

SUPREME COURT : STATE OF NEW YORK
COUNTY OF WESTCHESTER

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MICHAEL LAWLER, candidate for the US
House of Representatives, 17th District of New
York, Candidate-Petitioner,

DONNA DIANA, registered voter in the County of
Westchester, New York, Voter-Petitioner;

Verified Petition

v.

WESTCHESTER COUNTY BOARD OF ELECTIONS,

Board of Elections-Respondent;

JOHAN ALCANTARA, Voter-Respondent; ERIC ALI, Voter-Respondent;
RODNEY BARNES, Voter-Respondent; KEITH BETHEA, Voter-Respondent;
DAFON BLACKNALL, Voter-Respondent; KELLI BONNET, Voter-Respondent;
TYQUAN BROWN, Voter-Respondent; STANLEY BRUCE, Voter-Respondent;
LOUIS CALDERON, Voter-Respondent; JAYDEN CAMPBELL, Voter-
Respondent; ANTWANE CARLISLE, Voter-Respondent; TYRESE COGHIEL,
Voter-Respondent; DANNY COLLAZO, Voter-Respondent; MICHAEL DONKIS,
Voter-Respondent; ISAIAH DOUGLAS, Voter-Respondent; GARY DOZIER,
Voter-Respondent; MELVIN FERNANDEZ, Voter-Respondent; EUGENE
FEENEY, Voter-Respondent; CONSTANTINE FEKKAS, Voter-Respondent;
MARCOS FRIAS, Voter-Respondent; JESSI GAMBLE, Voter-Respondent;
KASHAWN GLOVER, Voter-Respondent; JOHN GLUSKO, Voter-Respondent;
TIMOTHY GOETZE, Voter-Respondent; ENZO GRIMMO, Voter-Respondent;
NICHOLAS HAMILTON, Voter-Respondent; CHRISTOPHER HAMMONDS,
Voter-Respondent; RONALD HECHAVARRIA, Voter-Respondent; JESSICA

HERNANDEZ, Voter-Respondent; DWAYNE HUDSON, Voter-Respondent; MESSIAH JACKSON, Voter-Respondent; RASHAD JESSAMY, Voter-Respondent; AARON KING, Voter-Respondent; DANTE LAWRENCE, Voter-Respondent; SHERLEY LEON, Voter-Respondent; MATTIYAS LETANG, Voter-Respondent; JIMMIE MCKINNEY, Voter-Respondent; JAVONTE MELVIN, Voter-Respondent; NALPHY MEYRELES, Voter-Respondent; JIM NEFF, Voter-Respondent; ANTHONY NEWMARK, Voter-Respondent; JESSICA NUNEZ, Voter-Respondent; SONIA ORTIZ, Voter-Respondent; DONALD PEGUES, Voter-Respondent; BRANDON PINCKNEY, Voter-Respondent; VLADIMIR PUENTES, Voter-Respondent; NIKKIDA ROBERTS, Voter-Respondent; MICHAEL ROMAN, Voter-Respondent; ADAM SALEH, Voter-Respondent; DEIVY SANCHEZ, Voter-Respondent; SAMMIE SHEFF, Voter-Respondent; MARK SOPHIE, Voter-Respondent; TRAVIS SWAIN, Voter-Respondent; DAVID THOMAS, Voter-Respondent; DARYL THRASHER, Voter-Respondent; FREEMAN WHITNEY, Voter-Respondent; BRANDON WILLIAMS, Voter-Respondent; MARLON WILLIAMS, Voter-Respondent; ROBERT WOOTEN, Voter-Respondent; and SHEVAH YARDE, Voter-Respondent;

MONDAIRE L. JONES, Candidate-Respondent; and

ANTHONY FRASCONE, Candidate-Respondent.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Petitioners MICHAEL LAWLER and DONNA DIANA (“Petitioners”), by their attorneys Holtzman Vogel Baran Torchinsky & Josefiak PLLC (Joseph T. Burns, of counsel), respectfully alleges as follows:

1. Petitioner MICHAEL LAWLER (“Candidate-Petitioner”), residing at 90 Pearce Pkwy Pearl River, NY 10965 in the County of Rockland, New York was entitled to vote in the General Election for the public office of Member of the US House of Representatives, 17th Congressional District, State of New York in the General Election held on the 5th day of November, 2024 (hereinafter referred to as the “General Election”), and is the Republican Party and Conservative Party candidate for said position in the General Election.
2. Petitioner DONNA DIANA, residing at 3396 Stony St., PO Box 136, Shrub Oak, NY, in the County of Westchester, New York, is a registered voter entitled to vote in the 2024 General Election.
3. Collectively, Candidate-Petitioner and Voter-Petitioner may be referred to as “Petitioners.”
4. Petitioners have standing to commence this proceeding pursuant to Ar. 5, Ar. 16, Sections 16-100, 16-106, 16-108, 16-112, and/or 16-116 of the New York State Election Law, and Article II of the New York State Constitution. This proceeding is commenced pursuant to and in accordance with Article 5 and 16 of the Election Law and Ar. II of the New York State Constitution.
5. Board of Elections-Respondent Westchester County Boards of Elections is charged by the Election Law with the administration of elections held in the County of Westchester, including the registration of voters, the canvassing of the returns of elections (in its capacity as the board of canvassers), and/or the certifying/transmitting the results of elections for the public position of Member of

the US House of Representatives, 17th Congressional District, State of New York.

6. Voters-Respondents (see EXHIBIT A) are individuals who likely are ineligible to vote both for the public position of Member of the US House of Representatives for the 17th Congressional District of New York and for other public positions specific to Valhalla, New York, but nevertheless cast absentee/early mail ballots for such positions.
7. Voters-Respondents are individuals who are also likely to be ineligible to register to vote from the address from which they are registered, specifically Westchester County Jail, 10 Woods Rd., Valhalla, New York 10595.
8. Candidate-Respondent Mondaire L. Jones, residing at 2 Maxwell Drive, Sleepy Hollow, New York, is the Democratic candidate for the public office of Member of the US House of Representatives, 17th District of New York, to be voted on in the 2024 General Election.
9. Candidate-Respondent Anthony Frascone, residing at 68 Waters Edge, Congers, New York is the Working Families candidate for the public office of Member of the US House of Representatives, 17th District of New York, to be voted on in the 2024 General Election.
10. Venue is proper in this proceeding in Westchester County in that it is where the Westchester County Board of Elections maintains its principal place of business.
11. This proceeding is commenced to preserve Petitioners' rights and/or pursuant to the provisions of Articles Five, Eight, Nine, and Sixteen of the Election Law — including but not limited to Sections 16-100, 16-106, 16-108, 16-112, and 16-116

of the Election Law, which confers authority upon this Court to determine disputes regarding a challenge to and/or the eligibility of a voter to register to vote from a certain location; the ability of a voter to vote from a certain address; and the timing/schedule of the Board of Elections' processing, canvassing, recanvassing, and/or recount of ballots.

12. Under Article II, Section 4 of the Constitution of the State of New York, “[f]or the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his or her presence or absence, . . . while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.”
13. While “New York Courts have recognized that in this modern and mobile society, an individual can maintain more than one bona fide residence . . . , for the purposes of the Election Law, one cannot create an address solely for the purpose of circumventing residency requirements” (see People v. O’Hara, 96 NY2d 378, 384-85 [2001]).
14. Upon information and belief, 135 individuals who are currently incarcerated in the Westchester County Jail, located at 10 Woods Rd., Valhalla, New York 10595, registered to vote in the General Election. In registering to vote with the Westchester County Jail’s address, these individuals became eligible to vote for the public position of Member of the US House of Representatives for the 17th Congressional District of New York. However, of these 135 individuals, approximately 60 individuals had previously registered to vote from other addresses in other New York congressional districts according to public records.

15. Upon information and belief, 104 individuals of the 135 who registered at the Westchester County Jail returned mail-in ballots (absentee and/or early mail ballots) for the General Election. Accordingly, it is likely that Voters-Respondents who are not eligible to vote for the public position of Member of the US House of Representatives for the 17th Congressional District of New York nevertheless cast ballots for that position. Likewise, it is likely that voters who are not eligible to vote for other public positions specific to Valhalla, New York, nevertheless cast ballots for those positions, as well.
16. Petitioners do not seek to abridge the right of any duly registered voter incarcerated in the Westchester County Jail to vote for the public positions of President of the United States, US Senator for the State of New York, Westchester County District Attorney, or any other public office or ballot proposition for which they are otherwise eligible to vote.
17. This Verified Petition, made in order to preserve the rights of both the Candidate-Petitioner and Voter-Petitioner under the Election Law of the State of New York, is filed pursuant to Ar. 5, Ar. 16, Sections 16-100, 16-106 and/or 16-108 of the Election Law and seeks to contest the canvass of returns and/or altering the timing of processing/canvassing of ballots cast by/belonging to voters registered at the Westchester County Jail in order to allow for the comprehensive review of such ballots under the jurisdiction of this Court.
18. More specifically, this Verified Petition respectfully requests that the Court (1) temporarily set aside such ballots (see EXHIBIT A) so that the Court may have the opportunity to review such ballots (and review/determine the eligibility of the

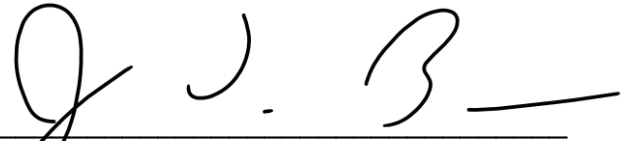
registrations of those who cast such ballots) and make any adjustments in the canvass as may be necessary under Section 16-108 of the Election Law; and (2) bar, prevent, and/or correct any error and/or procedural defect which might be asserted to defeat this Court's determinations.

19. Upon information and belief, the results of the election for public position of Member of the US House of Representatives for the 17th Congressional District of New York will be exceedingly close, with only a small number of votes separating the candidates, and the canvass of or counting of such ballots (see EXHIBIT A) may determine the outcome of this specific election.
20. Upon information and belief, the ballots belonging to these individuals have not yet been canvassed.
21. Petitioners reserve 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 election of the public position of Member of the US House of Representatives for the 17th Congressional District of New York and for other public positions specific to Valhalla, New York.
22. Petitioners believe that, after a complete review of the ballots belonging to voters registered at Westchester County Jail, some of the estimated 135 ballots will be ineligible for canvassing in the election of the public position of Member of the US House of Representatives for the 17th Congressional District of New York and for other public positions specific to Valhalla, New York.

23. Furthermore, after a complete review of the registrations of the Voters-Respondents, the Court will determine that the Voters-Respondents were not eligible to register to vote and to vote from the Westchester County Jail, 10 Woods Rd., Valhalla, New York 10595
24. The circumstances described herein present this Court with an emergency situation requiring immediate action, as the ballots at issue (see EXHIBIT A) are scheduled to be opened at 11 AM EST on November 5, 2024. Furthermore, the very nature of an election proceeding, particularly with regard to election integrity, presents an exemption to any rule which might bar the Court's immediate action in other circumstances (see Banko v. Webber, 7 N.Y.2d 758 [1959]).
25. Petitioners have no adequate remedy at law.
26. To the best of counsel's knowledge, no Court has been requested to, or has taken jurisdiction over, the canvass, recanvass of votes, or recount in the subject Congressional race.
27. No previous application has been made by the Petitioners for the relief sought herein or for the Order to Show Cause hereto annexed, or for any similar relief.
28. Counsel hereby certifies these pleadings as non-frivolous pursuant to the Rules of the New York State Courts.

WHEREFORE, Petitioners respectfully pray 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: Buffalo, New York
November 4, 2024



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