

At Part 16 of the Supreme Court of the State of New York, held in and for the County of Erie, at the Courthouse thereof on the 30th day of August, 2021.

**HON. PAUL B. WOJTASZEK, J.S.C.**

PRESENT: Hon. \_\_\_\_\_, J.S.C.

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In the Matter of the Application of

BYRON W. BROWN

Petitioner-Candidate- Aggrieved,  
-against-

ERIE COUNTY BOARD OF ELECTIONS,

Index No. #811973/2021

Respondent,

**ORDER TO  
SHOW CAUSE**

INDIA B. WALTON,

Respondent-Objector-Candidate,

JOAN L. SIMMONS,

Respondent-Objector.

For and Order and Judgment pursuant to the New York State Election Law, the New York State Constitution and the United States Constitution, to validate the independent nominating petition of Petitioner herein as a candidate for Mayor of the City of Buffalo on behalf of the independent entity known as the Buffalo Party in the General Election to be held on November 2, 2021, and to place his name on the ballot for said election.

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Upon the reading and filing of the emergency affirmation of Jerry H. Goldfeder, dated August 27, 2021; the annexed Verified Petition, duly verified on August 27, 2021; upon the original independent nominating petition naming Petitioner as candidate of the independent entity known as the BUFFALO PARTY for the public office of MAYOR OF THE CITY OF

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BUFFALO; upon the original registration and enrollment files relating thereto of the ERIE COUNTY BOARD OF ELECTIONS ("Board of Elections"); and upon all of the papers and proceedings herein, it is hereby:

ORDERED, that the Respondents named hereinabove show cause before this Court at Part 16,

Room        <sup>a virtual TEAM link to be issued</sup> to be held at the Courthouse, 25 Delaware Avenue, Buffalo, NY 14202, in the

County of Erie, State of New York, on the 3<sup>RD</sup> day of September, 2021, at 11:00 AM ~~9:30 a.m.~~ of that day,

or as soon thereafter as counsel can be heard, why an Order should not be made and entered herein:

- (a) Declaring valid, proper, sufficient and legally effective the Nominating Petition heretofore filed with Respondent Board of Elections, nominating Petitioner as candidate for the public office of MAYOR OF THE CITY OF BUFFALO in the General Election to be held on November 2, 2021;
- (b) Directing, requiring and commanding Respondent Board of Elections to print and/or place the name of Petitioner aforesaid as candidate for the public office of MAYOR OF THE CITY OF BUFFALO on the official ballots to be used at the General Election to be held on the November 2, 2021;
- (c) Enjoining and restraining Respondent Board of Elections from printing, issuing, or distributing for use during the General Election to be held on November 2, 2021, any and all official ballots used in the said General Election upon which the name of Petitioner does not appear as candidate for the public office of MAYOR OF THE CITY OF BUFFALO;
- (d) Granting Petitioner-Candidate such other and further relief as this Court deems just and proper; and it is further

SUFFICIENT CAUSE APPEARING THEREFOR, leave is hereby granted to the Petitioner to submit, upon the return date of this Order to Show Cause, and any adjournments thereof, and the argument thereof, such additional evidence, exhibits, and other proof as may be necessary, including without limitation, such proof as may be necessary to support the validity of Petitioner's candidacy for said public office at said General Election.

**SUFFICIENT CAUSE APPEARING THEREFOR**, it is further;

**ORDERED**, that service of a copy of this Order to Show Cause together with the papers upon which it is granted be made upon Respondent ERIE COUNTY BOARD OF ELECTIONS by leaving them at its office, located at 134 West Eagle Street, 3<sup>rd</sup> Floor, Buffalo, NY 14202 on or before the 31<sup>st</sup> day of AUGUST, 2021;

and that service of a copy of this Order together with the papers upon which it is granted be made on each of the within named Respondent-Objector and Respondent-Objector-Candidate either:

1--by personal delivery of a copy of this Order and the papers upon which it is granted to each said Respondent on or before the 31<sup>st</sup> day of AUGUST 2021;

or

2--by personally serving a copy of this Order and the papers upon which it is granted to a person of suitable age and discretion at the address of each said Respondent as set forth in their respective Objection, and enclosing the same in a securely sealed and duly postpaid wrapper, addressed to each said Respondent at the address as set forth in their respective Objection and by sending same by

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next-day delivery by the United States Postal Service, Fedex or UPS on or before the 31<sup>st</sup> day of AUGUST, 2021; or

3--by affixing a copy of this Order and the papers upon which it is granted to the door of each said Respondent's respective actual place of abode as set forth in their respective Objection and by enclosing the same in a secured sealed and duly paid wrapper, addressed to each said Respondent at the address as set forth in their respective Objection and by sending same by next-day delivery by the United States Postal Service, Fedex or UPS on or before the 30<sup>th</sup> day of AUGUST, 2021; or

4--by enclosing a copy of this Order and the papers upon which it is granted in a securely sealed and duly postpaid wrapper, addressed to each said Respondent at their respective address as set forth in their respective Objection and by sending same by next-day delivery by the United States Postal Service, Fedex or UPS on or before the 30<sup>th</sup> day of AUGUST, 2021;

and that any such method of service upon each said Respondent shall be deemed good and sufficient service thereof; and it is further

*ORDERED, that Respondents' papers be filed <sup>and served</sup> no later than 9-2-21, 2:00 PM.*

**ORDERED**, that any requirement that the affidavits of service be filed with the Clerk of the Court be extended to the return date of this motion, and such affidavits shall be filed with the Clerk of the Part on the return date, and that any requirement that substituted service be preceded by due diligence attempt(s) at personal delivery upon each said Respondent be and is hereby waived, and that the ten day completion of service provision be waived by this Order.

#811973/2021

ENTER:

*Paul B. Wojtaszek*

J.S.C.

**HON. PAUL B. WOJTASZEK, J.S.C.**

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