

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

D24385  
Y/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - September 1, 2009

WILLIAM F. MASTRO, J.P.  
JOHN M. LEVENTHAL  
CHERYL E. CHAMBERS  
SHERI S. ROMAN, JJ.

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2009-07865

DECISION & ORDER

In the Matter of Isaac Sasson, petitioner-respondent,  
et al., petitioner, v Board of Elections in City of  
New York, respondent-respondent, Constantine E.  
Kavadas, appellant.

(Index No. 20318/09)

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In a proceeding pursuant to Election Law § 16-102, inter alia, to invalidate a petition designating Constantine E. Kavadas as a candidate in a primary election to be held on September 15, 2009, for the nomination of the Democratic Party as its candidate for the public office of Member of the New York City Council, 20th Council District, Constantine E. Kavadas appeals from a final order of the Supreme Court, Queens County (Satterfield, J.), which, after a hearing, denied his motion to dismiss the proceeding and granted the petition to invalidate the designating petition.

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

The appellant's specific contention regarding service of the order to show cause and petition was not raised before the Supreme Court and is raised for the first time on appeal. The appellant appeared in court and litigated the matter on the merits, thus waiving any challenge to service (*see Matter of Gregory v Board of Elections of City of N.Y.*, 93 AD2d 894, *aff'd* 59 NY2d 668; *Matter of Banks v Larkin*, 39 AD2d 951).

MASTRO, J.P., LEVENTHAL, CHAMBERS and ROMAN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

September 2, 2009

MATTER OF SASSON v BOARD OF ELECTIONS IN CITY OF NEW YORK