

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CONSERVATIVE PARTY OF NEW
YORK STATE and WORKING FAMILIES
PARTY,

10 Civ. 6923 (JSR)

Plaintiffs,

-against-

DECLARATION OF
DANIEL CANTOR
IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION

NEW YORK STATE BOARD OF ELECTIONS;
JAMES A. WALSH, DOUGLAS A. KELLNER,
EVELYN J. AQUILA, and GREGORY P.
PETERSON, in their official capacities as
Commissioners of the New York State Board of
Elections; TODD D. VALENTINE and
ROBERT A. BREHM, in their official capacities
as Co-Executive Directors of the New York State
Board of Elections

Defendants.
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Daniel Cantor declares as follows:

1. I am the Executive Director of the Working Families Party, a Plaintiff in the case. I submit this declaration in support of Plaintiffs' motion for a preliminary injunction.
2. I have been the Executive Director and a member of the Working Families Party since it was founded in 1998 and am familiar with the party's history, platform, and operations. I am also a registered voter in New York City.
3. The Working Families Party is a political party organized under the laws of New York State since 1998. Among the party's main concerns are the right to organize, the creation of a sustainable economy, a democratic and fair banking system, public financing of elections, and the rights of equal education for all children.

4. New York's fusion voting system allows the Working Families Party to endorse candidates from other political parties on our ballot lines. In order to advance the interests of the party and its members, the Working Families Party frequently cross-endorses candidates from other political parties on the ballot.

5. Since 1998, the Working Families Party has cross-endorsed gubernatorial candidates from other political parties on the ballot and has consistently received over 50,000 votes for those candidates on its party line. In 1998, the Working Families Party cross-endorsed Democratic Party candidate Peter Vallone for Governor; the party received 51,325 votes for Mr. Vallone and, as a result, secured a line on the ballot for the following four years. In 2002, the Working Families Party cross-endorsed Democratic Party gubernatorial candidate Carl McCall and received 90,533 votes for Mr. McCall, securing a place on the ballot for another four years. In 2006, the Working Families Party cross-endorsed Democratic Party gubernatorial candidate Elliot Spitzer, receiving 155,184 votes for Mr. Spitzer, and again securing a place on the ballot for four more years.

6. In 2010, the Working Families Party is cross-endorsing Democratic Party gubernatorial candidate Andrew Cuomo.

7. The Working Families Party also frequently cross-endorses on its ballot line candidates from other political parties in other statewide, federal, and local races. For example, in 2000 and 2006, the Working Families Party cross-endorsed Democratic Party candidate Hillary Clinton for the U.S. Senate race, receiving 102,094 and 148,792 votes respectively. In 2004, the party cross-endorsed Democratic Party candidate Chuck Schumer for U.S. Senate, receiving 168,719 votes. The party is again

endorsing Senator Schumer on its ballot line in 2010. In 2006, the party cross-endorsed Democratic Party candidate Andrew Cuomo for New York Attorney General, receiving 152,502 votes. The Working Families Party has also cross-endorsed Republican Party candidates for state office, including, for example George Maziarz for the 62nd State Senate district in 2000, 2002, 2004, and 2008, and Joseph Saldino for the 12th State Assembly district in 2006 and 2008. At times, the Working Families Party has cross-endorsed candidates that were also endorsed by other minor political parties. For example, in 2002, both the Working Families Party and the Green Party cross-endorsed several Democratic Party candidates for State Assembly.

8. Even when the Working Families Party cross-endorses the candidate of another political party, the Working Families Party still competes with that party for votes for that candidate. The Working Families Party has its own political agenda, which is not the same as the political agendas of other political parties.

9. It is critical for the Working Families Party that all votes cast for our party be counted and reported fairly and accurately. The more votes we obtain, the better we are able to attract new members, to raise money for our campaigns, and to organize for future elections.

10. In addition, our ability to advance the issues we care about with elected officials is directly related to the strength we are able to show at the ballot box. The more votes we are able to show we obtained, the more likely elected officials are to support our agenda.

11. A fair and accurate accounting of the support we receive at the ballot box is also critical to our access to the ballot. Under New York law, only those

parties who receive at least 50,000 votes for the gubernatorial candidate on their ballot line are entitled to a place on the ballot. If the Working Families Party does not receive or is not credited with receiving 50,000 votes for its gubernatorial candidate on its party line, then it will lose its status as a “party” under New York law and will have to go through a cumbersome and expensive petitioning process in order to secure a place on the ballot in the future.

12. A fair and accurate accounting of the votes we receive also determines our ranking on the ballot. Under New York law, political parties appear on the ballot in an order determined by the number of votes they received for their gubernatorial candidate in the last election. If the Working Families Party is credited with receiving fewer votes, then it may find itself in a less favorable position lower down on the ballot. This, in turn, may further impede the party’s ability to obtain votes in the future.

13. In short, the Working Families Party has a strong interest in ensuring that its members and supporters can effectively associate with the party and register their support for its agenda and its candidates at the ballot box. This interest will be substantially undermined if the state does not count all votes intended for the Working Families Party for the party.

14. Although I understand that the state has in the past refused to credit the Working Families Party for any votes cast on paper ballots for gubernatorial candidates on both the Working Families Party and a higher-ranked party’s lines, the injury to the Working Families Party was relatively small because previously only a small fraction of votes were cast on paper ballots. (The lever machines on which most

New Yorkers voted did not allow such “double votes.”) This year and in the future, the injury to the Working Families Party will be severe, because all votes will be cast on paper ballots, and those cast at polling places will be fed into optical scan machines.

15. If the state persists in its policy of crediting only the “first” or major political party and not the Working Families Party for votes cast on two parties’ lines this year, the Working Families Party will lose a significant number of votes to the Democratic Party. As a result, the Working Families Party will be severely impaired in its ability to compete, advance its agenda, build the party, and associate with its members and supporters. This will seriously injure the rights of the Working Families Party and our members.

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

Dated: New York, New York
September 23, 2010



DANIEL CANTOR