

At IAS Part 36 of the Supreme Court of the State of New York, held in and for the County of Suffolk, at the Courthouse, at 1 Court Street, Riverhead, New York, New York, on the 16th day of December, 2020

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK**

In the Matter of the Application of

HON. ELLEN GESMER, HON. DAVID
FRIEDMAN, HON. SHERI S. ROMAN, HON.
JOHN M. LEVENTHAL, and DANIEL J.
TAMBASCO,

Petitioners-Plaintiffs;

For a Judgment under Article 78 of the CPLR

- against -

THE ADMINISTRATIVE BOARD OF THE NEW
THE ADMINISTRATIVE BOARD OF THE NEW
YORK STATE UNIFIED COURT SYSTEM,
JANET DIFIORE, AS CHIEF JUDGE OF THE
NEW YORK STATE UNIFIED COURT SYSTEM,
LAWRENCE K. MARKS, AS CHIEF
ADMINISTRATIVE JUDGE OF THE NEW
YORK STATE UNIFIED COURT SYSTEM

Respondents-Defendants.

Index No. 616980/2020

(Baisley, J.S.C.)

Mol. Seq. # _____

**ORDER TO SHOW CAUSE FOR
TEMPORARY RESTRAINING
ORDER AND HEARING ON
PRELIMINARY INJUNCTIVE
RELIEF**

[Interim Relief Requested]

UPON the annexed Emergency Affirmation of James Catterson, Esq., executed on December 16, 2020 (the "Catterson Aff."), and the exhibit annexed thereto; the annexed Affirmation of Y. David Scharf, Esq., executed on December 16, 2020 (the "Scharf Aff."), and the exhibits annexed thereto; and the accompanying memorandum of law; and upon all of the pleadings and proceedings heretofore had herein, *including oral argument on 12-18-20* and sufficient cause having been shown;

LET Respondents-Defendants, by their attorneys, show cause before this Court at IAS Part 36, of the Supreme Court of the State of New York, County of Suffolk, to be held at

fyb
JSC

the Court, located at 1 Court Street, Riverhead, New York, Room ___, on December 22, 2020, at 9:30 o'clock a m., or as soon thereafter as counsel may be heard, why an Order should not be made and entered pursuant to CPLR 6301, 6311, and 7805 preliminary enjoining Respondents-Defendants from enforcing any determination, policy, or law that would prevent the Petitioner Justices from being certificated pending the outcome of this litigation.

Sufficient reason appearing therefore, ~~[and irreparable harm having been demonstrated]~~ it is hereby

ORDERED, that pending the hearing and determination of this application or further order of the Court, a temporary restraining order is issued pursuant to CPLR 6313 and 7805 ^{requiring} Respondents-Defendants ^{to allow the Petitioners-Plaintiffs and their staffs to continue} ~~from enforcing any determination, policy, or law that would prevent the~~ ^{to serve as Supreme Court Justices and remain in office.} ~~Petitioner Justices from being certificated pending the outcome of this litigation.~~

h/b JSC
ORDERED, that opposing papers, if any, shall be served by e-filing via NYSCEF ~~as to be~~ ^{be received by counsel for Petitioners, James Catterson, Esq., Arnold & Porter Kaye Scholer LLP, 250 West 55th Street, New York, NY 10019-9710 and Y. David Scharf, Esq., Morrison Cohen LLP, 900 Third Avenue, New York, New York 10022} on or before December 28, 2020, and that such delivery e-filing shall be deemed good and sufficient service.

ORDERED, that ~~reply papers, if any, shall be served by e-filing via NYSCEF as to be~~ ^{received by counsel for Respondents-Defendants on or before} 2020, and that ~~such e-filing shall be deemed good and sufficient service.~~

ORDERED that, let service of a copy of this Order, as uploaded by the Court via NYSCEF, upon all parties on or before the 21st day of December, 2020, together with the supporting papers e-filed and served previously via NYSCEF be deemed good and sufficient service thereof.

Paul J. Baisley Jr.
HON. PAUL J. BAISLEY, JR.