

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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TIFFANY CABAN,

Petitioner-Candidate Aggrieved,

-against-

MELINDA KATZ, GREGORY LASAK, BETTY LUGO,
RORY I. LANCMAN, JOSE L. NIEVES, and
MINA QUINTO MALIK,

VERIFIED PETITION

Respondents-Candidates,

-and-

BOARD OF ELECTIONS IN
THE CITY OF NEW YORK,

Respondent.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Petitioner TIFFANY CABAN, by her attorney Renée Paradis, respectfully alleges as follows:

1. Petitioner-Candidate-Aggrieved TIFFANY CABAN (“Petitioner”), a duly registered voter and enrolled Democratic Party member, resides at [REDACTED] in the City of New York and the County of Queens, was entitled to vote in the Democratic Party Primary Election for the public position of Queens County District Attorney, State of New York, in the Primary Election held on the 25th day of June, 2019, and was a candidate for said position in said Primary Election.

2. Upon information and belief, Respondents-Candidates MELINDA KATZ, GREGORY LASAK, BETTY LUGO, RORY I. LANCMAN, JOSE L. NIEVES, and MINA QUINTO MALIK, each are also duly registered voters and enrolled Democratic Party members who reside in the County of Queens, New York, and were entitled to vote in the Democratic Party Primary Election for the public office of Queens County District Attorney, State of New York, in the Primary Election held on the 25th day of June, 2019, and each was a candidate for said position in said Primary Election.

3. Petitioner has standing to commence this proceeding pursuant to Sections 16-100, 16-102, 16-106, 16-112, and 16-113 of the New York State Election Law. This proceeding is commenced pursuant to and in accordance with Article 16 of said Election Law.

4. Respondent Board of Elections in the City of New York (“Board of Elections”) is charged by the New York State Election Law with the administration of elections held in the County of Queens, including the canvassing of the returns of elections and the certifying of the results of elections in the County of Queens to the New York City Board of Elections.

5. This petition is made in order to preserve Petitioner’s rights under the Election Law of the State of New York, including, without limitation, to correct any errors in the canvass of returns of the subject election, and to provide for this Court’s supervision, as necessary, of the canvass of all relevant unopened and/or non-scanned ballots, and/or improperly opened ballots (including all absentee ballots, affidavit ballots, special ballots, and military ballots (“Paper Ballots”)) cast for the candidates in the Democratic Party Primary Election for the public office of Queens County District Attorney, State of New York, in the Primary Election held on the 25th day of June, 2019, and to allow for the comprehensive review of the matters under the jurisdiction of this Court.

6. Upon information and belief, the results of the election for the winner of the Democratic Party Primary Election for the public office of Queens County District Attorney, State of New York, in the Primary Election held on the 25th day of June, as reflected in the votes cast by Voting Machines and on the Paper Ballots in the Primary Election were exceedingly close, with only a marginal number of votes separating the Petitioner Candidate-Aggrieved and Respondents-Candidates.

7. Upon information and belief, it is possible that Respondent Board of Elections, in canvassing the Paper Ballots, may be unable to determine the validity of individual ballots, or may err in determining for which candidate the individual ballots were cast.

8. The canvass of the aforementioned Paper Ballots should proceed, provided only that their envelopes and ballots be photocopied pursuant to the orders of *King v. Smith*, 308 A.D.2d 556 (2d Dep’t. 2003) and this Court’s Order to proceed with respect thereto is required to preserve those ballots.

9. Upon information and belief, the allegations in the paragraphs hereinabove suggest that the final result of the subject election may be determined by the canvass of the various types of Paper Ballots mentioned herein.

10. This proceeding is commenced pursuant to provisions of Sections 16-100, 16-106, 16-112, 16-113, and 16-116 of the Election Law as well as Articles 8 and 9 of the Election Law, which confers authority upon this Court to determine and resolve any disputes arising out of or relating to the canvass of ballots and returns in the Democratic Party Primary Election for the public office of Queens County District Attorney, State of New York, in the Primary Election held on the 25th day of June, 2019.

11. Petitioner reserves the right to submit further proofs by way of witnesses, affidavits, and evidence upon the date set by this Court for the trial and hearing of this matter and any adjourned dates thereof, and to amend these pleadings to reflect the facts adduced by way of a canvass or recanvass of the ballots in and for the Democratic Party Primary Election for the public office of Queens County District Attorney, State of New York, in the Primary Election held on the 25th day of June, 2019.

12. Petitioner believes that, after a complete canvass of the Paper Ballots, it should be determined that Petitioner won the nomination of the Democratic Party in the Primary Election held on the 25th day of June, 2019 for the election of the public office of Queens County District Attorney, State of New York.

13. Petitioner has no adequate remedy at law.

14. No previous application has been made for the relief sought herein or for the Order to Show Cause hereto annexed, or for any similar relief.

WHEREFORE, Petitioner respectfully prays that the annexed Order to Show Cause be granted, for a final Order and Judgment granting the relief prayed for in the Order to Show Cause, together with such other and further relief that this Court may deem just and proper.

Dated: Brooklyn, NY
July 2, 2019

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