Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____ Argued - August 21, 2007

ROBERT W. SCHMIDT, J.P.
FRED T. SANTUCCI
STEVEN W. FISHER
JOSEPH COVELLO, JJ.

2007-07698 DECISION & ORDER

In the Matter of Dennis H. Miller, et al.,
appellants, v David Neil Lapine, et al.,
respondents-respondents, et al., respondents.

(Index No. 5224/07)

In a proceeding pursuant to Election Law § 16-102, inter alia, to invalidate petitions designating David Neil Lapine, Linda Lebensold, David E. Eberle, Patricia Susan Fleming, Rich Perkins, David Sears, Richard Wolf, Jonah Triebwasser, Marirose Blumbump, Susan M. Simon, and Maureen McCarthy as candidates in a primary election to be held on September 18, 2007, for the nomination of the Working Families Party as its candidates for the public offices of Highway Superintendent of the Town of East Fishkill, Justice of the Town of Fishkill, Supervisor of the Town of Fishkill, Council Member of the Town of Fishkill, Council Member of the Town of Hyde Park—Ward 4, Justice of the Town of Poughkeepsie, Justice of the Town of Red Hook, Supervisor of the Town of Red Hook, Council Member of the Town of Red Hook, and Council Member of the Town of Wappinger—Ward 3, respectively, the petitioners appeal from a final order of the Supreme Court, Dutchess County (Brands, J.), dated August 16, 2007, which granted the motion of David Neil Lapine, Linda Lebensold, David E. Eberle, Patricia Susan Fleming, Rich Perkins, David Sears, Richard Wolf, Jonah Triebwasser, Marirose Blumbump, Susan M. Simon, and Maureen McCarthy to dismiss the proceeding for failure to join a necessary party and dismissed the proceeding.

ORDERED that the final order is affirmed, without costs or disbursements.

In seeking to invalidate the designating petitions based on the alleged failure of the Executive Committee of the State Committee of the Working Families Party (hereinafter the Executive Committee) to comply with Election Law § 6-108, the petitioners challenge the actions and authority of the Executive Committee. Accordingly, the Executive Committee is a necessary party to the proceeding, and the petitioners' failure to join it was jurisdictionally fatal (*see* CPLR 1001[a]; *Matter of Flores v Kapsis,* 10 AD3d 432, 433; *Matter of Barbuto v Sarcone,* 275 AD2d 424, 425; *Matter of Jenkins v Board of Elections of City of N.Y.,* 270 AD2d 436, 437; *Matter of Regan v New York State Bd. of Elections,* 207 AD2d 647; *Matter of Oberle v Caracappa,* 133 AD2d 241; *Matter of Curcio v Wolf,* 133 AD2d 188, 189). Accordingly, the Supreme Court correctly granted the motion to dismiss the proceeding.

In light of our determination, we need not address the parties' remaining contentions.

SCHMIDT, J.P., SANTUCCI, FISHER and COVELLO, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court