

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

D32223
Y/prt

_____AD3d_____

Argued - August 16, 2011

MARK C. DILLON, J.P.
ANITA R. FLORIO
PLUMMER E. LOTT
JEFFREY A. COHEN, JJ.

2011-07242

DECISION & ORDER

In the Matter of Mona R. Goodman, et al., petitioners-respondents, v Nassau County Board of Elections, respondent, Francine Adelson, et al., appellants.

(Index No. 10948/11)

In a proceeding pursuant to Election Law § 16-102, inter alia, to invalidate a petition designating Francine Adelson, Leoncio Torres, and Scott J. Mandel as candidates in a primary election to be held on September 13, 2011, for the nomination of the Independence Party as three of its candidates for the public offices of Members of the Long Beach City Council, Francine Adelson, Leoncio Torres, and Scott J. Mandel appeal from a final order of the Supreme Court, Nassau County (Murphy, J.), entered August 11, 2011, which, after a hearing, granted the petition to invalidate the designating petition.

ORDERED that the final order is reversed, on the law, without costs or disbursements, the petition to invalidate is denied, and the proceeding is dismissed.

Petitioners raising a challenge under Election Law § 16-102 must complete service on all necessary parties (*see Matter of McDonough v Scannapieco*, 65 AD3d 647, 648). Failure to serve a party mentioned in an order to show cause requires dismissal, even as to those parties who were properly served, if the party not served is a necessary party to the proceeding (*see Matter of Wohl v Miller*, 63 NY2d 687, 688).

Here, as the candidates whose names appeared on the challenged designating petition, the appellants were necessary parties (*see Swirsky v Smallwood*, 148 AD2d 523), and the petitioners'

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failure to properly serve the appellants warranted dismissal of the proceeding as jurisdictionally defective (*see Matter of DiRoberto v Napoli*, 247 AD2d 646).

DILLON, J.P., FLORIO, LOTT and COHEN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court