

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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RICHARD A. LUTHMANN and LUTHMANN
LAW FIRM PLLC, f/b/o creditors including the
United States and its taxpayers,

Plaintiff(s),

-against-

RONALD CASTORINA, JR., aka NEW YORK
STATE SUPREME COURT JUSTICE RONALD
CASTORINA, JR., and RONALD CASTORINA, JR.,
CAMPAIGN COMMITTEE aka CASTORINA FOR
ASSEMBLY, and NEW YORK STATE BOARD OF
ELECTIONS,

Defendant(s).

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Index No.:

**SUMMONS WITH
VERIFIED COMPLAINT**

JURY TRIAL DEMANDED

Plaintiff designates Albany County as the place of trial. The basis of the venue is the accrual of the cause of action, the presence of defendants, and the amenability of the Defendants in Albany County.

TO THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's attorney within twenty (20) days after the service of this summons, exclusive of the day of service or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York and in case of your failure to answer, judgment will be taken against you by default for the relief demanded in the annexed complaint with interest from the date the cause of action arose, costs, disbursements, punitive damages, and attorneys' fees.

Dated: New York, New York
March 8, 2023,

Yours, etc.,

ALMAGNO LAW, INC.



Lawrence P. Almagno, Jr., Esq.

Attorneys for Plaintiff
43 W. 43rd Street, Suite 169

New York, NY 10036
Tel: (212) 859-5074

The Address(es) of the Defendant(s) are:

Ronald Castorina, Jr., 379 Main St., Staten Island, NY 10307

Ronald Castorina, Jr. Campaign Committee aka Castorina For Assembly, 379 Main St., Staten Island, NY 10307

New York State Board of Elections, 40 North Pearl Street, Suite 5, Albany, NY 12207-2729

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STATE SUPREME COURT JUSTICE RONALD
CASTORINA, JR., RONALD CASTORINA, JR.,
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JURY TRIAL DEMANDED

Defendant(s).

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The Plaintiffs, RICHARD A. LUTHMANN and LUTHMANN LAW FIRM PLLC, by
their attorneys, ALMAGNO LAW, INC., allege the following:

INTRODUCTION

1. This is an action for Breach of Contract, Contract Implied in Fact, Unjust Enrichment, Account Stated, and Quantum Meruit predicated upon the good, valuable, and effective services rendered by the plaintiffs, RICHARD A. LUTHMANN (“Mr. Luthmann”) and LUTHMANN LAW FIRM PLLC (“LLF”), for and on behalf of the defendants RONALD CASTORINA, JR., aka NEW YORK STATE SUPREME COURT JUSTICE RONALD CASTORINA, JR. (“Justice Castorina”), RONALD CASTORINA, JR., CAMPAIGN COMMITTEE aka CASTORINA FOR ASSEMBLY (“Castorina Campaign”). NEW YORK STATE BOARD OF ELECTIONS (“NYSBOE”) is named as a necessary party for applicable notice purposes and because their independent enforcement powers may resolve this dispute before judicial intervention and the expenditure of scarce judicial resources.

PARTIES

2. Plaintiff RICHARD A. LUTHMANN (“Mr. Luthmann”) is a natural person residing in Florida. At all relevant times to this complaint, Mr. Luthmann was an attorney at law.

3. Plaintiff LUTHMANN LAW FIRM, PLLC (“LLF”) is a New York Professional Limited Liability Company. LLF has ceased operations and is winding up its affairs.

4. Defendant RONALD CASTORINA, JR. (“Justice Castorina”) is a New York State Supreme Court Justice and a former member of the New York State Assembly.

5. Defendant RONALD CASTORINA, JR. CAMPAIGN COMMITTEE (“Castorina Campaign”) is also known as Castorina For Assembly. The Castorina Campaign is a political campaign committee for Justice Castorina.

6. Defendant NEW YORK STATE BOARD OF ELECTIONS (“NYSBOE”) is a necessary party and a party to be noticed. NYSBOE has its own independent enforcement powers that may resolve this dispute before judicial intervention and the expenditure of scarce judicial resources. NYSBOE is also the custodian of necessary books and records.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the action. This action rings in contract and equity and exceeds the minimum jurisdictional amounts of all lower courts having jurisdiction.

8. To the extent the services rendered at issue were legal services, Defendants Justice Castorina and the Castorina Campaign have received the appropriate Fee Arbitration Notices. See the attached **EXHIBIT “A.”** More than thirty days (30) have passed since receipt. See the attached **EXHIBIT “B.”**

9. Justice Castorina is a natural person. Service can be accomplished by CPLR § 308.

10. Service on the Castorina Campaign can be accomplished by service upon the candidate, Justice Castorina, and as per CPLR § 311.

11. Service on the NYSBOE can be accomplished by CPLR § 311.

12. The basis of the venue is the accrual of the cause of action, the presence of defendants, partial performance of the contract in Albany County, and the subject matter of the contract, Justice Castorina's Assembly seat, being physically present in Albany County.

FACTS COMMON TO ALL COUNTS

2016 Assembly Campaign and 2017 Political "Fixing"

13. Defendants Justice Castorina and the Castorina Campaign engaged Mr. Luthmann to perform general legal and other work related to candidate Justice Ronald Castorina's activities while he was an Assemblyman. This involved political strategy, social media strategy, political "fixing," and other issues.

14. Defendants Justice Castorina and Castorina Campaign engaged Mr. Luthmann to perform other work related to Justice Castorina's 2016 NYS Assembly Campaign. Namely, Mr. Luthmann was engaged to create a "fake Facebook" page against rival candidate Janine Materna.

15. Defendants Justice Castorina and the Castorina Campaign commissioned the fake Facebook page.

16. The fake Facebook page was developed and operated by Luthmann with Defendants Justice Castorina and the Castorina Campaign's full knowledge and consent.

17. Mr. Luthmann was promised \$20,000 for the fake Facebook page by Justice Castorina.

18. Defendants Justice Castorina and the Castorina Campaign knew that Mr. Luthmann operated a fake Facebook page against District Attorney Michael E. McMahon during the 2015 Richmond County District Attorney's race.¹

¹ Rival candidate, professional prosecutor Joan Illuzzi-Orbon had no knowledge of Mr. Luthmann's "dirty tricks."

19. Defendant Justice Castorina communicated with Mr. Luthmann over Facebook messenger. See the attached **EXHIBIT “C.”**

20. Justice Castorina was called to testify in a 2018 grand jury about the fake Facebook. See the attached **EXHIBIT “D.”**

21. Justice Castorina’s grand jury testimony directly contradicts Facebook Messenger messages between Justice Castorina and Mr. Luthmann and telephone records that were offered into evidence and presented to the grand jury; Castorina’s sworn testimony was suborned by Special Richmond County District Attorney Eric Nelson.

22. Justice Castorina appeared before a Staten Island grand jury on August 1, 2018, and perjured himself as Special Prosecutor Eric Nelson’s “star witness,” a sitting NYS Assemblyman and then-judicial candidate.

23. Mr. Luthmann and LLF performed all the services Defendants Justice Castorina and the Castorina Campaign directed and was successful.

24. Justice Castorina won the primary election.

25. When the “Fake Facebook” story broke, Justice Castorina and Mr. Luthmann agreed Mr. Luthmann, who was not an elected official with judicial aspirations, would take the blame, shielding Justice Castorina from political and legal fallout.

26. Mr. Luthmann was arrested on December 15, 2017, and subsequently went away to Federal Prison.

27. Defendants Justice Castorina and the Castorina Campaign never settled their bill.

28. Justice Castorina subsequently denied knowing Mr. Luthmann.

29. Justice Castorina subsequently told witnesses he had to “distance himself” from Mr. Luthmann.

30. Justice Castorina told one witness, “You’ve been around a long time. I had to distance myself from Rich. You know how it is.”

31. As per the Castorina Campaign’s Expenditures from 2016 to 2018 as reported to and by the NYSBOE Defendants, Justice Castorina and Castorina Campaign reported no payments to Mr. Luthmann or LLF.

32. As per the Castorina Campaign’s Expenditures from 2016 to 2018 as reported to and by the NYSBOE Defendants, Justice Castorina and Castorina Campaign reported no independent expenditures to Mr. Luthmann or LLF.

33. As per the Castorina Campaign’s Expenditures from 2016 to 2018 as reported to and by the NYSBOE Defendants, Justice Castorina and Castorina Campaign reported in-kind contributions by Mr. Luthmann or LLF.

34. Defendants Justice Castorina and the Castorina Campaign agreed to all of the work Mr. Luthmann performed. The Castorina Committee neither reported nor paid for any of this work.

35. Defendant NYSBOE holds all records relevant campaign finance records and may properly be called to account for the same.

Witnesses to Mr. Luthmann and LLF’s Work and Spoliation Letters

36. In preparation for this lawsuit and during the pre-lawsuit period when a non-judicial resolution was attempted, on November 16, 2022, spoliation letters were sent to potential witnesses in this case, notifying them they had relevant evidence, that they may be called as witnesses, and to preserve any and all evidence related to this matter. See the attached **EXHIBIT “E.”**

37. SEAN O’SULLIVAN received a spoliation letter. Sean O’Sullivan is an attorney at law. The spoliation letter said:

Of particular importance are your dealings with Richard Luthmann and/or Ronald Castorina, Jr., in 2016 and 2017, particularly in July,

August, and September of 2017, and particularly those related to election law, politics, and press concerns.

38. Sean O’Sullivan has been around New York State and Staten Island Republican Party politics for a long time.

39. Sean O’Sullivan has seen a lot of people come and go, and he has lasted because he generally tells the truth.

40. Sean O’Sullivan is Justice Castorina’s “cut-out.” Sean O’Sullivan and Justice Castorina are business partners. Justice Castorina legally and/or equitably owns a beneficial interest in Sean O’Sullivan’s title company.

41. The actions and knowledge of one partner may be imputed to another.

42. Phone records from August 25, 2017, show numerous calls between Mr. Luthmann and Justice Castorina that day.

43. Justice Castorina initiated the calls to Mr. Luthmann, and Sean O’Sullivan was present.

44. Mr. Luthmann was at a Kiwanis Convention in Lake Placid, New York. Sean O’Sullivan was there too.

45. Mr. Luthmann was not calling Justice Castorina from Lake Placid, New York, because Mr. Luthmann was a “crazy person” that needed to talk to an Assemblyman.

46. Justice Castorina was not “placating” Mr. Luthmann on the phone call Justice Castorina initiated.

47. The Fake Facebook story had just broken in the press, and Justice Castorina had need of his “fixer.”

48. Justice Castorina was in tears because they were calling for his resignation as Republican Party Leader in Richmond County.

49. Justice Castorina had choice words about Letitia Remauro, who told Justice Castorina it must have been a “dark time” for him to have consulted with Mr. Luthmann.

50. According to newspaper reports, Letitia Remauro shouted “Heil Hitler” at a campaign rally when she later ran for Staten Island Borough President.

51. Mr. Luthmann began crafting a Facebook Post that would exonerate Justice Castorina politically and calm the calls for him to resign.

52. The Facebook post had Mr. Luthmann take the blame for the Fake Facebook.

53. The Facebook post was a work of political craft and not true.

54. Sean O’Sullivan was there the entire time.

55. Mr. Luthmann drafted the Facebook post sitting on the floor of the “Miracle on Ice” hockey arena. Sean O’Sullivan was sitting next to him.

56. Justice Castorina knew that certain contents of the Facebook post were false.

57. Justice Castorina testified to their complete veracity at the August 1, 2018, grand jury when prompted by Special Prosecutor Eric Nelson.

58. Justice Castorina perjured himself, and Special Prosecutor Eric Nelson suborned perjury.

59. The effect of the Fake Facebook post was to shift all of the inquiry and blame away from Justice Castorina and place it squarely on Mr. Luthmann.

60. Mr. Luthmann was successful.

Castorina Campaign: Failure to Report to the New York State Board of Elections

61. Justice Castorina was formerly an official with the Board of Elections in the City of New York.

62. Agreements with lawyers and consultants must be reported to the NYSBOE.

63. Any candidate or committee who fails to report or otherwise circumvents the NYSBOE Rules and applicable law liable for penalties.

64. Justice Castorina and the Castorina Campaign failed to make the proper reporting.

65. Lawyers and consultants must be paid under the NYSBOE Rules.

66. Justice Castorina and the Castorina Campaign failed to pay their lawyers and consultants, namely Mr. Luthmann and LLF.

NYSBOE's Independent Regulatory Powers May Obviate the Need for Judicial Intervention and the Expenditure of Scarce Court Resources

67. Defendants NYSBOE is included as a Defendant/Necessary Parties for several important legal reasons. One of the most fundamental reasons is judicial economy and preserving scarce Court resources. After the filing of this matter and before judicial intervention, NYSBOE may use their broad regulatory powers to assert jurisdiction over and resolve this matter.

68. Regulatory action by the NYSBOE may obviate the need for and/or moot this lawsuit before the New York State Supreme Court.

69. Mr. Luthmann and LLF seek judgment in the sum of \$62,387.06, plus costs, fees, and statutory interest from June 18, 2017, against Justice Castorina, the Castorina Campaign, and Mr. Love. Mr. Luthmann and LLF must collect for the benefit of their creditors, including the US Government and its taxpayers. Mr. Luthmann and LLF will avail themselves of any legal and/or regulatory forum where the proper parties are made whole.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST
DEFENDANTS RONALD CASTORINA, JR. AND RONALD
CASTORINA, JR. CAMPAIGN COMMITTEE
(Breach of Agreement)

70. Plaintiffs re-state, re-allege, and re-iterate all proceeding paragraphs as if fully stated herein, and further state as follows.

71. A contract for services existed between plaintiffs and defendants.

72. Plaintiffs performed good, valuable, and effective services on behalf of the defendant.

73. Defendants have failed to perform and have failed to pay.

74. Plaintiffs suffer damages attributable to the breach.

WHEREFORE, Plaintiffs Richard A. Luthmann and Luthmann Law Firm, PLLC, seek judgment against Defendants Ronald Castorina, Jr., and the Ronald Castorina, Jr. Campaign Committee in the sum of \$62,387.06, plus costs, fees, and statutory interest from December 1, 2017.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST
DEFENDANTS RONALD CASTORINA, JR. AND RONALD
CASTORINA, JR. CAMPAIGN COMMITTEE
(Contract Implied in Fact)

75. Plaintiffs re-state, re-allege, and re-iterate all proceeding paragraphs as if fully stated herein, and further state as follows.

76. The plaintiffs and defendants had mutual assent that the plaintiffs would perform good and valuable services on the defendants' behalf.

77. The plaintiffs did, in fact, perform good, valuable, and effective services on the defendants' behalf.

78. The promises and performance between the plaintiffs and defendants were supported by good and valuable considerations, the receipt and sufficiency of which were acknowledged by the parties.

79. The parties all had and have legal capacity.

80. The subject matter of the engagement was a legal subject matter.

WHEREFORE, Plaintiffs Richard A. Luthmann and Luthmann Law Firm, PLLC, seek judgment against Defendants Ronald Castorina, Jr., and the Ronald Castorina, Jr. Campaign Committee in the sum of \$62,387.06, plus costs, fees, and statutory interest from December 1, 2017.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST
DEFENDANTS RONALD CASTORINA, JR. AND RONALD
CASTORINA, JR. CAMPAIGN COMMITTEE
(Unjust Enrichment)

81. Plaintiffs re-state, re-allege, and re-iterate all proceeding paragraphs as if fully stated herein, and further state as follows.

82. Defendants benefitted from the plaintiffs' good, valuable, and effective services rendered.

83. Defendants benefitted at the Plaintiffs' expense.

84. Equity and good conscience require restitution.

WHEREFORE, Plaintiffs Richard A. Luthmann and Luthmann Law Firm, PLLC, seek judgment against Defendants Ronald Castorina, Jr., and the Ronald Castorina, Jr. Campaign Committee in the sum of \$62,387.06, plus costs, fees, and statutory interest from December 1, 2017.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST
DEFENDANTS RONALD CASTORINA, JR. AND RONALD
CASTORINA, JR. CAMPAIGN COMMITTEE
(Account Stated)

85. Plaintiffs re-state, re-allege, and re-iterate all proceeding paragraphs as if fully stated herein, and further state as follows.

86. Plaintiffs and Defendants engaged in a prior transaction.

87. Plaintiffs and Defendants agreed to the correctness of the account items and balance due.

88. Defendants expressly and/or impliedly promised to pay the amount due.

WHEREFORE, Plaintiffs Richard A. Luthmann and Luthmann Law Firm, PLLC, seek judgment against Defendants Ronald Castorina, Jr., and the Ronald Castorina, Jr. Campaign Committee in the sum of \$62,387.06, plus costs, fees, and statutory interest from December 1, 2017.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST
DEFENDANTS RONALD CASTORINA, JR. AND RONALD
CASTORINA, JR. CAMPAIGN COMMITTEE
(Quantum Meruit)

89. Plaintiffs re-state, re-allege, and re-iterate all proceeding paragraphs as if fully stated herein, and further state as follows.

90. Plaintiffs performed good, valuable, and effective services for defendants in good faith.

91. Defendants accepted the services rendered by plaintiffs.

92. There was a reasonable expectation of compensation therefor.

93. The value of the services rendered was reasonable.

WHEREFORE, Plaintiffs Richard A. Luthmann and Luthmann Law Firm, PLLC, seek judgment against Defendants Ronald Castorina, Jr., and the Ronald Castorina, Jr. Campaign Committee in the sum of \$62,387.06, plus costs, fees, and statutory interest from December 1, 2017.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST
DEFENDANT NEW YORK STATE BOARD OF
ELECTIONS
(Accounting)

94. Plaintiffs re-state, re-allege, and re-iterate all proceeding paragraphs as if fully stated herein, and further state as follows.

95. Defendants are entrusted with a duty to account for all money, property, and things related to elections and the financing of elections conducted in the City of New York

96. Defendants are legally bound with a fiduciary duty under the New York City Charter ("N.Y.C. Charter"), New York Campaign Finance Act (the "Act"), and NYC Campaign Finance Board Rules.

97. Defendants possess lawful and regularly kept records from the 2017 New York City Elections.

98. Unless noticed and called to account by Court command, Defendants may misplace, lose, and/ or destroy vital records.

99. No adequate legal remedy exists.

WHEREFORE, Plaintiffs Richard A. Luthmann and Luthmann Law Firm, PLLC, seek the judgment of accounting for the 2016 New York State Assembly Republican Primary Election in the 62nd Assembly District, related reporting for the candidates and campaigns in 2016, 2017, and

2018, and the production of for inspection and copying of all relevant documents, records, and things, tangible and intangible.

JURY TRIAL DEMANDED

Plaintiffs demand a jury trial on all issues so triable.

Dated: New York, New York
March 8, 2023

Yours, etc.,

ALMAGNO LAW, INC.

A handwritten signature in black ink, appearing to read "L P Almagno Jr", written over a horizontal line.

Lawrence P. Almagno, Jr., Esq.

Attorneys for Plaintiff
43 W. 43rd Street, Suite 169
New York, NY 10036
Tel: (212) 859-5074

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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RICHARD A. LUTHMANN and LUTHMANN
LAW FIRM PLLC, f/b/o creditors including the
United States and its taxpayers,

Index No.:

Plaintiff(s),

**CERTIFICATE OF NO
FRIVOLITY**

-against-

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STATE SUPREME COURT JUSTICE RONALD
CASTORINA, JR., and RONALD CASTORINA, JR.,
CAMPAIGN COMMITTEE aka CASTORINA FOR
ASSEMBLY, and NEW YORK STATE BOARD OF
ELECTIONS,

Defendant(s).

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Pursuant to the Rules of the Chief Administrator, 22 N.Y.C.R.R. §130-1.1-a and with
regard to Summons and Complaint, the undersigned attorney certifies that to the best of his
knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,
the presentation of the aforementioned papers, or the contentions therein are not frivolous as
defined in subsection (c) of section 130-1.1.

Dated: New York, New York
March 8, 2023

Yours, etc.,

ALMAGNO LAW, INC.



Lawrence P. Almagno, Jr., Esq.

Attorneys for Plaintiff
43 W. 43rd Street, Suite 169
New York, NY 10036
Tel: (212) 859-5074

VERIFICATION

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

I, LAWRENCE P. ALMAGNO, JR., being duly sworn, say:

1. I am an attorney admitted to practice law in the State of New York.
2. I make an attorney verification of the within action pursuant to CPLR § 3021 because the Plaintiff is absent from the county where my office is located in New York County.
3. I have confirmed that Plaintiff has read the foregoing Summons and Complaint and knows the contents thereof, and based upon our communications I can verify Plaintiff states the allegations are true to Plaintiff's knowledge; except as to matters therein stated to be alleged upon information and belief, and as to those matters Plaintiff believes them to be true.



—
LAWRENCE P. ALMAGNO, ESQ.