



*SUPREME COURT OF THE STATE OF NEW YORK*  
*APPELLATE DIVISION: FOURTH JUDICIAL DEPARTMENT*

DECISIONS FILED  
OCTOBER 18, 2021

HON. GERALD J. WHALEN, PRESIDING JUSTICE

HON. NANCY E. SMITH

HON. JOHN V. CENTRA

HON. ERIN M. PERADOTTO

HON. EDWARD D. CARNI

HON. STEPHEN K. LINDLEY

HON. PATRICK H. NEMOYER

HON. JOHN M. CURRAN

HON. SHIRLEY TROUTMAN

HON. JOANNE M. WINSLOW

HON. TRACEY A. BANNISTER

HON. BRIAN F. DEJOSEPH, ASSOCIATE JUSTICES

ANN DILLON FLYNN, CLERK

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: FOURTH JUDICIAL DEPARTMENT

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_____	899.1	CAE 21 01300	WILLIAM L. ROSS V STATE OF NEW YORK
_____	937	CA 20 01275	DAVID K. MOYER V MYRON W. MOYER, III

**SUPREME COURT OF THE STATE OF NEW YORK**  
*Appellate Division, Fourth Judicial Department*

**899.1**

**CAE 21-01300**

PRESENT: WHALEN, P.J., CENTRA, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

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WILLIAM L. ROSS, JOSHUA WALKER, NIAGARA COUNTY  
COMMITTEE OF THE CONSERVATIVE PARTY, CONSERVATIVE  
PARTY OF NEW YORK AND GERARD KASSAR,  
PLAINTIFFS-APPELLANTS,

V

ORDER

STATE OF NEW YORK, BOARD OF ELECTIONS OF STATE OF  
NEW YORK, GOVERNOR OF STATE OF NEW YORK, SENATE OF  
STATE OF NEW YORK, MAJORITY LEADER AND PRESIDENT  
PRO TEMPORE OF SENATE OF STATE OF NEW YORK,  
ASSEMBLY OF STATE OF NEW YORK, MAJORITY LEADER OF  
ASSEMBLY OF STATE OF NEW YORK, SPEAKER OF ASSEMBLY  
OF STATE OF NEW YORK, NIAGARA COUNTY BOARD OF  
ELECTIONS, DEFENDANTS-RESPONDENTS,  
MINORITY LEADER OF SENATE OF STATE OF NEW YORK, AND  
MINORITY LEADER OF ASSEMBLY OF STATE OF NEW YORK,  
DEFENDANTS-APPELLANTS.

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JENNIFER SANDONATO, REPUBLICAN COMMISSIONER OF NIAGARA  
COUNTY BOARD OF ELECTIONS, APPELLANT.

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WOODS OVIATT GILMAN LLP, BUFFALO (WILLIAM F. SAVINO OF COUNSEL), FOR  
PLAINTIFFS-APPELLANTS.

MESSINA, PERILLO AND HILL, LLP, SAYVILLE (JOHN CIAMPOLI OF COUNSEL),  
FOR DEFENDANTS-APPELLANTS.

FUSCO LAW OFFICE, ALBANY (ADAM M. FUSCO OF COUNSEL), FOR APPELLANT.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (BRIAN D. GINSBERG OF  
COUNSEL), FOR DEFENDANTS-RESPONDENTS STATE OF NEW YORK, GOVERNOR OF  
STATE OF NEW YORK, SENATE OF STATE OF NEW YORK, MAJORITY LEADER AND  
PRESIDENT PRO TEMPORE OF SENATE OF STATE OF NEW YORK, ASSEMBLY OF  
STATE OF NEW YORK, MAJORITY LEADER OF ASSEMBLY OF STATE OF NEW YORK,  
AND SPEAKER OF ASSEMBLY OF STATE OF NEW YORK.

JOHN J. DELMONTE, NIAGARA FALLS, FOR DEFENDANT-RESPONDENT NIAGARA  
COUNTY BOARD OF ELECTIONS.

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Appeals from an amended judgment (denominated amended order) of  
the Supreme Court, Niagara County (Frank A. Sedita, III, J.), entered  
September 10, 2021. The amended judgment, inter alia, denied the  
motion of plaintiffs for summary judgment.

It is hereby ORDERED that said appeal by Jennifer Sandonato, Republican Commissioner of Niagara County Board of Elections is unanimously dismissed (see *Matter of Cox v Spoth*, 165 AD3d 1648, 1649 [4th Dept 2018]) and the amended judgment is affirmed without costs for reasons stated at Supreme Court.

Entered: October 18, 2021

Ann Dillon Flynn  
Clerk of the Court

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**937**

**CA 20-01275**

PRESENT: CENTRA, J.P., LINDLEY, CURRAN, TROUTMAN, AND DEJOSEPH, JJ.

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DAVID K. MOYER AND MARGARET MAHAR,  
PLAINTIFFS-RESPONDENTS,

V

ORDER

MYRON W. MOYER, III, DEFENDANT-APPELLANT.

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BOND, SCHOENECK & KING, PLLC, BUFFALO (JAY A. ORGANЕК OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

HARDY MARBLE, LLP, LOCKPORT (BRADLEY D. MARBLE OF COUNSEL), FOR  
PLAINTIFFS-RESPONDENTS.

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Appeal from a decision of the Supreme Court, Niagara County  
(Ralph A. Boniello, III, J.), entered September 21, 2020. The  
decision denied defendant's motion to dismiss the complaint.

It is hereby ORDERED that said appeal is unanimously dismissed  
without costs (see *Kuhn v Kuhn*, 129 AD2d 967, 967 [4th Dept 1987]).

Entered: October 18, 2021

Ann Dillon Flynn  
Clerk of the Court