

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,

**NOTICE OF MOTION FOR
PRELIMINARY INJUNCTIVE
RELIEF**

v.

Index No. CV 04-1129 (JG)

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.

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Upon the annexed declarations, and the exhibits attached thereto, the accompanying memorandum of law, and the complaint, Plaintiffs move this Court for an order, pursuant to Fed. R. Civ. P. 65, granting Plaintiffs the following preliminary injunctive relief pending the final disposition of this action:

(1) declaring that the current Supreme Court selection requirements, established and facilitated by N.Y. Elec. L. §§ 6-106, 6-124, 6-158, violate the United States Constitution, specifically the First and Fourteenth Amendments, both facially and as applied to Plaintiffs;

(2) granting the appropriate equitable relief, including an injunction allowing the New York State Legislature to establish, within 90 days of this Court's judgment, a new system of Supreme Court justice selection that is consistent with the federal

Constitution and this Court's findings, provides a real opportunity for candidates with public support to compete for their party's nomination, and consequently gives voters their constitutional right to vote effectively to choose their Supreme Court justices;

(3) If the New York State Legislature fails to establish a new system of selection as outlined above, ordering as interim relief at least until such time as the Legislature acts to do so, that Supreme Court justices be selected through a system that includes (a) a direct primary election for Supreme Court, and (b) an avenue by which candidates may obtain a place on the primary election ballot of their party by gathering a reasonable number of signatures by petition.

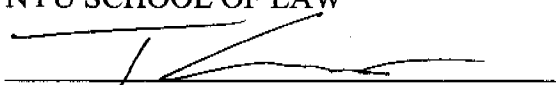
(4) To award Plaintiffs their costs and disbursements associated with the filing and maintenance of this action, including an award of reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and

(5) To award such other equitable and further relief as the Court deems just and proper.

Dated: New York, New York
June 9, 2004

Respectfully submitted,

BRENNAN CENTER FOR JUSTICE AT
NYU SCHOOL OF LAW



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v.

DECLARATIONS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTIVE
RELIEF

NEW YORK STATE BOARD OF ELECTIONS;
NEIL W. KELLEHER, CAROL BERMAN,
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