitions that the names and addresses of the candidates for judicial delegate that had been filed by Stanley Kalmon Schlein contained stickers changing the names and addresses of the candidates. What was brought out and shown to me as the petitions that had been sent to the Board of Elections at 42 Broadway for the hearing before the Board of Elections turned out to be the petitions for the 85<sup>th</sup> District, not the 82<sup>nd</sup> District. It was explained that due to a mixup, instead of sending the petitions for the 82<sup>nd</sup> District, the petitions for the 85<sup>th</sup> District had been sent instead. Thus, the Board of Elections had never had the opportunity to see the petitions that had been objected to.

If you will look at the video of the hearing before the

Board of Elections, you will see Steve Richman, General Counsel to the Board of Elections and one of the defendants here, stating to the board that the objections to the petition had failed to state "with particularity" whether the stickers had been attached to the petitions before or after they were signed by the petitioners. This claim was ridiculous. It is obvious that any sort of alteration of the petitions, whether by attaching stickers, or by white out or by any other means of erasing, changing or defacing the petitions whether before or after they were signed makes them invalid.

The fact that Steve Richman made this absurd and ridiculous statement and the fact that almost all the Commissioners of Elections were new this year because the old commissioners had almost all been thrown out because of bribery or corruption charges against themselves or their bosses, some of whom have been arrested by the FBI, shows that Steve Richman was conspiring with Stanley Kalmon Schlein to insure that the judges he was nominating would be elected

as judges and no other candidate for judge would be elected.

Can anybody seriously believe that it was just by mistake that they sent the petitions for the 85<sup>th</sup> district when it was the candidates for judge and judicial delegate in the 82<sup>nd</sup> district that were being challenged? It is obvious that Steve Richman, Stanley Kalmon Schlein and all of the commissioners were conspiring to insure that only their hand-picked candidates for judge got elected and no other potential candidates for judge had a chance to get on the ballot.

When I went back to the Bronx Board of Elections a second time to try to get to see the petitions for the 82<sup>nd</sup> District which they said had been lost or misplaced the first time I went there, now they said that I would have to make a Freedom of Information Law or FOIL Request to see the petitions. Accordingly, I made that request in writing. I brought that up at the hearing before this court. The

Board of Elections attorney Stephen Edward Kitzinger stated to this court that the FOIL Request was under consideration. As of this date, November 30, 2015, no response has been made to this FOIL Request. Meanwhile the judges elected by this corrupt, illegal and unconstitutional process are about to take office before this court can rule on whether they were elected legally or not. I am reminded of the famous case of the Midnight Judges who were appointed by President John Adams at Midnight just before the new president Thomas Jefferson could take office. The result of this famous incident in history was that none of the Midnight Judges were allowed to take office. Will that be the result here?

Defense Counsel Stephen Edward Kitzinger claims that he is immune from suit because he represents the government. There is no such immunity. He cited cases where judges have been found to be immune from suit, such as *Pierson v. Ray*, 386 U.S. 547 (1967). (He did not actually cite that case but I happen to know that is the best case for them.). They

also cite a case where the courts have held that a federal prosecutor may have immunity. However, there has never been a case where defense counsel has been held to have immunity, even where defense counsel is defending the government. Rather, it is opposite. Counsel representing the government should be held to a higher, not a lower standard, because of the tremendous oppressive power of the government.

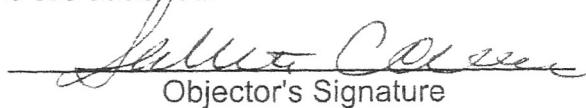
The first thing that Kitzinger did that earned him a place on my defendants list was he lied to the different courts by saying that there had been a Clerk's Report saying that the petition which included my name contained an insufficient number of signatures. In fact, there was no clerk's report. No such document existed. No such count took place. The reason there was no Clerk's Report was Steve Richman threw my petitions off the ballot because of his personal dislike for me, not because there was anything wrong with the petitions that included my name. The petitions that included my name were thrown off on prima

facie by Steve Richman only two or three days after they were filed and long before the time to file general or specific objections had started to run. I was told by Troy Johnson, head of the Candidates Record Unit or CRU, that I was off the ballot but he did not know the reason why as he had never seen anything like this before. What eventually became apparent is they have a new rule which they call "The Sloan Rule" (that is the name they give it) which gives them the power to throw any candidate off the ballot any time they feel like.

Defendant Daniel Szalkiewicz claims this action is barred by Res Judicata. One wonders how he got out of law school, or if indeed he did. Res Judicata means "The Thing has been adjudicated". While it is true that I sued him for this same forgery previously, he opposed it on such grounds as I had not served the summons on the state attorney general. Regardless, the case never went to a hearing and no trial ever took place nor findings of fact ever made, so there is no res judicata.

There can be no doubt that Daniel Szalkiewicz did in fact forge the signature of Caruso and that by this forgery he was able to throw two candidates off the November Ballot. The forgery is obvious. Here is the supposed signature of Caruso on the Specific Objections:

is are attached.



Objector's Signature

Now here is the signature of Caruso on the buff card:

↓ Signature or mark ↓  
x Silvio Caruso

Now here is the signature on the general objection:



Objector's Signature

It is plainly obvious that the signatures of Caruso on the buff card and the general objection are similar but the signature of Caruso on the specific objection is completely different. The fact that there is some similarity between

the S for Salvador on the buff card with the S for Salvador on the Specific Objection shows that the forger was trying to make a convincing forgery but was not doing a good job of it. The fact that the forgery is so completely obvious shows that the Board of Elections is also part of this conspiracy because with this one forgery being used to throw four candidates off the ballot for city-wide office it is a serious matter the Board of Elections should consider.

This was because the Republicans did not have any candidates for Comptroller or Public Advocate other than my candidates because the Republicans never win. This means that my two candidates who are long standing advocates for the Republican Party were cheated out of the opportunity to get their names on the November Ballot.

Here the forgery is obvious. Anybody can look at the signatures on the Buff Card and compare it with the signature on the Specific Objections and see that the

signatures are obviously different.

Another question is: Who hired and paid Daniel Szalkiewicz to do this dirty deed? I raised this question when this case was heard before Judge Wooten of Manhattan Supreme Court. The transcript shows that when the petitioner objected to the fact that Salvatore Caruso was obviously a front man and the attorney appearing should be required to disclose who the real clients and objectors were, the court responded as follows (See Transcript Pages 2-3):

MR. SLOAN: But one thing I do object to is it's obvious that Mr. Caruso is a front man and I would like to know who's paying Mr. Szalkiewicz's legal fees because he's obviously got some others behind him who are doing this.

THE COURT: That's a request by you, sir?

MR. SLOAN: Yes, it is.

THE COURT: Your application is denied. We've never done that. In 30 years on the bench we've never, never -- I'm sorry. In five years on the bench and 27 years as an election law attorney, we've never had a case where that application's been granted. You have an exception, sir.

With all due respect, although it has never been done in the past, it should be done now. Candidates are required to disclose everything about their campaigns. They are required to disclose the names and addresses of their contributors and how much each one gave. If they advertise in the media, on radio, on TV or in the newspapers, they provide copies of their ad material. In short, they are heavily regulated.

It should be obvious that just as the candidates are regulated, the objectors such as defendant Benny Catala should be regulated too. The candidates and the voting public are entitled to know who the real objectors are and who is paying the legal fees of Mr. Daniel S. Szalkiewicz. Common sense tells us that an elderly retired man out in Throng's Neck is not going to get involved in a case like this. We, the courts, and the voting public have the right to know who the real objectors are.

However, I no know who had hired Daniel Szalkiewicz because

the head of my vacancy committee arranged for me to have a dinner with the Former Chairman of the Bronx Republican Party who is out on bail now after having been arrested by the FBI. He is Jay Savino who is running The Whiskey Kitchen in Valley Cottage out in Rockland County while waiting for his case to come to trial. He made it obvious that he had hired Daniel Szalkiewicz, but he denied that he had ever authorized him to forge the signature of Caruso. He did not even know who Caruso was. He was surprised that Daniel Szalkiewicz had not produced Caruso before the courts to testify that he had signed the document. It has also become obvious that the person paying Daniel Szalkiewicz is John Greaney, the replacement chairman of the Bronx Republican Party, because John Greaney has been complaining to the head of my vacancy committee about the large legal fees Daniel Szalkiewicz has been charging him because of my allegation that Daniel Szalkiewicz forged the signature of Caruso who happens to be the next door neighbor of John Greaney.

It is obvious that somebody is paying all of these defendants. They are not working for free or for the fun of it. Who is paying Stanley Kalmon Schlein? Who is paying Venancio Benny Catala? Who is paying Daniel Szalkiewicz? Who is paying Stephen Edward Kitzinger? Is it really Congressman Serrano who is really paying Jerry Goldfeder, author of "Goldfeder's Modern Election Law", or is somebody behind the scenes who is paying his fees. Under State and Federal Election Law, all campaign expenses are required to be reported. We the voting public have the right to know who paid Stanley Kalmon Schlein, Venancio Benny Catala, Daniel Szalkiewicz and Stephen Edward Kitzinger to do their dirty deeds of having petitions signed and submitted by thousands of voters declared invalid and having their candidates thrown off the ballots.

At the conclusion of the Hearing before the Board of Elections, I introduced Steve Richman to Millie Quinones, the homeless woman who had organized the petition drive. Millie Quinones was at the hearing before the Board of

Elections but she had not come forward because her name had not been called. Then, Steve Richman stated that she could be subject to federal prosecution and found guilty of a federal crime and sentenced to prison by submitting a petition without enough signatures. Later, Stephen Edward Kitzinger stated the same thing, that Millie Quinones could spend time in federal prison for election law violations by submitting petitions without enough signatures.

The reasons that Stephen Edward Kitzinger and Steve Richman keep making these threats to a homeless and indigent young woman is to discourage her from her volunteer efforts to participate in democracy by circulating petitions for various candidates. I would suggest that by making these threats against a volunteer who is doing nothing more than circulating petitions, it is rather Stephen Edward Kitzinger and Steve Richman who should be arrested and prosecuted for the federal crime of making these threats and attempts to intimidate a petitioner. Indeed almost all of the defendants listed above are committing federal

crimes by rigging these elections and they all should be tried, convicted and sent to prison because the allegations of this complaint which I will easily prove constitute federal crimes which indeed is the reason who several of their party bosses have been arrested by the FBI. The only defendants who are not guilty of anything are the new Election Commissioners who were appointed after the previous bosses were arrested and who therefore were ignorant and unfamiliar with the procedures.

The moving parties also claim that the case is moot. It is not moot because plaintiff plans to be a candidate for election to Congress next year either in the 14<sup>th</sup> or the 15<sup>th</sup> Congressional District. Right now I have filed with the Federal Election Commission as a candidate for US President and I am on the ballot for the New Hampshire Presidential Primary in February. I will also participate in the Iowa Caucuses. Assuming I am unsuccessful as a candidate for President I will be running for Congress again and you can be sure that defendants Jerry H. Goldfeder, Stanley Kalmon

Schlein, Venancio Benny Catala, Daniel Szalkiewicz, Stephen Edward Kitzinger will be back again to try to make sure that I do not get on the ballot.

For All of these Reasons, this motion to dismiss is without legal basis and must be denied

Dated: Bronx, New York

November 30, 2015



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