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**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:20-cv-03571-MKV**

Murray v. Cuomo et al
Assigned to: Judge Mary Kay Vyskocil
Cause: 28:1331vc Fed. Question: Violation of Constitutional Rights

Date Filed: 05/07/2020
Date Terminated: 06/07/2020
Jury Demand: None
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: Federal Question

Plaintiff

Scherie S. Murray

represented by **Richard St Paul**
Law Office of Richard St. Paul Esq., PLLC
445 Hamilton Avenue, Ste 1100
White Plains, NY 10601
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ATTORNEY TO BE NOTICED

V.

Defendant

Andrew Cuomo
as Governor of the State of New York

represented by **Matthew Lawrence Conrad**
New York State Office of the Attorney
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28 Liberty Street, 15th Floor
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(212)-416-6352
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Board of Elections of the City of New York

represented by **Stephen Edward Kitzinger**
New York City Law Depart. Office of the
Corporation Counsel
100 Church Street
New York, NY 10007
212-788-0849
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Email: SKitzing@law.nyc.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

New York State Board of Elections

represented by **Matthew Lawrence Conrad**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants

**Peter S. Kosinski, Co-Chair and
Commissoner, individually and in his
official capacities at the NYS BOE**

represented by **Matthew Lawrence Conrad**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants

**Douglas A Kellner, Co-Chair and
Commissioner individually and in his
official capacities at the NYS BOE**

represented by **Matthew Lawrence Conrad**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants

**Andrew Spano, Commissioner,
individually and in his official capacities
at the NYS BOE**

represented by **Matthew Lawrence Conrad**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants

Josel Miguel Araujo

represented by **Stephen Edward Kitzinger**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants

Miguelina Camilo

represented by **Stephen Edward Kitzinger**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants

John Wm. Zaccone

represented by **Stephen Edward Kitzinger**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants

tiffany townsend

represented by **Stephen Edward Kitzinger**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants

michael michel

represented by **Stephen Edward Kitzinger**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants**Simon Shamoun**

represented by **Stephen Edward Kitzinger**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

All Defendants**Gino A. Marmorato**

represented by **Stephen Edward Kitzinger**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/07/2020	<u>1</u>	FILING ERROR - DEFICIENT PLEADING - PDF ERROR - COMPLAINT against Board of Elections of the City of New York, Andrew Cuomo, New York State Board of Elections. (Filing Fee \$ 400.00, Receipt Number ANYSDC-19746457) Document filed by Scherie S. Murray..(Paul, Richard) Modified on 5/7/2020 (pc). (Entered: 05/07/2020)
05/07/2020	<u>2</u>	PROPOSED TEMPORARY RESTRAINING ORDER. Document filed by Scherie S. Murray. (Attachments: # <u>1</u> Affidavit Affirmation per Rule 65) Related Document Number: [20-3571]..(Paul, Richard) Proposed Order to be reviewed by Clerk's Office staff. (Entered: 05/07/2020)
05/07/2020		***NOTICE TO ATTORNEY REGARDING CIVIL. CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney Richard St Paul. The following case opening statistical information was erroneously selected/entered: County code Albany;. The following correction(s) have been made to your case entry: the County code has been modified to Queens;. (pc) (Entered: 05/07/2020)
05/07/2020		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Richard St Paul. The party information for the following party/parties has been modified: Scherie S. Murray, Board of Elections of the City of New York, Andrew Cuomo, New York State Board of Elections. The information for the party/parties has been modified for the following reason/reasons: party role was entered incorrectly;. (pc) (Entered: 05/07/2020)
05/07/2020	<u>3</u> R	PROPOSED TEMPORARY RESTRAINING ORDER. Document filed by Scherie S. Murray. (Attachments: # <u>1</u> Supplement Memo of Law, # <u>2</u> Affidavit) Related Document Number: [20cv3571]..(Paul, Richard) Proposed Order to be reviewed by Clerk's Office staff. (Entered: 05/07/2020)
05/07/2020	<u>4</u> R	COMPLAINT against Board of Elections of the City of New York, Andrew Cuomo, New York State Board of Elections. Document filed by Scherie S. Murray..(Paul, Richard) (Entered: 05/07/2020)
05/07/2020	<u>5</u>	CIVIL COVER SHEET filed..(Paul, Richard) (Entered: 05/07/2020)
05/07/2020		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Richard St Paul. The party information for the following party/parties has been modified: Andrew Cuomo. The information for the party/parties has been modified for the following reason/reasons: party text was omitted;. (pc) (Entered: 05/07/2020)
05/07/2020		***NOTICE TO ATTORNEY REGARDING DEFICIENT PLEADING. Notice to

		Attorney Richard St Paul re: Document No. 4 R Complaint. The filing is deficient for the following reason(s): all of the parties listed on the pleading were not entered on CM ECF;. Docket the event type Add Party to Pleading found under the event list Complaints and Other Initiating Documents... (pc) (Entered: 05/07/2020)
05/07/2020		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Mary Kay Vyskocil. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf-related-instructions ..(pc) (Entered: 05/07/2020)
05/07/2020		Magistrate Judge Ona T. Wang is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (pc) (Entered: 05/07/2020)
05/07/2020		Case Designated ECF. (pc) (Entered: 05/07/2020)
05/07/2020		***NOTICE TO COURT REGARDING PROPOSED ORDER TO SHOW CAUSE WITH EMERGENCY RELIEF. Document No. 3 R Proposed Temporary Restraining Order, 2 Proposed Temporary Restraining Order, was reviewed and approved as to form. (ad) (Entered: 05/07/2020)
05/08/2020		ADD PARTY FOR PLEADING. Defendants/Respondents Peter S. Kosinski, Co-Chair and Commissioner, individually and in his official capacities at the NYS BOE, Douglas A Kellner, Co-Chair and Commissioner individually and in his official capacities at the NYS BOE, Andrew Spano, Commissioner, individually and in his official capacities at the NYS BOE, Josel Miguel Araujo, Miguelina Camilo, John Wm. Zacccone, tiffany townsend, michael michel, Simon Shamoun, Gino A. Marmorato added. Party added pursuant to 4 R Complaint.Document filed by Scherie S. Murray. Related document: 4 R Complaint..(Paul, Richard) (Entered: 05/08/2020)
05/08/2020	6	ORDER TO SHOW CAUSE: Upon the application by plaintiff for temporary restraining order and preliminary injunction and the supporting affidavits of Scherie S. Murray and Richard St. Paul, Esq., sworn on the 7th day of May, 2020, and upon the Complaint filed in this Action, it is hereby ORDERED that the Defendants show cause before this Court at a telephone conference on May 15, 2020 at 2:00PM, why a temporary restraining order pursuant to Federal Rule of Civil Procedure 65(b) should not issue. The conference can be accessed by dialing 888-278-0296 and entering access code 5195844. IT IS FURTHER ORDERED that opposing papers, if any, shall be filed electronically with Court and served on Plaintiff's counsel by email on or before May 12, 2020 at 4:00PM. Plaintiff shall file any Reply papers on or before May 13, 2020 at 4:00PM. IT IS FURTHER ORDERED that in addition to the merits of Plaintiff's request for injunctive relief, the Parties should address in their briefing, and be prepared to discuss at the conference, the proceeding described in Paragraph 50-51 of the Complaint, any available appeal, and whether that proceeding merits this Court's abstention from acting on the Complaint. IT IS FURTHER ORDERED that counsel for the Plaintiff should serve a copy of this Order, the Complaint, and all papers in support of Plaintiff's application upon the Defendants via email on both the individual and organizational Defendants on or before 5:00PM today, May 8, 2020. Such action will be deemed good and sufficient service thereof. Plaintiff shall subsequently file an affidavit

		of service on ECF. Show Cause Response due by 5/12/2020. (Signed by Judge Mary Kay Vyskocil on 5/8/2020) (mro) (Entered: 05/08/2020)
05/08/2020		Set/Reset Deadlines: (Replies due by 5/13/2020.), Set/Reset Hearings:(Telephone Conference set for 5/15/2020 at 02:00 PM before Judge Mary Kay Vyskocil.) (mro) (Entered: 05/08/2020)
05/12/2020	7	NOTICE OF APPEARANCE by Stephen Edward Kitzinger on behalf of Josel Miguel Araujo, Board of Elections of the City of New York, Miguelina Camilo, Gino A. Marmorato, Simon Shamoun, John Wm. Zaccone, michael michel, tiffany townsend.. (Kitzinger, Stephen) (Entered: 05/12/2020)
05/12/2020	8	RESPONSE TO ORDER TO SHOW CAUSE re: 6 Order to Show Cause,,,,,, Document filed by Josel Miguel Araujo, Board of Elections of the City of New York, Miguelina Camilo, Gino A. Marmorato, Simon Shamoun, John Wm. Zaccone, michael michel, tiffany townsend. (Attachments: # 1 Exhibit Non-compliance notice, # 2 Exhibit Letter advising of invalidity, # 3 Exhibit Email with instructions).(Kitzinger, Stephen) (Entered: 05/12/2020)
05/12/2020	9	NOTICE OF APPEARANCE by Matthew Lawrence Conrad on behalf of Andrew Cuomo, Douglas A Kellner, Co-Chair and Commissioner individually and in his official capacities at the NYS BOE, Peter S. Kosinski, Co-Chair and Commissioner, individually and in his official capacities at the NYS BOE, New York State Board of Elections, Andrew Spano, Commissioner, individually and in his official capacities at the NYS BOE..(Conrad, Matthew) (Entered: 05/12/2020)
05/12/2020	10	RESPONSE TO ORDER TO SHOW CAUSE re: 6 Order to Show Cause,,,,,, Document filed by Andrew Cuomo, Douglas A Kellner, Co-Chair and Commissioner individually and in his official capacities at the NYS BOE, Peter S. Kosinski, Co-Chair and Commissioner, individually and in his official capacities at the NYS BOE, New York State Board of Elections, Andrew Spano, Commissioner, individually and in his official capacities at the NYS BOE. (Attachments: # 1 Affidavit Declaration of Matthew L. Conrad, # 2 Exhibit A: State court filings).(Conrad, Matthew) (Entered: 05/12/2020)
05/13/2020	11	REPLY AFFIRMATION of Richard St. Paul in Support. Document filed by Scherie S. Murray. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D).(Paul, Richard) (Entered: 05/13/2020)
05/13/2020	12	FIRST REPLY MEMORANDUM OF LAW . Document filed by Scherie S. Murray.. (Paul, Richard) (Entered: 05/13/2020)
05/13/2020	13	AFFIDAVIT OF SERVICE. Document filed by Scherie S. Murray..(Paul, Richard) (Entered: 05/13/2020)
05/15/2020		Minute Entry for proceedings held before Judge Mary Kay Vyskocil: Telephone Conference held on 5/15/2020. See transcript for full details. Court reporter Andrew Walker present. (kgo) Modified on 5/15/2020 (kgo). (Entered: 05/15/2020)
05/18/2020	14 R	OPINION & ORDER DENYING TEMPORARY RESTRAINING ORDER denying Plaintiff's motion for a Temporary Restraining Order. Upon review of the Plaintiff's motion for a temporary restraining order and supporting papers, Defendants' materials submitted in opposition, and the parties' arguments during the May 15 hearing, and after due consideration, the Motion for a temporary restraining order is DENIED. This opinion supplements the Court's ruling on the record at the May 15 conference. As discussed herein, the Court finds that no barrier to consideration of Plaintiff's motion exists, because the Rooker-Feldman doctrine is inapplicable here, and because there is not a fully developed record to enable the Court to rule on the application of res judicata. However, the Court concludes that Plaintiff has not met the burden required to

		justify a temporary restraining order in this case. (Signed by Judge Mary Kay Vyskocil on 5/16/2020) (ab) (Main Document 14 replaced on 5/18/2020) (mro). Modified on 5/18/2020 (mro). (Entered: 05/16/2020)
05/18/2020	15	FILING ERROR - NO ORDER SELECTED FOR APPEAL - NOTICE OF INTERLOCUTORY APPEAL. Document filed by Scherie S. Murray. Filing fee \$ 505.00, receipt number ANYSDC-19871163. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (Paul, Richard) Modified on 5/18/2020 (tp). (Entered: 05/18/2020)
05/18/2020		***NOTICE TO ATTORNEY REGARDING DEFICIENT APPEAL. Notice to attorney Paul, Richard to RE-FILE Document No. 15 Notice of Interlocutory Appeal. The filing is deficient for the following reason(s): the order/judgment being appealed was not selected. Re-file the appeal using the event type <i>Corrected Notice of Appeal</i> found under the event list <i>Appeal Documents - attach the correct signed PDF - select the correct named filer/filers - select the correct order/judgment being appealed.</i> (tp) (Entered: 05/18/2020)
05/18/2020	16	FIRST CORRECTED NOTICE OF APPEAL re: 15 Notice of Interlocutory Appeal, 14 R Memorandum & Opinion,,,,,. Document filed by Scherie S. Murray..(Paul, Richard) (Entered: 05/18/2020)
05/18/2020		Appeal Fee Paid electronically via Pay.gov: for 16 Corrected Notice of Appeal. Filing fee \$ 505.00. Pay.gov receipt number ANYSDC-19871163, paid on 5/18/2020. (tp) (Entered: 05/18/2020)
05/18/2020		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 16 Corrected Notice of Appeal. (tp) (Entered: 05/18/2020)
05/18/2020		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for 16 Corrected Notice of Appeal filed by Scherie S. Murray were transmitted to the U.S. Court of Appeals. (tp) (Entered: 05/18/2020)
05/29/2020	17	MANDATE of USCA (Certified Copy) as to 15 Notice of Interlocutory Appeal, filed by Scherie S. Murray. USCA Case Number 20-1584. Appellant moves to withdraw the appeal. IT IS HEREBY ORDERED that the motion is GRANTED.. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Issued As Mandate: 05/29/2020..(nd) (Entered: 05/29/2020)
06/07/2020	18	NOTICE OF VOLUNTARY DISMISSAL pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, the plaintiff(s) and or their counsel(s), hereby give notice that the above-captioned action is voluntarily dismissed, without prejudice and without costs against the defendant(s) Josel Miguel Araujo, Board of Elections of the City of New York, Miguelina Camilo, Andrew Cuomo, Douglas A Kellner, Co-Chair and Commissioner individually and in his official capacities at the NYS BOE, Peter S. Kosinski, Co-Chair and Commisisoner, individually and in his official capacities at the NYS BOE, Gino A. Marmorato, New York State Board of Elections, Simon Shamoun, Andrew Spano, Commissioner, individually and in his official capacities at the NYS BOE, John Wm. Zaccone, michael michel, tiffany townsend. Document filed by Scherie S. Murray. Proposed document to be reviewed and processed by Clerk's Office staff (No action required by chambers) ...(Paul, Richard) (Entered: 06/07/2020)