

Matter of Wieder v McGee
2026 NY Slip Op 31717(U)
April 27, 2026
Supreme Court, Rockland County
Docket Number: Index No. 032813/2026
Judge: Larry J. Schwartz
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To commence the 30-day statutory time period for appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

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In the Matter of the Application of

ARON B. WIEDER,

Petitioner-Aggrieved Candidate,

ILAN FUCHS,

Petitioner-Objector,

-against-

LAWRENCE G. MCGEE,

Respondent-Candidate,

-and-

SLOMA TEITELBAUM,

Respondent-Substitute Candidate,

-and-

ALLISON WEINRAUB and PATRICIA GIBLIN,
Commissioners constituting the ROCKLAND
COUNTY BOARD OF ELECTIONS,

Respondents,

For an Order Pursuant to Sections 16-100, 16-102, and 16-116 of the Election Law, Declaring Invalid the respective Designating Petition Purporting to Designate the Respondent-Candidate as Candidate of the Working Families Party for election to the Public Office of Member of New York State Assembly, 97th District, in the

Working Families Party Primary Election to be held on the 23rd day of June 2026, and to Restrain the said Board of Elections from Printing and Placing the Name of Said Respondent-Candidate Upon the Official Ballots of Such Primary Election.

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SCHWARTZ, J.

By Order to Show Cause filed with the Court on April 17, 2026, Petitioner-Aggravated Candidate ARON B. WIEDER (“Wieder”) and Petitioner-Objector ILAN FUCHS (“Fuchs”) (together, Weider and Fuchs are hereinafter referred to as “Petitioners”) filed a Petition pursuant to NEW YORK STATE ELECTION LAW (“Election Law”) §§ 16-100, 16-102 and 16-116 as against Respondent-Candidate LAWRENCE G. MCGEE (“McGee”), Respondent-Substitute Candidate SLOMA TEITELBAUM (“Teitelbaum”) (together, McGee and Teitelbaum are hereinafter collectively referred to as “Respondent-Candidates”), and ALLISON WEINRAUB and PATRICIA GIBLIN, Commissioners constituting the ROCKLAND COUNTY BOARD OF ELECTIONS (“RCBOE”), seeking an Order to declare invalid the respective Designating Petition purporting to designate the Respondent-Candidate as Candidate of the Working Families Party for election to the Public Office of Member of New York State Assembly, 97th District, in the Working Families Party Primary Election to be held on the 23rd day of June 2026, and to restrain the said Board of Elections from printing and placing the name of said Respondent-Candidate upon the official ballots of such primary election. NYSCEF Docs. 1, 9.

The Order to Show Cause was made returnable before the undersigned on April 22, 2026 at 9:30 A.M. NYSCEF Doc. 11.

On April 21, 2026, Respondent-Candidates, by counsel, filed a Verified Answer with Affirmative Defenses and Objections in Points of Law. NYSCEF Doc. 19. In their Verified Answer, the Respondent-Candidates raised a jurisdictional affirmative defense and objection in point of law, asserting that the Petitioners failed to name the Committee to Fill Vacancies as a respondent, though their nominee, Teitelbaum, will be affected by a judgment of this Court. NYSCEF Doc. 19. In failing to name the Committee to Fill Vacancies, Respondent-Candidates argue that the Petition is jurisdictionally defective and must be dismissed. Counsel for the RCBOE filed a Notice of Appearance on April 21, 2026. NYSCEF Doc. 17. No other responsive papers were filed with the Court in advance of the return date.

The parties appeared before the Court on April 22, 2026. Before addressing the merits of the Petition, the Court permitted counsel to be heard on the record regarding any legal issues. Counsel for Respondent-Candidates addressed the jurisdictional issue raised in their Answer as well as a standing issue related to the purported untimely filing by Fuchs of specific objections to the RCBOE¹. Counsel for Petitioner was allowed the opportunity to respond to the arguments raised on the record by counsel for Respondent-Candidates. Counsel for RCBOE did not raise any legal arguments or respond to those advanced by Petitioners or Respondent-Candidates. The Court adjourned the matter for an evidentiary hearing on April 23, 2026 at 11:30 A.M.

The material facts are not in dispute. As alleged in the Petition, on or about April 8, 2026, the RCBOE received a designating petition purporting to designate McGee as the Working Families Party candidate for the June 23, 2026 primary election. NYSCEF Doc. 1. On or about April 9, 2026, McGee filed a certificate declining the designation. *Id.* On April 10, 2026, Fuchs filed written objections to the foregoing purported designating petition with the RCBOE, with specifications of the grounds of objections being timely filed with the RCBOE on April 15, 2026. *Id.* On or about April 14, 2026, Teitelbaum filed a Certificate of Substitution by Committee to Fill Vacancies after Declination, Death or Disqualification with the RCBOE purporting to nominate Teitelbaum as substitute candidate. *Id.* On April 17, 2026, Fuchs filed written objections to the foregoing purported Certificate of Substitution by Committee with the RCBOE. *Id.* As of April 21, 2026, the RCBOE had not yet made a determination with regard to the aforesaid objections and specifications of objections. The Designating Petition was required to contain 22 valid signatures. The Designating Petition contained 30 total signatures.

Before the proceedings commenced on April 22, 2026, the RCBOE invalidated four signatures, leaving 26 purportedly valid signatures.² Petitioners' counsel identified eight additional signatures for which Petitioners sought a ruling by the RCBOE prior to the evidentiary

¹ Respondent-Candidates argued that Fuchs failed to timely file his specific objections with the RCBOE, as his general objections were filed on April 8, 2026, rendering his specific objections due to be filed within six (6) days thereof, on April 14, 2026. Fuchs filed his specific objections with the RCBOE on April 15, 2026, and therefore, Respondent-Candidates argued that not only were the specific objections untimely, but also that Fuchs did not have standing to proceed with the Petition. In response, Petitioners asserted that counsel for Respondent-Candidates was mistaken in the dates upon which his argument rested. Petitioners clarified that the designating petition was filed on April 8, 2026, general objections were filed on April 10, 2026, and the specific objections were thus timely filed on April 15, 2026. NYSCEF Doc. 7. In light of this clarification, counsel for Respondent-Candidates withdrew his arguments about the qualification of the objector, thereby conceding that the objections were timely.

² The four signatures rendered invalid on or before the April 22, 2026 proceedings were: Sheet 1, Line 1; Sheet 1, Line 3; Sheet 1, Line 13; and Sheet 1, Line 19.

hearing on April 23, 2026. Seven were objected to on the basis that they were out-of-district signatures, and one was objected to on the basis that the person was not registered to vote at the time they signed the Petition.³

Petitioners challenge the validity of the Designating Petition and argue that an invalidated Designating Petition would render the Certificate of Substitution a nullity. NYSCEF Doc. 1, ¶ 20. As indicated, *supra*, Respondent-Candidates argue that the Petitioners' failure to join the Committee to Fill Vacancies as a party to this proceeding is a jurisdictional defect requiring dismissal of the proceeding in its entirety. On the record on April 22, 2026, and in response to Respondent-Candidates' jurisdictional argument, Petitioners asserted that the Substitute Candidate was named solely to attain full relief, *to wit*, an order directing the RCBOE to not print the ballot with the Substitute Candidate's name on it, in the event that the Designating Petition is invalidated. Petitioners further asserted that they were not claiming that the Committee to Fill Vacancies did anything wrong, but rather, in the absence of a valid Designating Petition, there was no vacancy to fill.

The Court will analyze the jurisdictional issue first. Respondent-Candidates rely primarily on *Wohl v Bruen*, 238 AD3d 818 [2d Dept 2025]. *Wohl* was a 2025 Election Law proceeding brought in Rockland County Supreme Court. Petitioner Wohl challenged the Certificate to Fill a Vacancy purporting to designate respondent Bruen as a candidate for the office of Town Clerk for the Town of Clarkstown in the Democratic Primary Election to be held in June 2025. Petitioner Wohl argued that the Certificate of Substitution was a nullity, as respondent Bruen had declined to accept the nomination and then subsequently accepted a designation to fill the vacancy created by Bruen's prior declination. Respondent Bruen asserted that the failure to name the Committee to Fill Vacancies is fatal to the petition, warranting its dismissal. Upon extensive review of the case law submitted by the parties concerning the threshold jurisdictional issue, the Court (Zugibe, J.) found that, because "the actual challenge in this proceeding pertains to *the Committee's* act of substituting an individual as a candidate for a position who had previously declined the nomination for the same position," and because "[i]t is the Committee's filing of the Certificate of Substitution that is the complained-of action," the failure to name and serve the Committee necessitates

³ The eight additional signatures identified for ruling by the RCBOE prior to the evidentiary hearing were: Sheet 1, Line 4; Sheet 1, Line 12; Sheet 1, Line 14; Sheet 1, Line 15; Sheet 2, Line 1; Sheet 2, Line 3; Sheet 2, Line 6; and Sheet 2, Line 9.

dismissal of the proceeding in its entirety. (*Wohl v Bruen*, Index No. 032374/2025, NYSCEF Doc. 12). However, the Court acknowledged that the Committee to Fill Vacancies was not a necessary party in all proceedings, specifically where the actions of the Committee to Fill Vacancies were not at issue, and the crux of the case rested upon the validity of the original designating petitions being challenged and not simply the substitution, citing to *Berman v Board of Elections of the County of Nassau*, 68 NY2d 761, 763, 506 NYS 432 [NY 1986], *Matter of Becker v. Shapiro*, 110 AD3d 874, 875, 975 NYS2d 62 [2d Dept 2013], and *Hunter v New York State Bd. of Elections*, 32 AD3d 662, 663, 820 NYS2d 191 [3d Dept 2006]. This Court agrees.

The Appellate Division in *Wohl* affirmed the Supreme Court's dismissal of the proceedings on jurisdictional grounds, stating:

Inasmuch as the petition, inter alia, to invalidate the certificate of substitution *challenges the actions and authority of the Committee to Fill Vacancies* by seeking to invalidate the certificate of substitution based on its alleged failure to comply with Election Law § 6-148(1), the Committee to Fill Vacancies is a necessary party to the proceeding. The authority of the Committee to Fill Vacancies to designate Bruen may be inequitably affected; therefore, the petitioner's failure to join it was jurisdictionally fatal.

Wohl, 238 AD3d at 819 (emphasis added).

Respondent-Candidates argued that the Petitioners sought relief in Paragraph 2 of the Order to Show Cause to invalidate the Certificate of Substitution, declare it a nullity, or otherwise have it be ineffective. In dicta, the Supreme Court decision in *Wohl* noted that the "Petitioner's *Order to Show Cause* specifically indicates that the Petitioner is seeking to declare the Certificate of Substitution invalid" (emphasis added). Here, the Court rejects the Respondent-Candidates' attempted expansion of the *Wohl* decision as standing for the proposition that the Committee to Fill Vacancies is a necessary party in the mere presence of language in the Order to Show Cause seeking to invalidate the Certificate of Substitution. Not only did Petitioners state on the record that they were not challenging the actions of the Committee, but a plain reading of the Petition also establishes that the extent of Petitioners' challenge to the Certificate of Substitution is solely that it is rendered a nullity in the absence of a valid designating petition because a vacancy would not be created. NYSCEF Doc. 1, ¶ 20. There are no specific allegations in the Petition otherwise challenging the Committee's action or the Certificate of Substitution.

For these reasons, and in reliance upon *Berman* and the aforesaid progeny, including *Wohl*, the Court finds that the Committee to Fill Vacancies is not a necessary party to these proceedings. Unlike *Wohl*, the Petitioners' application does not challenge the actions of the Committee to Fill Vacancies in substituting Teitelbaum, and there is no indication that the Committee's authority may be inequitably affected so as to require that it be given the opportunity to defend the challenged action. Indeed, it would stand that, if the Court found the designating petition valid, no challenge to the Certificate of Substitution is asserted. Therefore, there is no fatal jurisdictional defect requiring this proceeding's dismissal.

Turning to the merits of the Petition, the Court conducted an evidentiary hearing on April 23, 2026. At the start, counsel for the RCBOE reported that the RCBOE had invalidated an additional seven signatures. This ruling was communicated by letter to the Court, dated April 23, 2026. NYSCEF Doc. 20. Petitioners offered the RCBOE letter, dated April 23, 2026, as Petitioners' Exhibit 1. The Court accepted Petitioners' Exhibit 1 into evidence without objection. In light of the RCBOE's determination to disqualify an additional seven signatures, Respondent-Candidates were left with 19 purportedly valid signatures, less than the minimum number of 22 signatures required.

At the close of Petitioners' case, Petitioners moved for an order declaring insufficient, defective, invalid, null, and void the purported designating petitions heretofore filed with the Respondent RCBOE, purporting to designate the Respondent-Candidate as candidate for election to the public office of Member of the New York State Assembly, 97th District, in the Working Families Party primary election scheduled to be held on the 23rd day of June 2026 and in the general election to be held on the 3rd day of November 2026, as the Designating Petition is null. Consequently, in the absence of a valid designating petition, there is no vacancy to fill, and thus, the Petitioners submit that Respondent-Substitute Candidate is not a candidate, and Petitioners further requested an order restraining and enjoining Respondent RCBOE from printing the names of either of the Respondent-Candidates upon the ballots to be used at such elections.

By counsel, Respondent-Candidates acknowledged, on the record, that the underlying Designating Petition has been ruled insufficient due to a failure to have the requisite number of signatures.

Accordingly, in light of the foregoing, it is hereby

ORDERED, that Petitioners' application for an Order, pursuant to New York State Election Law §§ 16-100, 16-102 and 16-116, to declare invalid the respective Designating Petition purporting to designate the Respondent-Candidate as Candidate of the Working Families Party for election to the Public Office of Member of New York State Assembly, 97th District, in the Working Families Party Primary Election to be held on the 23rd day of June 2026, is **GRANTED** and the aforesaid Designating Petition is declared to be **INVALID**; and it is further

ORDERED, that the Rockland County Board of Elections and the Rockland County Commissioners of Elections, and their respective agents and designees, are **RESTRAINED and ENJOINED** from printing the name of the Respondent-Candidate, Lawrence McGee, and the name of the Respondent-Substitute Candidate, Sloma Teitelbaum, upon the official ballots of such primary election scheduled to be conducted on June 23, 2026.

The parties are further directed to **TAKE NOTICE**, that the Appellate Division, Second Department, has appointed Wednesday, May 13, 2026 as the day for the hearing of appeals pursuant to the Election Law pertaining to the primary elections to be held on June 23, 2026. The Appellate Division, Second Department, has ordered that any such appeals shall be perfected on or before May 4, 2026, and that any responding briefs be served and filed on or before May 8, 2026. Counsel and parties are directed to www.nycourts.gov/courts/ad2 for further information (*see*, ADM 2026-0317.2).

This constitutes the Decision and Order of this Court.

Dated: New City, New York
April 27, 2026



HON. LARRY J. SCHWARTZ, J.S.C.

To: All counsel of record via NYSCEF