

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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Argued - August 22, 2017

RUTH C. BALKIN, J.P.
LEONARD B. AUSTIN
SANDRA L. SGROI
HECTOR D. LASALLE
ANGELA G. IANNACCI, JJ.

2017-08124

DECISION & ORDER

In the Matter of Luis A. Segarra, et al., appellants, v
Matthew B. Clausen, respondent-respondent,
et al., respondent.

(Index No. 2370/17)

In a proceeding pursuant to Election Law § 16-102, inter alia, to validate a petition designating Luis A. Segarra and Robert M. Sullivan as candidates in a primary election to be held on September 12, 2017, for the nomination of the Democratic Party as its candidates for the public office of Council Member, City of Peekskill, Luis A. Segarra and Robert M. Sullivan appeal from a final order of the Supreme Court, Westchester County (Walker, J.), dated August 14, 2017, which, in effect, (1) denied their motion for leave to amend their pleadings to conform to the evidence, (2) denied the petition, inter alia, to validate the designating petition, and (3) dismissed the proceeding.

ORDERED that the final order is reversed, on the facts and in the exercise of discretion, without costs or disbursements, the motion of Luis A. Segarra and Robert M. Sullivan for leave to amend their pleadings to conform to the evidence is granted, and the petition, as amended, inter alia, to validate the designating petition is granted.

Under the particular circumstances of this case, the Supreme Court improvidently exercised its discretion in denying the petitioners' motion for leave to amend their pleadings to

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conform to the evidence at the hearing (*see* CPLR 3025[c]). That evidence established that there was a sufficient number of valid signatures on the designating petition.

BALKIN, J.P., AUSTIN, SGROI, LASALLE and IANNACCI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court