

At a Motion Term of The Supreme Court of the State of New York held in and for the Sixth Judicial District in the County of Schuyler, Watkins Glen, New York, heard on the 29th day of August, 2024.

**PRESENT: HON. CHRISTOPHER P. BAKER
SUPREME COURT JUSTICE**

STATE OF NEW YORK
SUPREME COURT: COUNTY OF SCHUYLER

MONTGOMERY BLAIR SIBLEY,

Plaintiff,

DECISION & ORDER

vs.

INDEX #24-24

KRISTEN ZEBROWSKI STAVISKY,
Solely In Her Official Capacity As New York's
Chief Election Official,

Defendant.

CHRISTOPHER P. BAKER, JSC

Plaintiff herein commenced an action by summons and complaint, on August 5, 2024, seeking a declaration that presidential candidate Kamala Harris is ineligible to appear on the New York Ballot for the 2024 United States Presidential Election. Thereafter, before defendant answered the complaint (indeed, before her time to answer had expired), Plaintiff moved for an expedited scheduling order which would have, *inter alia*, shortened the statutory time frame in which defendant was required to answer the complaint. On August 20, 2024, the Court issued an Order denying the motion without a hearing and dismissing the complaint for failure to comply with procedural requirements for ballot access challenges under New York law—specifically, those requirements set forth in Election Law §16-116.

On August 21, 2024, plaintiff moved to vacate the August 20, 2024 Order dismissing the complaint. The Court notes that plaintiff's motion is not a motion to renew or a motion to reargue pursuant to CPLR §2221. Rather, the motion is apparently based upon the Court's inherent authority to vacate its own prior order upon a party's motion. See, e.g., Woodson v. Mendon Leasing Corp., 100 N.Y.2d 62, 68 (2003) ("a court may vacate its own judgment for sufficient reason and in the interests of substantial justice."); Dyno v. Lewis, 300 A.D.2d 784 (3d Dept. 2002).

The parties appeared for oral argument on August 29, 2024, with plaintiff contending that the Court's Order should be vacated because, among other reasons, he asserts federal law claims which somehow exempt him from compliance with New York procedural law in a New York State Supreme Court action.

Because the Court finds that the plaintiff, who has chosen New York State Supreme Court as the venue for this action, must comply with New York procedural law, regardless of the fact that he bases his claims, at least in part, on federal law, the Court continues to adhere to its August 20, 2024 decision. The Court is particularly unpersuaded by plaintiff's claim, at page five of his brief, that requiring plaintiff to comply with New York procedural law would "relegate Sibley...to second-class status, subjecting him to New York's burdensome pleading requirements that would 'produce different outcomes in [Ku Klux Klan Act] litigation based solely on whether the claim is asserted in state or federal court.'" Rather, the procedural rules the Court has referenced are designed to do the opposite, and, in fact, would have given plaintiff the very relief he sought in his original motion by setting this action on an expedited track with a statutory scheduling preference.

Plaintiff's motion to vacate the Order is denied accordingly.

It is therefore,

ORDERED, that plaintiff's motion to vacate the Court's August 20, 2024 Order, is hereby **denied**, as is his motion for expedited consideration of his Complaint.

This shall constitute the Decision and Order of The Court.

ENTER

Dated: August 29, 2024.



Hon. Christopher P. Baker
Supreme Court Justice

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