

3. Plaintiffs have not stated within its complaint that they are suing GCBOE but the NEW YORK STATE BOARD OF ELECTIONS of which GCBOE is a subsidiary of.

4. GCBOE had been named, being a subsidiary of the agency, because it is a necessary party to the complaint against the NEW YORK STATE BOARD OF ELECTIONS.

5. GCBOE is subservient to and cannot answer for the NEW YORK STATE BOARD OF ELECTIONS.

6. Plaintiffs complaint paragraph 9 quotes defendants mission statement; "NYSBOE ... is responsible for administration and enforcement for all 62 county BOE's".

7. This action is state-wide and alleges violations in virtually all sixty-two (62) county boards of elections, of which GCBOE is a member of, as stated in plaintiffs complaint paragraph 13.

8. **NY Court Act SCP 211.** The court may exercise personal jurisdiction over any person as to any matter within the subject matter jurisdiction of the court, if, on analogous facts in an action in the supreme court, such person would be subject to the personal jurisdiction of that court.

9. **NY Court Act SCP 203 Jurisdiction of parties and subject matter.** The court obtains jurisdiction in every case to make a decree or other determination by the existence of the jurisdictional facts prescribed by statute. The jurisdiction of the court is exercised by the commencement of a proceeding in the court. All proceedings are special proceedings and are commenced by filing a petition. Personal jurisdiction of parties is obtained by service of process upon the parties or by submission to the jurisdiction of the court by waiver of issuance and

service of process, appearance of an adult competent party in person or by attorney or by pleading.

10. This court clearly has both personal and subject matter jurisdiction

GCBOE'S THIRD AFFIRMATIVE DEFENSE

11. The plaintiffs complaint w/two (2) verified affidavits clearly states five (5) causes of action and has alleged all the necessary facts supporting all the necessary elements to fulfill the legal requirements for each of the five (5) causes of action in paragraphs 75 through 105.

GCBOE'S FORTH AND FIFTH AFFIRMATIVE DEFENSE

12. Since GCBOE's Counsel fails to support their position by statute or rule the plaintiffs can only assume they rest in Election Law **§15-138 and/or §16-100** neither of which applies to this action for two reasons; (1) this action is a trial by jury case and not a summary jurisdiction case; and, (2) this is not an election dispute but is in fact a lawsuit straightforwardly against the NYSBOE for subverting, under color of law and design, the people's NYS Constitutional right (Article 1, Section 1) to choose their elected representatives as stated in plaintiffs complaint in paragraphs 81, 87, 92, 98 & 104.

13. GCBOE's Counsel mistakes this action as a contested petition or ballot issue, governed by a timely notice of claim, and statute of limitation case, under **Election Law §16-102** when in fact this action is not an action about a contested petition or ballot issue, but is in fact a case

about statewide fraud perpetrated by the NEW YORK STATE BOARD OF ELECTION, by procedural design that effects all sixty-two (62) county boards, orchestrating the fraudulent changing of titles of an elected position to a nominated position.

14. This is a constitutional violation by which there can exist no statute of limitation.
15. This is a common law action that measures statutes by constitutions and maxims.

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DATE: The Eighth Day of the Twelfth month of the Year of Our Lord two thousand eleven and the two hundred thirty-fifth Year of Our Independence.

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