

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MARGARITA LÓPEZ TORRES, STEVEN  
BANKS, C. ALFRED SANTILLO, JOHN J.  
MACRON, LILI ANN MOTTA, JOHN W.  
CARROLL, PHILIP C. SEGAL, SUSAN LOEB,  
DAVID J. LANSNER, and COMMON  
CAUSE/NY,

Plaintiffs,

v.

NEW YORK STATE BOARD OF ELECTIONS;  
NEIL W. KELLEHER, CAROL BERMAN,  
HELENA MOSES DONOHUE, and EVELYN J.  
AQUILA, in their official capacities as  
Commissioners of the New York State Board of  
Elections,

Defendants.  
-----X

**DECLARATION OF JEREMY  
CREELAN IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTIVE  
RELIEF**

Index No. CV 04-1129 (JG)

JEREMY CREELAN declares as follows:

1. I am an attorney at the Brennan Center for Justice at New York University School of Law and counsel to Plaintiffs in this action. I submit this declaration in support of Plaintiffs' motion for a preliminary injunction.

2. Attached as Exhibit 1 to this declaration is a chart showing the requirements to qualify for ballot access for the 32 other states that elect some or all of their general jurisdiction trial court judges is attached to this declaration. True and correct copies of the supporting materials referenced in the footnotes to Exhibit 1 are included as Exhibits 1(A) through 1(H) to this declaration.

3. Attached as Exhibit 2 to this declaration is a map showing the boundaries of each of the 12 Judicial Districts in New York State, as well as Assembly

District and county boundaries. The sources for the information contained in this map are the 2002 Assembly District boundaries provided by the New York State Legislative Task Force on Demographic Research and Reapportionment, *available online at* <http://latfor.state.ny.us/maps/propassem/fanys.pdf> and the counties included within each Judicial District in N.Y. Jud. L. § 140.

4. Attached as Exhibit 3 to this declaration is a map showing the boundaries of each of the four Judicial Districts in New York City, as well as Assembly District and county boundaries. The sources for the information contained in this map are the 2002 Assembly District boundaries provided by the New York State Legislative Task Force on Demographic Research and Reapportionment, *available online at* <http://latfor.state.ny.us/maps/propassem/fanyc.pdf> and the counties included within each Judicial District in N.Y. Jud. L. § 140.

5. Attached as Exhibit 4 to this declaration is a map showing the boundaries of the Tenth Judicial District in Long Island, as well as Assembly District and county boundaries. The sources for the information contained in this map are the 2002 Assembly District boundaries provided by the New York State Legislative Task Force on Demographic Research and Reapportionment, *available online at* <http://latfor.state.ny.us/maps/propassem/fali.pdf> and the counties included within each Judicial District in N.Y. Jud. L. § 140.

6. Attached as Exhibit 5 to this declaration is a true and accurate copy of the Rules of the Democratic Party of the State of New York, which defines the formula used under state law to determine the number of delegates and alternates for Democratic judicial conventions. This document was obtained from the New York State Board of

Elections in response to a FOIL request by the Brennan Center for Justice at NYU School of Law. Article II, Section 5 of the Rules provides that:

One Delegate and one Alternate Delegate from each Assembly District in the State, and one additional Delegate and one additional Alternate Delegate from each Assembly District in the State for each two thousand five hundred votes or fraction of two thousand five hundred votes cast on the Democratic line in such Assembly District for the Party candidate for Governor at the last preceding general State Election.

7. Attached as Exhibit 6 to this declaration is a true and accurate copy of the Rules of the New York Republican State Committee, which defines the number of delegates and alternates for the Republican judicial conventions. This document was obtained from the New York State Board of Elections in response to a FOIL request by the Brennan Center for Justice at NYU School of Law. Rule 18 provides:

18. Judicial Conventions. The following shall be the basis of representation in future Judicial Conventions:

First District	Sixth District
Second District	Ninth District
Fifth District	Tenth District
Eleventh District	Twelfth District

Each Assembly District or appropriate portion thereof elects one delegate and one additional delegate for each 2,500 votes or major fraction thereof cast for the Republican candidate for Governor at the last gubernatorial election.

Third District	Fourth district
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Each Assembly District or appropriate portion thereof elects one delegate and an additional delegate for each 4,000 votes or major fraction thereof, cast in such district for the Republican candidate for Governor at the last gubernatorial election.

Seventh District	Eighth district
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Each Assembly district or appropriate portion thereof elects one delegate and an additional delegate for each 5,000 votes or major fraction thereof, cast in such district for the Republican candidate for Governor at the last gubernatorial election.

However, delegates and alternates to Judicial District Conventions shall be elected from counties or portions of counties in all cases where Assembly districts are not wholly contained within a county.

Rules of the New York Republican State Committee, Rule 18.

8. Attached as Exhibit 7 to this declaration is a true and accurate copy of the State Board of Elections listing of the gubernatorial vote by Assembly District in the most recent election in 2002, *available online at* [http://www.elections.state.ny.us/elections/2002/general/2002\\_gov\\_by\\_ad.pdf](http://www.elections.state.ny.us/elections/2002/general/2002_gov_by_ad.pdf). The number of judicial convention delegates and alternates allotted each Assembly District is calculated through reference to the number of votes cast for each party's gubernatorial candidate at the last election in the Assembly District in question. N.Y. Elec. L. § 6-124.

9. Attached as Exhibit 8 to this declaration is a true and accurate copy of the enrollment of voters in political parties by Assembly District as of March 1, 2004, published by the State Board of Elections, *available online at* [http://www.elections.state.ny.us/enrollment/assembly/assembly\\_mar04.htm](http://www.elections.state.ny.us/enrollment/assembly/assembly_mar04.htm). A candidate for judicial delegate or alternate delegate seeking to obtain a place on the September ballot must file a petition with the signatures of 500 or 5% of the voters enrolled in the candidate's party in the Assembly District, whichever is fewer. N.Y. Elec. L. § 6-136(2)(i), (3). As of March 1, 2004, because Democratic voter enrollment exceeds 10,000 voters in every Assembly District in New York State, such candidates must gather a minimum of 500 valid signatures in every Assembly District. Republican candidates must collect a minimum of 500 signatures in all but 48 of the 150 Assembly Districts, with 47 of the 48 districts in New York City. The remaining district is the 87<sup>th</sup> Assembly District, which lies directly north of the Bronx.

10. The following chart summarizes the signature requirements in each of the 12 Judicial Districts for the two major political parties in New York State and is based upon the enrollment information contained in Exhibit 8, the Assembly District

boundaries contained in Exhibits 2-4, and the expert testimony of William Lipton, among other witnesses, that a challenger needs to gather three times the statutorily required number of signatures in order to resist legal challenges, Lipton Expert Decl. ¶ 12:

<b>Judicial District</b>	<b>No. Signatures Required (Statutory Minimum)</b>	<b>No. Signatures Required (Minimum To Resist Legal Challenges)</b>
<b>1<sup>st</sup></b>	<b>Dem: 6,000 Rep: 4,517</b>	<b>Dem: 18,000 Rep: 13,551</b>
<b>2<sup>nd</sup></b>	<b>Dem: 12,000 Rep: 7,890</b>	<b>Dem: 36,000 Rep: 23,670</b>
<b>3<sup>rd</sup></b>	<b>Dem: 5,500 Rep: 5,500</b>	<b>Dem: 16,500 Rep: 16,500</b>
<b>4<sup>th</sup></b>	<b>Dem: 4,500 Rep: 4,500</b>	<b>Dem: 13,500 Rep: 13,500</b>
<b>5<sup>th</sup></b>	<b>Dem: 6,000 Rep: 6,000</b>	<b>Dem: 18,000 Rep: 18,000</b>
<b>6<sup>th</sup></b>	<b>Dem: 4,000 Rep: 4,000</b>	<b>Dem: 12,000 Rep: 12,000</b>
<b>7<sup>th</sup></b>	<b>Dem: 6,000 Rep: 6,000</b>	<b>Dem: 18,000 Rep: 18,000</b>
<b>8<sup>th</sup></b>	<b>Dem: 6,500 Rep: 6,500</b>	<b>Dem: 19,500 Rep: 19,500</b>
<b>9<sup>th</sup></b>	<b>Dem: 8,500 Rep: 8,443</b>	<b>Dem: 25,500 Rep: 25,329</b>
<b>10<sup>th</sup></b>	<b>Dem: 10,500 Rep: 10,500</b>	<b>Dem: 31,500 Rep: 31,500</b>
<b>11<sup>th</sup></b>	<b>Dem: 9,000 Rep: 6,728</b>	<b>Dem: 27,000 Rep: 20,184</b>
<b>12<sup>th</sup></b>	<b>Dem: 5,500 Rep: 2,582</b>	<b>Dem: 16,500 Rep: 7,746</b>

11. Attached as Exhibits 9(1999) – 9(2002) to this declaration are true and accurate copies of the Certification Lists maintained by the New York City Board of Elections, listing the judicial delegates and alternate delegates certified by county for the years 1999 through 2002. These documents were obtained from the New York City Board of Elections in response to a FOIL request by the Brennan Center for Justice at NYU School of Law.

12. Attached as Exhibits 10(1995) – 10(2002) are true and accurate copies of the lists maintained by the New York State Board of Elections of judicial delegates and alternate delegates certified by county for the years 1995 through 2002. These documents were obtained from the New York State Board of Elections in response to a FOIL request by the Brennan Center for Justice at NYU School of Law.

13. Attached as Exhibits 11(1994) – 11(2002) are true and accurate copies of the minutes of the judicial conventions of the Democratic and Republican Parties of the four judicial districts within New York City from 1994 through 2002. These documents were obtained from the New York City Board of Elections in response to a FOIL request by the Brennan Center for Justice at NYU School of Law.

14. Attached as Exhibits 12(1990) – 12(2002) are true and accurate copies of the minutes of the judicial conventions of the Democratic and Republican Parties of the eight judicial districts outside New York City from 1990 through 2002. These documents were obtained from the New York State Board of Elections in response to a FOIL request by the Brennan Center for Justice at NYU School of Law.

15. Attached as Exhibit 13 are true and accurate copies of declarations by the Albany County Board of Elections, the Nassau County Board of Elections, the Suffolk County Board of Elections, and the Tompkins County Board of Elections stating in each case that there were no contested judicial delegate or alternate delegate elections within the relevant judicial districts during the years of 1999 through 2002. These documents were obtained from the New York State Board of Elections in response to a FOIL request by the Brennan Center for Justice at NYU School of Law.

16. The following chart summarizes information contained in the New

York City Board of Elections Certification Lists for 2002, attached as Ex. 9(2002), and the New York State Board of Elections lists of certified judicial delegates and alternate delegates for 2001 and 2002, attached as Ex. 10(2001) and 10(2002):

Judicial District	Total Number		Party		Number of Assembly Districts within the Judicial District	
	of Delegates	of Alternates	Number of Delegates	Number of Alternates		
Non-NYC	3*	38	38	53	54	11
	4*	27	25	55	54	10
	5	30	30	92	92	12
	6 <sup>1</sup>	NA	NA	70	69	9
	7*	38	38	49	43	11
	8	59	59	65	64	13
	9	73	73	140	137	17
	10*	115	117	194	194	21
NYC	1	104	104	43	43	12
	2	158	146	75	74	24
	11	118	108	59	55	18
	12	65	65	26	25	11

\* No Supreme Court election in this district in 2002, data from 2001 election.

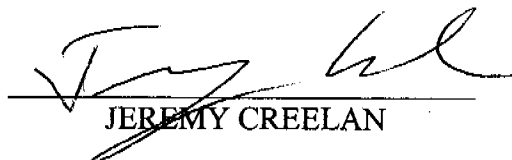
<sup>1</sup> No Supreme Court election in this district in 2002, data from 2001 election when there were no Democratic candidates.

17. Attached as Exhibit 14 are true and accurate copies of the New York State Board of Elections Statements of Canvass for all Supreme Court general elections from 1990 through 2003.

18. Attached as Exhibit 15 is a true and accurate copy of Appendix B of the Interim Report of the Commission to Promote Public Confidence in Judicial Elections. The Commission's entire report is available online at <http://law.fordham.edu/commission/judicialelections/>. Appendix B contains the results of a 2003 survey of New York State voters conducted by the Marist College Institute for Public Opinion for the Commission.

I swear under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
June 8, 2002



JEREMY CREELAN

**Index No. CV 04-1129 (JG)**

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**Defendants.**

**DECLARATIONS IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY  
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