MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

July 24, 2014

Mr. Scott W. Kroll, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Kroll:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	*Staufenberger, Chad W. and Trusiak, Judy F. v. Dennis Ward And Ralph Mohr, Erie County Board of Elections, et al.*
Document Received:	Order to Show Cause
Name of Claimants:	Chad W. Staufenberger and Judy F. Trusiak
Claimants' attorney:	Emilio Colaiacovo, Esq. Bouvier Partnership, LLP 350 Main Street, Suite 1400 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

At an Special Term of the Supreme Court held in and for the County of Erie, State of New York on the 23 day of July, 2014.

HON. TRACEY A. BANNISTER, J.S.C. -for-
PRESENT: HON: DIANE Y. DEVLIN

STATE OF NEW YORK
SUPREME COURT : ERIE COUNTY

CHAD W. STAUFENBERGER and
JUDY F. TRUSIAK,

Petitioners

ORDER TO SHOW CAUSE

Index No: I-2014-000119

vs

PAID
07/23/2014/ 14:35:45
ERIE COUNTY CLERK
RCPT # 14112979
I 2014000119

DENNIS WARD and RALPH MOHR,
As Commissioners of and Constituting the
ERIE COUNTY BOARD OF ELECTIONS; and

ERIE COUNTY BOARD OF ELECTIONS; and

JESSICA A. BALBUZOSKI, Candidate; and

MINDY M. MUENCH, Candidate,

Respondents.

FILED
ACTIONS & PROCEEDINGS
JUL 23 2014
ERIE COUNTY
CLERK'S OFFICE

For an Order, pursuant to the Election Law, declaring invalid and striking out the petitions purporting to designate JESSICA A. BALBUZOSKI as a candidate for the public office of Delegate to the Independence Party 8th Judicial District Convention for State Supreme Court, 143rd Assembly District, State of New York, and MINDY M. MUENCH, as a candidate for the public office of Alternate Delegate to the Independence Party 8th Judicial District Convention for State Supreme Court, 143rd Assembly District, State of New York, and an Order restraining

This paper received at the
Erie County Board of Election's Office
From Melissa Thor
On the 23 day of JULY 2014
At 3:53 am/pm

Signature of BOE Employee

the Erie County Board of Elections from placing the names of JESSICA A. BALBUZOSKI and MINDY M. MUENCH upon voting machines to be used at the election to be held on September 9, 2014.

Upon the annexed verified Petition of CHAD W. STAUFENBERGER and JUDY F. TRUSIAK verified on the 21 date of July, 2014, it is ORDERED that:

(1) The Respondents above named show cause before one of the Justices of this Court at a Special Term thereof to be held at — 50 DELAWARE AVE. PART 32, Buffalo, New York, on the 7th day of AUGUST, 2014, at 930A o'clock in the forenoon of that date, or soon thereafter as counsel may be heard, why an Order should not be made invalidating and declaring null and void the Designating Petitions filed on behalf of JESSICA A. BALBUZOSKI, purporting to designate her as a candidate for the public office of Delegate to the Independence Party 8th Judicial District Convention for State Supreme Court 143rd Assembly District, State of New York, and MINDY M. MUENCH, purporting to designate her as a candidate for the public office of Delegate to the Independence Party 8th Judicial District Convention for the State Supreme Court 143rd Assembly District, State of New York, and an Order restraining the Erie County Board of Elections from placing the names of JESSICA A. BALBUZOSKI and MINDY M. MUENCH upon voting machines to be used at the election to be held on

September 9, 2014, and for such other and further relief as the Court deems just and proper; and

(2) The Board of Election of the County of Erie, New York, shall produce on a return date of this Order to Show Cause and on the argument thereof, the official permanent personal registration poll record of the aforementioned Respondents; the alleged Designating Petitions of aforementioned Respondent-candidates; all objections and specifications thereto; certificates of declination; substitutions; and all reports and papers pertaining thereto for the examination of the Court; and

(3) Let Service of this Order and the papers upon which it was granted to be deemed due, timely and sufficient if made as follows:

(a) Upon the Board of Elections of the County of Erie, New York, on or before the 24 day of July, 2014, by delivering to and leaving a true copy of this Order and the annexed papers with one of the Commissioners, Chief Clerk, Deputy Commissioner or appropriate individual, or such other person as may be designated by the Board of to receive service, or, alternatively, at the option of the petitioners, same may be served by enclosing said papers in a post paid wrapper addressed to Respondent Board of Elections and deposited with a depository of the United States Postal Service via EXPRESS MAIL, or by such substituted service as authorized by CLPR §308 without prior attempt; and further

(b) Upon the Respondents, JESSICA A. BALBUZOSKI and MINDY M. MUENCH on or before the 24 day of July, 2014, by delivering to and leaving with them personally a copy of this Order and of the annexed papers or, alternatively, at the option of the petitioners, same may be served by enclosing said papers in a post paid wrapper addressed to aforesaid Respondents and deposited with a depository of the United States Postal Service via EXPRESS MAIL, or by such substituted service as authorized by CLPR §308 without prior attempt.

DATED: July 23, 2014
BUFFALO, NEW YORK

Tracey A. Bannister

Hon. HON. TRACEY A. BANNISTER, J.S.C.
for Hon Diane Y. Devlin

ENTER:

STATE OF NEW YORK
SUPREME COURT : ERIE COUNTY

CHAD W. STAUFENBERGER and
JUDY F. TRUSIAK,

Petitioners

VERIFIED PETITION

Index No: _____

vs

DENNIS WARD and RALPH MOHR,
As Commissioners of and Constituting the
ERIE COUNTY BOARD OF ELECTIONS; and

ERIE COUNTY BOARD OF ELECTIONS; and

JESSICA A. BALBUZOSKI, Candidate; and

MINDY M. MUENCH, Candidate,

Respondents.

For an Order, pursuant to the Election Law, declaring invalid and striking out the petitions purporting to designate JESSICA A. BALBUZOSKI as a candidate for the public office of Delegate to the Independence Party 8th Judicial District Convention for State Supreme Court, 143rd Assembly District, State of New York, and MINDY M. MUENCH, as a candidate for the public office of Alternate Delegate to the Independence Party 8th Judicial District Convention for State Supreme Court, 143rd Assembly District, State of New York, and an Order restraining the Erie County Board of Elections from placing the names of JESSICA A. BALBUZOSKI and MINDY M. MUENCH upon voting machines to be used at the election to be held on September 9, 2014.

The Petition of CHAD W. STAUFENBERGER and JUDY F. TRUSIAK, respectfully shows:

1. At all times hereinafter mentioned, the Petitioners are residents of the County of Erie and are candidates for the public office of Delegate to the Independence Party 8th Judicial District Convention for State Supreme Court, 143rd Assembly District, State of New York, and Alternate Delegate to the Independence Party 8th Judicial District Convention for State Supreme Court, 143rd Assembly District, State of New York, respectively.
2. At all times hereinafter mentioned, the Respondent, JESSICA A. BALBUZOSKI, is seeking the nomination of the Independence Party to be a Delegate to the 8th Judicial District Convention for State Supreme Court, 143rd Assembly District, State of New York, at an election to be held on September 9, 2014.
3. At all times hereinafter mentioned, the Respondent, MINDY M. MUENCH, is seeking the nomination of the Independence Party to be a Alternate Delegate to the 8th Judicial District Convention for State Supreme Court, 143rd Assembly District, State of New York, at an election to be held on September 9, 2014.

4. At all times hereinafter mentioned, RALPH MOHR and DENNIS WARD are the Commissioners of the Respondent, ERIE COUNTY BOARD OF ELECTIONS and, as such, were and are charged with the duty of receiving and filing petitions for the designation of candidates for elections in all districts and political unites situated in the County of Erie, State of New York.

5. Petitioner, CHAD W. STAUFENBERGER, is an enrolled and duly registered voter of the Independence Party and resides at 17 Colby Street, Buffalo, New York 14206.

6. Petitioner, JUDY F. TRUSIAK, is an enrolled and duly registered voter of the Independence Party and resides at 24 Liberty Street, Lancaster, New York 14086.

7. Upon information and belief, the Respondent, JESSICA A. BALBUZOSKI, is an enrolled and duly registered voter of the Independence Party. According to the nominating petitions filed on her behalf, she resides at 38 Ridgeway Street, Depew, New York 14043 in the Town of Lancaster, County of Erie, State of New York.

8. Upon information and belief, the Respondent, MINDY M. MUENCH, is an enrolled and duly registered voter of the Independence Party. According to the nominating petitions filed on her behalf, she resides at 64 St. James Street, Unit 3, Depew, New York 14043 in the Town of Lancaster, County of Erie, State of New York.

9. Petitioners, CHAD W. STAUFENBERGER, and JUDY F. TRUSIAK, are candidates for the offices sought by the respondents. Thus, as aggrieved candidates, they have standing to commence this action.

10. On or about July 10, 2014, the Respondents JESSICA A. BALBUZOSKI and MINDY M. MUENCH, filed designating petitions for the aforementioned office with the Erie County Board of Elections. Copies of the cover sheet of said designating petitions is annexed hereto and made a part hereof as "EXHIBIT A".

11. Upon information and belief, the aforementioned designating Petitions of the Respondents, JESSICA A. BALBUZOSKI and MINDY M. MUENCH, do not conform to the provisions of the Election Law of the State of New York, nor to other applicable rules or laws promulgated thereunder and the aforementioned petitions are otherwise invalid.

12. The designating petitions filed on behalf do not correctly reflect the residence of the respondents. The address listed for each respondent is incorrect and does not correspond with the address to which the Respondent is registered to vote pursuant to records maintained by the Erie County Board of Elections.

13. Pursuant to Election Law §6-132 there must exist strict compliance in what is listed on the petition that reflects the identity of the purported candidate.

14. Trial courts, in proceedings commenced pursuant to Election Law §16-102, have routinely invalidated petitions when said instrument lists an incorrect address of where the purported candidate resides. Fernandez v. Monegro, 10 A.D.3d 429, 780 N.Y.S.2d 741 (2nd Dept. 2004); Brigandi v. Barasch, 144 A.D.2d 177, 535 N.Y.S.2d 117 (3d Dept. 1988).

15. Certainly, the listing of an incorrect address clearly intends to mislead or confuse those who signed the petitions purporting to designate the aforementioned Respondent candidates for the offices listed therein. Because the petitions here reflect a different address than what is otherwise the candidate's actual residence, said instruments were fatally flawed at the time of filing and must be invalidated and held to be null and void. Maloney v. Ulster County Board of Elections, 21 A.D.3d 692, 800 N.Y.S2d 249 (3d Dept, 2005).

16. As a result, the Petitions of the aforementioned candidates should be rejected, and the Petitions themselves be declared null, void, and otherwise invalidated. Further, the Respondent, Erie County Board of Elections, should be restrained and enjoined from printing and placing the names of the aforementioned candidates on the September 9, 2014 election ballot in the Democratic Primary for the office of Delegate and Alternate Delegate to the Independence Party 8th Judicial District Convention for State Supreme Court, 143rd Assembly District, State of New York.

17. Petitioner requests leave, and reserves the right, to submit upon the argument and hearing of this application, additional evidence by way of affidavits, oral testimony, and documentary evidence to substantiate the objections and fraud heretofore and herein set forth.

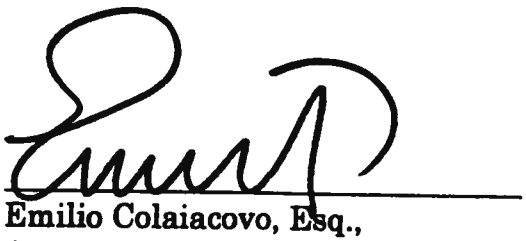
18. Petitioner requests that the Respondent, Erie County Board of Elections, produce upon the argument and hearing in this application all the books, records, registration cards, objections, papers provided for by the within Order to Show Cause.

19. Petitioner has no adequate remedy other than that applied for herein.

20. No prior application has been made for the relief herein sought.

WHEREFORE, Petitioner respectfully request that this Court grant the relief sought forth in the annexed Order to Show Cause, together with such other and further relief as the Court deems just and proper.

DATED: July 23, 2014
Buffalo, New York



Emilio Colaiacovo, Esq.,
Attorney for the Petitioners
BOUVIER PARTNERSHIP LLP
350 Main Street
Suite 1400
Buffalo, New York 14202

VERIFICATION

STATE OF NEW YORK }
} s.s.
COUNTY OF ERIE }

CHAD W. STAUFENBERGER, being duly sworn, deposes and says that the deponent is the Petitioner in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponents own knowledge, except as to matters stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

CHAD W. STAUFENBERGER

Sworn to before me this 21st
day of July, 2014.

Notary Public

ROBERT J MATTHEWS
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MA6220386
Qualified in Erie County
My Commission Expires April 12, 2018

COVER SHEET
Designating Petition
Independence Party

NAME(S) OF CANDIDATES	PUBLIC OFFICE OR PARTY POSITION	PLACE OF RESIDENCE (ALSO POST OFFICE ADDRESS, IF NOT IDENTICAL)
JESSICA A BALBUZOSKI	Delegate to the 8th Judicial District Convention for State Supreme Court 143RD Assembly District State of New York	38 RIDGEWAY ST DEPEW NY 14043 (TOWN OF LANCASTER)
MINDY M MUENCH	Alternate Delegate to the 8th Judicial District Convention for State Supreme Court 143RD Assembly District State of New York	64 ST JAMES ST UNIT 3 DEPEW NY 14043 (TOWN OF LANCASTER)

Volume Number 1