

## Federal Court Intervention in a Party-Nomination Dispute

*Hinkleman v. New York State Board of Elections*  
(David N. Hurd, N.D.N.Y. 5:08-cv-207)

The district judge declined to resolve an intraparty dispute over who would be the party's nominee in a special legislative election.

*Subject:* Getting on the ballot. *Topics:* Getting on the ballot; class action; party procedures; matters for state courts; case assignment.

On February 22, 2008, a voter and two organizational parts of New York's Independence Party filed a federal class-action complaint in the Northern District of New York seeking resolution in their favor of a dispute over what part or parts of the party were authorized to name a nominee for a February 26 special election to fill a vacancy in the state's senate.<sup>1</sup> On the day that the complaint was filed, the court reassigned the case from Judge Neal P. McCurn to Judge David N. Hurd.<sup>2</sup>

On February 25, Judge Hurd granted a motion to intervene filed by a candidate opposing the candidate supported by the plaintiffs.<sup>3</sup> Judge Hurd denied the plaintiffs preliminary relief.<sup>4</sup>

New York's court of appeals, however, ruled on February 25 that the federal court intervenor could not pursue a state-court challenge against the federal plaintiffs' candidate's being listed as the Independence nominee, because the federal intervenor was not a member of the Independence Party.<sup>5</sup>

The intervenor won the election.<sup>6</sup>

Having received the desired relief in state court, the plaintiffs dismissed their federal action on March 19.<sup>7</sup>

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1. Complaint, *Hinkleman v. N.Y. State Bd. of Elections*, No. 5:08-cv-207 (N.D.N.Y. Feb. 22, 2008), D.E. 1.

2. Order, *id.* (Feb. 22, 2008), D.E. 5.

Judge McCurn died on September 7, 2014. Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

3. Order, *Hinkleman*, No. 5:08-cv-207 (N.D.N.Y. Feb. 25, 2008), D.E. 7.

4. Order, *id.* (Feb. 25, 2008), D.E. 8; *see* Intervention Motion, *id.* (Feb. 25, 2008), D.E. 6.

5. *In re Fehrman v. N.Y. State Bd. of Elections*, 10 N.Y.3d 759, 883 N.E.2d 1008, 854 N.Y.S.2d 101 (2008); *see* Charles McChesney, *Court Grants Barclay Independence Line*, Syracuse Post-Standard, Feb. 26, 2008, at B1; Rick Karlin, *GOP Gains Edge in Contest*, Albany Times Union, Feb. 26, 2008, at A3; Jeremy W. Peters, *In Race Upstate, Republican Gets a Second Ballot Line*, N.Y. Times, Feb. 26, 2008, at 5.

6. *See* Trymaine Lee, *Upset Sends Democrat to Albany*, N.Y. Times, Feb. 27, 2008, at 1; Irene Jay Liu, *Senate Loss Slams State GOP*, Albany Times Union, Feb. 27, 2008, at A1.

7. Voluntary Dismissal, *Hinkleman*, No. 5:08-cv-207 (N.D.N.Y. Mar. 19, 2008), D.E. 10.