

**Matter of Fisher v Board of Elections in the City of  
N.Y.**

2025 NY Slip Op 32062(U)

April 28, 2025

Supreme Court, New York County

Docket Number: Index No. 155021/2025

Judge: Jeffrey H. Pearlman

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT:** HON. JEFFREY H. PEARLMAN

**PART**

*Justice*

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**INDEX NO.** 155021/2025

In the Matter of the Application of  
CORINNE E. FISHER

**MOTION DATE** \_\_\_\_\_

Petitioner,

**MOTION SEQ. NO.** 001

- v -

THE BOARD OF ELECTIONS IN THE CITY OF NEW  
YORK,

**DECISION + ORDER ON  
MOTION**

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 3, 4, 5, 6, 13, 16, 17, 19

were read on this motion to/for ELECTION LAW - VALIDATE PETITION.

Petitioner commenced the instant proceeding pursuant to Election Law article 16 by e-filing the instant petition at 8:06 p.m. on April 17, 2025 to validate the designating petitions filed by the aggrieved-candidate-petitioner Corrine E. Fisher (Petitioner) as a candidate for the Office of Mayor of the City of New York, in the Democratic Party Primary Election to be held on June 24, 2025. Although the Petitioner did not seek to amend the petition as part of the underlying Order to Show Cause that had been signed on April 18, 2025, on April 23, 2025, the Petitioner attempted to provide as a purported Exhibit “A” to the underlying application, an Amended Verified Petition and Amended Verification (see NYSCEF Doc. No. 17).

Respondent Board of Elections (Respondent) opposes the petition and argues that the petition is jurisdictionally defective in as much as it is not properly verified pursuant to Election Law § 16-116.

Pursuant to New York Election Law § 16-116 a special proceeding under this article shall be “heard upon a verified petition” (*see Goodman v Hayduk*, 45 NY2d 804 [1978]). “The purpose of verification requirements in New York Election Law § 16-116 and CPLR § 3020 is to assure

that specified pleadings, such as petitions in election proceedings, are based on personal knowledge to which the witness attests under oath” (*Paetz v Bd. of Elections in the City of New York*, 2023 NY Slip Op 31438[U][Sup Ct, New York County 2023], *affd*213 AD3d 503 [1st Dept 2023]). As a general matter, whoever verifies the petition is required to do so under oath, and the absence of which shall be treated as a substantial defect rather than a mere irregularity (*id.*).

The purpose of verification requirements in New York Election Law § 16-116 and C.P.L.R. § 3020 is to assure that specified pleadings, such as petitions in election proceedings, are based on personal knowledge. The absence of an attestation upon personal knowledge is a substantial defect that strikes at the heart of the verification requirement (*Goodman v. Hayduk*, 45 N.Y.2d 804, 806 [1978]).

In this proceeding, the verification of the petition attests:

I, Corinne E. Fisher, being duly sworn, deposes and says: I am the Petitioner in this Proceeding, that I have read the foregoing Petition and know the contents thereof; that the same is true to my own personal knowledge except as to matters contained therein stated to be alleged upon information and belief, and that as to those matters I believe them to be true.

CPLR 2106 provides in pertinent part that:

The statement of any person wherever made, subscribed and affirmed by that person to be true under the penalties of perjury, may be used in an action in New York in lieu of and with the same force and effect as an affidavit. Such affirmation shall be in substantially the following form:

I affirm this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

Here, the Petitioner submitted a “Verification” with the petition that does not properly satisfy the requirements of New York Election Law § 16-116, C.P.L.R. § 3020 or CPLR 2106. Subsequent to January 1, 2024, courts have found that a statement simply affirming the contents

of the petition based upon personal knowledge except as to matters contained therein stated to be alleged upon information and belief, fails to acknowledge the laws of New York and the possibility of fines or imprisonment and as a result is not in admissible form and cannot be relied upon (see R.F. v L.K., 82 Misc3d 1221[A][Sup Ct, Westchester County 2024]; Deigo Beekman Mutual Housing Association Housing Development Fund Corp. v Hammond, 81 Misc3d 1244[A][Civ Ct, Bronx County 2024]).

As the oath is not something the court is permitted to infer and the purpose of the requirement “impresses on the witness the gravity of his factual account,” an affirmation lacking the language that CPLR 2106 now requires, fails to demonstrate an appreciation for that gravity and is ultimately not a verification at all (Paez, 2023 NY Slip Op 3143 8[U]). A matter brought pursuant to Article 16 must be commenced with a verified petition and that as a result a defectively verified petition must be dismissed (see Goodman, 45 NY2d 804; Paez, 2023 NY Slip Op 31438[U]; Tuck v Bd. of Elections in the City of NY, 2023 NY Slip Op 31437[U][Sup Ct, New York County 2023], affd216 AD3d 484 [1st Dept 2023]). The Court also notes that the application to amend the petition was not properly before the Court and the time to amend the petition has long since lapsed.

Accordingly, the petition is deemed to be an unverified petition and as a result it is ORDERED and ADJUDGED that this special proceeding is denied and dismissed.

This constitutes the decision and judgment of the Court.

April 28, 2025  
DATE

  
**HON. JEFFREY H. PEARLMAN**  
JEFFREY H. REARLMAN, J.S.C. J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
		<input type="checkbox"/>	FIDUCIARY APPOINTMENT
		<input type="checkbox"/>	REFERENCE
		<input type="checkbox"/>	OTHER

APPLICATION:

CHECK IF APPROPRIATE: