

## Candidate's Petitions Survive Fraud Challenge in Queens Race

BY MARK FASS

ALTHOUGH the Board of Elections deemed 2,839 signatures invalid and noted that another 417 were allegedly signed by one person, a state judge has held that the designating petitions of a candidate for Queens borough president should not be thrown out on the basis that they are "permeated with fraud."

In a decision Friday, Queens Supreme Court Justice Allan B. Weiss wrote that 15 witnesses whose names appeared on candidate Robert Schwartz's petitions testified that they did not sign them and another witness testified that he signed the petition five times—once for himself, and four times for various family members.

But the judge held that the rights of the valid signatories precluded the inference that the remaining signatures might be tainted.

The Queens Supreme Court decision appears on page 2.

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"Although the testimony of the witnesses who appeared before this Court was uncontroverted, this Court cannot conclude that the entire process was permeated with fraud or even that all of the... individual petitions contain totally untrustworthy signatures," Justice Weiss wrote in *Leavitt v. Schwartz*, 20287/09.

The petition to declare fraudulent and invalidate Mr. Schwartz's designating petitions was filed by Marc C. Leavitt, who like Mr. Schwartz is seeking to unseat the incumbent borough president, Helen M. Marshall, in the Sept. 15 Democratic primary.

An attorney for Mr. Leavitt, Leo Glickman, said that a comparison of Mr. Schwartz's petitions with voter registration records uncovered "over 100 people" whose names appeared on the petitions but who said they had never signed.

The Board of Elections subsequently threw out 2,839 of the 8,772 signatures, leaving Mr. Schwartz with 5,933 valid signatures, nearly 2,000 more than the 4,000-signature requirement.

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