

26-5013

No. _____

ORIGINAL

FILED

MAY 21 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

In the Supreme Court of the United States

NICKIE KANE,
PETITIONER,

v.

BRAD LANDER,
Respondent-Candidate.

and

BOARD OF ELECTIONS IN THE CITY OF NEW YORK,
Respondent-Board.

On Petition for a Writ of Certiorari
to the New York Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

This petition presents federal constitutional questions concerning due process, ballot access, access to courts, meaningful appellate review, and the burdens imposed on pro se indigent candidates in expedited Election Law proceedings.

1. Whether the Due Process Clause of the Fourteenth Amendment permits a state court to dismiss an expedited ballot-access proceeding based on an alleged failure to serve documents that were not specifically identified in the signed Order to Show Cause as jurisdictionally required service papers.
2. Whether due process permits a state court to treat the phrase “papers upon which the Order to Show Cause was granted” as a jurisdictional trap where the court never identified which papers it relied upon, never identified the alleged missing email, and never warned that failure to serve that document would require dismissal.
3. Whether a verified petition and supporting affirmation containing the operative sworn facts, together with service of the Notice of Electronic Filing, Petition, and Order to Show Cause, satisfy due process notice where the Notice of Electronic Filing provided the case number and gave Respondents immediate access to the NYSCEF docket.
4. Whether due process permits dismissal where Respondent-Candidate appeared, filed a detailed Verified Answer, raised jurisdictional defenses, standing arguments, service arguments, timeliness arguments, verification

arguments, and merits arguments, thereby demonstrating actual notice and absence of prejudice.

5. Whether the First and Fourteenth Amendments prohibit state courts from applying service rules in a way that denies a pro se indigent candidate meaningful judicial review of ballot-access fraud allegations before election deadlines make relief impossible.
6. Whether the Anderson-Burdick framework requires courts to weigh the combined burden of strict service rules, third-party service requirements, process-server costs, New York City process-server regulations, court delay, disability-related barriers, transcript delay, inaccessible record materials, and compressed Election Law deadlines.
7. Whether due process is violated where a pro se litigant timely files Election Law papers, but the court delays signing and uploading the Order to Show Cause until late in the day, then later dismisses the proceeding based on service defects caused or worsened by that court-controlled delay.
8. Whether the CPLR service scheme is unconstitutional as applied where it prohibits party service, requires a pro se indigent litigant to locate a third-party server, effectively requires immediate personal service or nail-and-mail with overnight mailing after a court signs an Order to Show Cause late on the final day to file and serve, and denies review despite actual notice, electronic docket access, and less burdensome reliable alternatives.

9. Whether due process requires an evidentiary hearing where the verified petition and affirmation allege that an individual under eighteen collected petition signatures, that Respondent-Candidate or his campaign had notice before submission, that the signatures were submitted anyway, and that another person falsely witnessed those signatures.
10. Whether the denial of renewal violated due process where Petitioner identified overlooked facts and submitted additional proof of timely notice, including UPS Next Day Air documentation and proof of delivery, but the courts refused to restore the case for merits review.
11. Whether the state courts denied meaningful appellate review where the Supreme Court dismissed without a hearing, the Appellate Division affirmed without opinion, the Appellate Division dismissed the reargument portion as nonappealable, and the Court of Appeals denied leave and constitutional review.
12. Whether meaningful appellate review was denied where the Court of Appeals required submission of Appellate Division briefs and any record or appendix, while Petitioner repeatedly asserted that the record was not uploaded, transcript access was delayed, and Appellate Division staff refused to upload or accept record-related submissions in an expedited election matter.
13. Whether the New York Court of Appeals' denial of leave and refusal to retain review of constitutional questions leaves a final state-court judgment reviewable under 28 U.S.C. § 1257 where the state courts ended the

proceeding without a merits hearing on federal due process and ballot-access claims.

PARTIES TO THE PROCEEDING

Petitioner is Nickie Kane, who appeared below as Petitioner-Candidate-Aggrieved, Appellant-Petitioner, and self-represented litigant.

Respondent-Candidate is Brad Lander, who appeared below as Respondent-Candidate.

Respondent-Board is the Board of Elections in the City of New York, which appeared below as Respondent-Board.

RELATED PROCEEDINGS

This case arises from the following related state court proceedings:

Supreme Court of the State of New York, New York County

Kane v. Lander, et al.

Index No. 451585/2026

Decision and Order dated on or about April 28, 2026, dismissing Petitioner's Election Law proceeding on service grounds.

Supreme Court of the State of New York, New York County

Kane v. Lander, et al.

Index No. 451585/2026

Decision and Order dated on or about May 1, 2026, denying Petitioner's motion to renew and reargue.

Supreme Court of the State of New York, Appellate Division, First Department
Matter of Kane v. Lander, et al.

Appellate Division Docket Nos. 2026-02422 and 2026-02537

Corrected Order entered May 13, 2026, affirming the Supreme Court judgment and order, and dismissing the appeal from denial of reargument as taken from a nonappealable paper.

Court of Appeals of the State of New York
Matter of Kane v. Lander, et al.

Court of Appeals Nos. APL-2026-00062 and APL-2026-00063

Order denying leave to appeal and denying review based on constitutional questions.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Nickie Kane respectfully petitions for a writ of certiorari to review the judgment and orders of the New York Court of Appeals, which denied leave to appeal and denied review based on constitutional questions after the New York state courts dismissed Petitioner's expedited Election Law proceeding without a merits hearing.

This petition presents substantial federal constitutional questions concerning due process, ballot access, access to courts, equal protection, and meaningful appellate review. Petitioner sought judicial review of serious ballot-access fraud allegations, including allegations that an individual under eighteen collected petition signatures, that Respondent-Candidate or his campaign had notice before submission, that the signatures were submitted anyway, and that another person falsely witnessed those signatures. No court held an evidentiary hearing.

Instead, the case was dismissed on service grounds based on documents that were not clearly identified in the signed Order to Show Cause as jurisdictionally required service papers. Respondent-Candidate received the Petition, Order to Show Cause, and Notice of Electronic Filing, had immediate access to the electronic docket, appeared, and filed a detailed Verified Answer. Nevertheless, the state courts treated an allegedly omitted cumulative email and other unlisted materials as jurisdictional.

This Court's review is warranted because the decision below allows expedited ballot-access proceedings to be dismissed through unclear service directives, court-created delay, and procedural burdens that fall most harshly on pro se indigent candidates.

OPINIONS AND DECISIONS BELOW

The Supreme Court of the State of New York, New York County, dismissed Petitioner's Election Law proceeding on or about April 28, 2026, on service grounds.

The Supreme Court thereafter denied Petitioner's motion to renew and reargue on or about May 1, 2026.

The Appellate Division, First Department, entered a corrected order on May 13, 2026, affirming the Supreme Court judgment and order, and dismissing the appeal from denial of reargument as taken from a nonappealable paper.

The New York Court of Appeals denied leave to appeal and denied review based on constitutional questions.

The relevant orders are included in the Appendix.

JURISDICTION

The New York Court of Appeals denied leave to appeal and declined review of the constitutional questions on May 19, 2026. This petition is timely under Supreme Court Rules 13 and 12.4.

This Court has jurisdiction under 28 U.S.C. § 1257(a) because this case arises from final state-court judgments and presents substantial federal constitutional questions under the First and Fourteenth Amendments.

Pursuant to Supreme Court Rule 12.4, this petition seeks review of two orders entered in the same state-court case. The relevant orders, constitutional provisions, statutes, regulations, and rules involved in this case are set forth in the appendix to this petition.

CONSTITUTIONAL PROVISIONS AT ISSUE

The First Amendment to the United States Constitution provides, in relevant part:

Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people peaceably to assemble.

The Fourteenth Amendment to the United States Constitution provides, in relevant part:

No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATUTORY PROVISIONS AT ISSUE

28 U.S.C. § 1257(a) provides for review by writ of certiorari of final judgments or decrees rendered by the highest court of a State in which a decision could be had, where a federal question is presented.

New York Election Law § 16-116 provides, in relevant part, that proceedings under Article 16 shall be heard upon such notice as the court or justice shall direct.

CPLR 308 governs personal service upon natural persons.

CPLR 308(4) governs affix-and-mail service upon natural persons after due diligence, unless a court order provides otherwise.

CPLR 312 governs personal service upon a board or commission.

CPLR 312-a governs service by mail with acknowledgment of receipt.

CPLR 105(u) provides that a verified pleading may be used as an affidavit whenever an affidavit is required.

CPLR 2106 governs affirmations under penalty of perjury.

CPLR 2221(d) governs motions to reargue.

CPLR 2221(e) governs motions to renew.

STATEMENT OF THE CASE

I. Factual Background

Petitioner Nickie Kane commenced an expedited Election Law proceeding challenging Respondent-Candidate Brad Lander's designating petition.

The Verified Petition alleged serious ballot-access fraud. Petitioner alleged that an individual under the age of eighteen collected petition signatures for Respondent-Candidate, that Petitioner asked the individual's age and received confirmation that the individual was under eighteen, that Petitioner informed the individual that such conduct was not permitted, and that the conduct continued.

Petitioner further alleged that Respondent-Candidate and/or his campaign were notified before submission, that signatures were submitted despite notice, and that another person falsely witnessed signatures collected by the underage individual. Petitioner alleged that the designating petition was invalid because signatures were collected by individuals not legally permitted to collect signatures, because witness statements falsely represented that signatures were collected in the presence of a proper subscribing witness, and because the petition process was tainted by fraud.

The Verified Petition and supporting affirmation contained the operative facts. The March 22, 2026 email to Respondent-Candidate or his campaign was cumulative of the facts already pleaded. Petitioner did not rely on that email as the operative pleading, and the signed Order to Show Cause did not specifically identify that

email, NYSCEF Doc. No. 4, "Exhibit A," or any exhibit as a jurisdictionally required service paper.

Respondent-Candidate received the Order to Show Cause, Verified Petition, and Notice of Electronic Filing. The Notice of Electronic Filing provided the case number and gave Respondents access to the NYSCEF docket. Respondent-Candidate appeared and filed a detailed Verified Answer raising jurisdictional defenses, service arguments, timeliness arguments, standing arguments, verification arguments, and merits arguments. That answer demonstrated actual notice and lack of prejudice.

II. Proceedings Below

The Supreme Court dismissed the Election Law proceeding on service grounds. The court did not hold a factual hearing on the fraud allegations. It did not determine whether an underage individual collected signatures, whether the campaign had notice before submission, whether the signatures were submitted despite notice, whether another person falsely witnessed those signatures, or whether the alleged "team method" defense applied.

The dismissal rested on the theory that Petitioner failed to serve all "papers upon which" the Order to Show Cause was granted. Respondent-Candidate argued that Petitioner failed to serve certain materials, including an email filed as NYSCEF Doc. No. 4, exhibits, the RJI, proposed order, fee waiver papers, and other docket

materials. But the signed Order to Show Cause did not specifically identify those documents as jurisdictionally required service papers.

Petitioner moved to renew and reargue. Petitioner argued that the Supreme Court overlooked and misapprehended the record because the Verified Petition, supporting affirmation, and Order to Show Cause did not list, attach, incorporate, or require service of NYSCEF Doc. No. 4 or any exhibit. Petitioner also submitted additional proof of timely notice, including UPS Next Day Air documentation and proof of delivery.

The Supreme Court denied renewal and reargument.

Petitioner appealed to the Appellate Division, First Department. The Appellate Division affirmed the Supreme Court judgment "for the reasons stated" by the Supreme Court, affirmed the order to the extent appealable, and dismissed the portion concerning reargument as taken from a nonappealable paper. The Appellate Division issued no opinion addressing Petitioner's federal due process, ballot-access, court-access, service-burden, record-access, or transcript-delay arguments.

Petitioner then sought review in the New York Court of Appeals. The Court of Appeals directed Petitioner to address finality and jurisdiction, provide proof of service of preliminary appeal statements, and submit the Appellate Division briefs and any record or appendix. Petitioner responded that the orders finally determined the proceeding because the case had been dismissed on jurisdictional/service grounds and no claims remained to be heard. Petitioner also argued that the case

presented substantial constitutional questions concerning due process, access to courts, ballot access, third-party service burdens, process-server costs, court delay, transcript delay, record access, and the denial of any hearing on serious fraud allegations.

The New York Court of Appeals denied leave to appeal and denied review based on constitutional questions. This petition followed.

REASONS FOR GRANTING THE PETITION

This Court should grant the petition because this case presents recurring and important federal questions concerning due process, ballot access, meaningful access to courts, and meaningful appellate review in expedited Election Law proceedings. Petitioner sought judicial review of serious fraud allegations against Respondent-Candidate Brad Lander's designating petition. The allegations included underage signature collection, campaign notice before submission, submission of signatures despite notice, and false witnessing by another person. No court held an evidentiary hearing on those allegations.

The state courts ended the proceeding on service grounds based on documents that were not clearly identified in the signed Order to Show Cause as jurisdictionally required service papers. The signed Order did not specifically identify the March 22, 2026 email, NYSCEF Doc. No. 4, "Exhibit A," or all exhibits and docket filings as papers required for jurisdictional service. Yet the state courts treated the alleged omission of those materials as fatal, despite service of the Petition, Order to Show Cause, and Notice of Electronic Filing.

The petition should be granted because due process requires clear notice of what a litigant must do to be heard. In a compressed Election Law proceeding, a self-represented litigant cannot be required to guess which documents a court silently relied upon when granting an Order to Show Cause. If failure to serve a particular paper will result in dismissal, that paper must be clearly identified in the signed Order. Otherwise, the phrase "papers upon which the Order to Show Cause was granted" becomes an after-the-fact procedural trap.

Review is also warranted because Respondent-Candidate had actual notice and suffered no prejudice. Respondent-Candidate received the Petition, Order to Show Cause, and Notice of Electronic Filing. The Notice of Electronic Filing provided the index number and access to the NYSCEF docket. Respondent-Candidate appeared and filed a detailed Verified Answer raising jurisdictional defenses, service objections, standing arguments, timeliness arguments, verification arguments, and merits arguments. That participation demonstrates actual notice and an opportunity to respond.

The petition should also be granted because the decision below permits court-created delay to defeat meaningful review. Petitioner filed the proceeding before the deadline, but the Court did not sign and upload the Order to Show Cause until late in the day on the final day to file and serve. Petitioner could not serve a signed Order before the Court signed it. Once the Order was finally released, Petitioner, a pro se indigent litigant, had only a narrow window to print and assemble papers, locate a legally eligible nonparty server, arrange service, complete any required mailing, and prepare proof of service. Due process does not permit a court to create or worsen the service emergency and then dismiss the case based on alleged service defects caused by that timing.

This case also warrants review because the burden imposed on Petitioner was severe. The combination of strict Election Law deadlines, third-party service requirements, process-server costs, New York City process-server regulations, disability-related barriers, transcript delay, inaccessible record materials, and court delay denied Petitioner a meaningful opportunity to be heard. The First and Fourteenth Amendments require courts to consider the actual burden imposed by election procedures, especially where those procedures prevent review of fraud allegations before election deadlines make relief impossible.

The fraud allegations also required a merits hearing. Petitioner alleged that an individual under eighteen collected signatures, that the campaign had notice before submission, that signatures were submitted anyway, and that another person falsely witnessed those signatures. Those allegations go directly to the integrity of Respondent-Candidate's designating petition and his entitlement to appear on the ballot. The state courts never decided whether those allegations were true. They dismissed the case without reaching the merits.

The petition further presents an issue capable of repetition yet evading review. Election Law proceedings move on compressed timelines. By the time ordinary appellate review occurs, ballots may be certified, printed, mailed, or the election may have passed. Without review from this Court, state courts may continue to dismiss expedited election challenges through unclear service directives, inaccessible records, unavailable transcripts, and late-signed Orders to Show Cause, preventing review before the election calendar forecloses relief.

This Court's review is necessary to clarify that due process requires clear service directives, meaningful opportunity to comply, consideration of actual notice, and access to meaningful review where a verified petition alleges serious ballot-access fraud. The petition should be granted so that expedited election proceedings are not decided by ambiguous procedural traps rather than by the merits of serious fraud allegations.

ARGUMENT

I. The State Courts Denied Due Process by Dismissing the Proceeding Based on Service Requirements Not Clearly Stated in the Order to Show Cause

Due process requires notice and a meaningful opportunity to be heard. This case presents a serious due process problem because Petitioner's expedited Election Law proceeding was dismissed based on an unclear service theory that was not specifically stated in the signed Order to Show Cause.

Petitioner commenced an expedited Election Law proceeding challenging Respondent-Candidate Brad Lander's designating petition. The Verified Petition alleged serious fraud, including that an individual under eighteen collected signatures, that signatures collected by underage individuals were falsely witnessed, that witness statements falsely attested that signatures were collected in the presence of the subscribing witness, and that the designating petition was invalid due to fraud and improper witnessing. Petitioner's Appellate Division brief emphasized that the Verified Petition and supporting Affirmation contained the operative allegations directly, including Petitioner's personal observation, the individual's confirmation that he was under eighteen, notice to the campaign, submission of signatures, and false witnessing.

The lower court did not hold a hearing on those fraud allegations. It dismissed the case because it accepted Respondent-Candidate's argument that Petitioner failed to serve all "papers upon which" the Order to Show Cause was granted. Respondent-Candidate argued that the service packet did not include exhibits, an RJI,

emergency affirmation, proposed OSC, fee waiver application, and specifically the March 22, 2026 email filed as NYSCEF Doc. No. 4.

That ruling creates a federal due process question. The signed Order to Show Cause did not specifically identify the March 22, 2026 email. It did not identify NYSCEF Doc. No. 4. It did not identify "Exhibit A." It did not direct service of all NYSCEF documents, all exhibits, the fee waiver application, the RJI, or the proposed OSC. Petitioner argued below that strict compliance means compliance with the Order as signed, not compliance with unstated requirements later supplied by Respondent or the court.

A pro se litigant cannot be expected to guess which documents a court silently relied upon. If a court intends an email, exhibit, fee waiver application, RJI, proposed order, or other docket entry to be jurisdictionally required for service, due process requires that the signed Order identify it clearly. The state courts converted the general phrase "papers upon which it was granted" into an after-the-fact jurisdictional trap.

II. Respondents Had Actual Notice Through the Petition, Order to Show Cause, and Notice of Electronic Filing

Respondents were served with the Notice of Electronic Filing along with the Petition and Order to Show Cause. Respondent-Candidate admitted in the Verified Answer that the service packet contained the Order to Show Cause, Petition, and

Notice of Electronic Filing. Respondent used that fact to argue other documents were missing, but the same fact proves notice.

The Notice of Electronic Filing informed Respondents that the case had been electronically filed, provided the index number, and gave access to the NYSCEF docket. The NYSCEF confirmation notice also shows the index number, assigned judge, document number, filing date, and electronic notifications.

Respondent-Candidate appeared and filed a detailed Verified Answer. That Answer raised personal jurisdiction, subject-matter jurisdiction, timeliness, improper service, alleged failure to serve all papers, CPLR 308 arguments, necessary-party arguments, verification arguments, standing arguments, and merits responses.

That level of participation shows actual notice and absence of prejudice. Due process does not permit dismissal based on an allegedly omitted cumulative document where Respondents received the initiating papers, the Notice of Electronic Filing, the case number, and immediate docket access.

III. The Verified Petition and Affirmation Supplied the Operative Facts, So the Email Was Cumulative

The March 22, 2026 email was not the operative pleading. Petitioner's Appellate Division brief explained that the Verified Petition directly alleged that signatures were obtained by underage individuals, that such signatures were falsely witnessed, that witness statements falsely attested that signatures were collected in the

presence of the subscribing witness, and that the petition was invalid due to fraud and improper witnessing.

The supporting Affirmation repeated the same operative facts. It alleged that Petitioner personally observed an underage individual collecting signatures, asked his age, received confirmation that he was under eighteen, told him he could not collect signatures, notified the campaign, and alleged that signatures were submitted despite notice and falsely witnessed.

Petitioner's renewal/reargument appeal made the same point: the Verified Petition, Affirmation, and Order to Show Cause did not list, attach, incorporate, or require service of NYSCEF Doc. No. 4 or any exhibit. The motion argued that the court misapprehended the record by treating the email as jurisdictionally required despite the operative facts already appearing in the Petition and Affirmation.

Due process is about meaningful notice. Respondents had the Petition and Order to Show Cause. The Petition set out the fraud claim. Respondent filed a detailed Answer. Therefore, treating the email as jurisdictionally indispensable elevated a cumulative document over the sworn pleading itself.

IV. The State Courts Converted Strict Compliance Into an Unclear Procedural Trap

New York Election Law § 16-116 provides that notice in Election Law proceedings shall be given as the court directs. The constitutional problem is not strict

compliance itself. The problem is strict compliance with unclear or unstated requirements.

Petitioner argued that the court never specified which papers it used to grant the Order to Show Cause. The signed Order did not identify the March 22, 2026 email, NYSCEF Doc. No. 4, "Exhibit A," photographs, videos, fee waiver papers, RJI, proposed order, or other NYSCEF filings as required for jurisdictional service.

Petitioner also argued that service was not ordered pursuant to CPLR 308(4), and Respondent improperly imported CPLR 308(4) requirements into the Order to Show Cause. The Order did not require due diligence before affixing, did not require the envelope to say "personal and confidential," and did not state that every technical requirement of CPLR 308(4) applied.

The court also altered Petitioner's proposed service methods and inserted its own service directive. Once the court modified the proposed Order and inserted its own service language, Petitioner could only be held to the Order as signed.

That is a due process issue. A litigant can comply only with what the court clearly orders. Where a court modifies service language, fails to identify the specific documents later deemed jurisdictional, and then dismisses for failure to serve those documents, the court has created a procedural trap.

V. The Dismissal Burdened Ballot Access and Voter Choice Under the First and Fourteenth Amendments

Ballot access affects both candidates and voters. Petitioner's Court of Appeals memorandum argued that *Anderson v. Celebrezze* and *Burdick v. Takushi* require courts to weigh election-law burdens against the State's interests. Petitioner argued that the burden here was severe because a pro se indigent candidate's Election Law proceeding was dismissed before any hearing on serious fraud allegations, based on a service theory involving documents not specifically identified in the signed Order.

This case also implicates *Lubin v. Panish* because the burden was not simply a filing fee. It was the combined burden of strict service rules, process-server costs, court delay, New York City process-server regulations, and refusal to allow meaningful review before ballot-access rights were lost.

The constitutional question is not whether service rules are generally valid. The question is whether those rules become unconstitutional as applied when they deny a pro se indigent candidate meaningful court access and prevent any merits hearing on ballot-access fraud allegations.

VI. Strict Third-Party Service Rules and New York City Process-Server Regulations Burden Pro Se Indigent Litigants

Petitioner's Court of Appeals memorandum explained that New York service rules require service by a nonparty adult. This means a self-represented litigant often

cannot serve papers herself, even though she is the person most familiar with the papers, deadlines, locations, and urgency. A represented candidate can rely on counsel, staff, paid process servers, couriers, and office resources. A pro se indigent candidate must locate a nonparty adult, arrange printing, assemble papers, explain service requirements, confirm the correct method, secure proof of service, and file it under strict deadlines.

The memorandum also explained that New York City process-server rules compound the burden because process servers are regulated, licensing rules apply, and ordinary nonparty adults may be unwilling or unable to help if repeated service risks triggering licensing requirements. The five-service threshold makes informal help unreliable and pushes indigent litigants toward paid licensed process servers.

For a represented party, late issuance of an Order to Show Cause may be difficult but still manageable because counsel usually has access to office staff, printers, scanners, couriers, process servers, litigation vendors, transportation, and immediate institutional support. For a pro se indigent candidate, however, service can become a barrier to ballot access itself. The burden becomes especially severe when the court signs and uploads the Order to Show Cause on the last day to commence and serve the Election Law proceeding. Under New York Election Law practice, and under the strict-service rule applied in cases such as *Angletti v. Morreale*, service must be completed in the manner and within the time directed by the court. When the order is not signed until the last day, the petitioner has no

practical ability to wait until the next day. Service must be completed that same day or the proceeding risks dismissal.

At that late point in the day, many ordinary service options are no longer realistic. If the Order is signed close to 5:00 p.m., the pro se petitioner must immediately download the signed Order, print the Order, print and assemble the Petition and all papers the court requires, determine exactly which documents must be included, locate a legally eligible adult who is not a party, explain the service instructions, arrange transportation, serve the respondent, prepare proof of service, and complete the mailing component before overnight delivery services close. Because a party generally cannot serve her own papers, the petitioner must find another person on short notice. If the petitioner cannot afford a professional process server, that requirement becomes a financial and logistical barrier.

The burden is even greater because, once the Order is signed on the last day, the only realistic service methods remaining are personal delivery or affixing/nail-and-mail with overnight mailing, depending on what the court authorized. Mailing alone may not be sufficient if it cannot be completed in the manner and time required by the Order. Thus, the petitioner must try to complete physical service immediately, often within only a few hours.

That is what happened here. Petitioner filed this case days before the final deadline, not at the last minute. The delay came from the court-controlled process of assigning, signing, and uploading the Order to Show Cause. When the court waited

until near the close of business on the last day to release the signed Order, the court effectively consumed the time Petitioner needed to comply with service requirements. The court then used alleged service defects as the basis for dismissal. In that situation, ballot access turns not on the merits of the fraud allegations, but on whether a pro se indigent candidate can instantly obtain printing, transportation, third-party service, and overnight mailing before businesses close. Due process does not permit court-created delay to become the reason a candidate is denied any hearing on serious ballot-access claims.

VII. The CPLR Service Scheme Is Unconstitutional as Applied Because It Prohibits Party Service, Requires Personal-Service-First Procedures, and Imposes Severe Burdens on Pro Se Indigent Litigants

The CPLR service scheme, as applied in this case, violated due process, equal protection, ballot access, and meaningful access to the courts because it prohibited Petitioner from serving her own papers, required service by a third party, and effectively required immediate personal service or nail-and-mail with overnight mailing after the court signed the Order to Show Cause late in the day on the final day to commence the proceeding and serve.

The constitutional problem is not that New York may never regulate service. The problem is that the CPLR service rules, combined with Election Law deadlines, court-created delay, and New York City process-server regulations, created an impossible burden for a pro se indigent candidate. A represented party can usually

comply because counsel has staff, printers, couriers, scanners, process-server contacts, and funds to pay for immediate service. A pro se indigent candidate does not. When the court signed and uploaded the Order to Show Cause close to 5:00 p.m. on the final day, Petitioner was required to immediately print and assemble the papers, locate a legally eligible nonparty adult, explain the service requirements, arrange travel, complete physical service, complete overnight mailing before the carrier closed, and file proof of service. Because Petitioner could not serve her own papers, access to court depended on finding and paying another person within hours.

That burden is unconstitutional as applied because service rules are supposed to provide notice, not function as a wealth-based barrier to ballot access. The State's interest is reliable notice. That interest can be satisfied through less burdensome methods, including NYSCEF notice, email service, overnight delivery, certified mail, commercial carrier tracking, sworn proof of service, or court-authorized electronic service. In this case, Respondents were served with the Notice of Electronic Filing, Petition, and Order to Show Cause. The Notice of Electronic Filing gave Respondents the case number and immediate access to the electronic docket. Respondent-Candidate appeared and filed a detailed Verified Answer addressing jurisdiction, service, standing, timeliness, verification, and the merits. That participation demonstrates actual notice and lack of prejudice.

The strict prohibition on party service is especially unconstitutional in emergency proceedings. The United States Supreme Court's own practice does not impose the same categorical barrier in the same way. Supreme Court Rule 29 governs service in that Court, and the Court's rules repeatedly require documents to be filed "with proof of service," including petitions, motions, applications, and jurisdictional statements. The Supreme Court rules focus on proof that service occurred, not on creating a procedural trap that prevents pro se litigants from being heard. The Supreme Court's filing guidance also recognizes multiple modern filing and service procedures, including electronic filing and proof-of-service requirements.

New York state courts themselves also accept many forms of notice and service in different contexts. Courts accept service by mail, overnight delivery, electronic filing, email when authorized, substituted service, court-directed alternative service, and combinations of methods. That shows personal delivery by a third party is not the only reliable means of notice. If less burdensome methods are reliable enough in other courts and contexts, then due process does not permit New York to apply a rigid third-party physical-service requirement in a way that denies a pro se indigent candidate any merits hearing.

This case shows the constitutional defect. Petitioner filed days before the final deadline. The delay was not caused by Petitioner waiting until the last minute. The delay occurred because the court did not sign and upload the Order to Show Cause until late in the day on the final day. Under the strict-service rule applied in cases

such as *Angletti v. Morreale*, service in an Election Law proceeding must be completed exactly as directed by the court. Once the court released the Order on the final day, Petitioner had no practical ability to wait. At that point, only immediate personal service or nail-and-mail with overnight mailing remained realistic, assuming the carrier was still open and a nonparty server could be found.

The CPLR rule barring party service therefore operated as a direct barrier to court access. Petitioner, the person most familiar with the papers, addresses, deadlines, and urgency, was forbidden from completing service herself. Instead, she had to find another legally eligible person on short notice. For a litigant with money, counsel, and staff, that may be manageable. For a pro se indigent candidate, it can be impossible. That makes access to the ballot and access to judicial review turn on money, staffing, and access to licensed service providers rather than on notice, fairness, or the merits.

The State cannot justify that burden where actual notice existed and less burdensome alternatives were available. Respondents received the initiating papers and electronic filing notice. Respondent-Candidate appeared and answered. The verified petition contained the operative allegations. The alleged missing materials were either cumulative or not clearly identified in the Order. Under these circumstances, dismissal did not serve the State's interest in notice. It punished Petitioner for inability to satisfy a rigid, court-created, last-minute service burden.

Accordingly, the CPLR service scheme is unconstitutional as applied here because it required third-party service, effectively required immediate physical service on the last day after the court delayed issuing the Order, failed to allow reliable less burdensome alternatives, and caused dismissal of serious ballot-access fraud claims without any evidentiary hearing. Due process, equal protection, ballot access, and meaningful access to the courts require a rule that allows pro se indigent litigants to use reliable alternative service methods when strict third-party physical service would make judicial review practically unavailable.

VIII. Court-Created Delay Cannot Be Used as the Basis for Dismissal Without Violating Due Process

Petitioner filed Election Law papers in advance, but could not serve the Order to Show Cause until the court signed and uploaded it. The signed Order controlled the method, timing, and papers required for service. Until the signed Order existed, Petitioner could not know exactly what the court required.

The Court of Appeals jurisdictional response explained that the court delayed signing and uploading the Order until late in the day, leaving Petitioner very little time to arrange service before the deadline. The same letter argued that the court then faulted Petitioner for allegedly insufficient service caused or worsened by the late issuance of the Order.

For represented parties, late upload may be difficult but manageable. Counsel can contact process servers, print from an office, use staff, or arrange courier service.

For a pro se indigent candidate, the same delay can be fatal. The federal due process problem is that the court controls when the signed Order is released, but the litigant bears the consequences of the remaining service window.

IX. The Fraud Allegations Required an Evidentiary Hearing

Petitioner alleged facts that, if proven, would undermine the integrity of Respondent-Candidate's designating petition. She alleged that an individual under eighteen actively collected signatures, that she asked his age and he confirmed he was under eighteen, that she told him the conduct was unlawful, that the campaign was notified before submission, that signatures were submitted despite notice, and that another individual falsely witnessed those signatures.

Respondent did not meaningfully rebut the core facts. Respondent's Answer denied some allegations and denied knowledge or information sufficient to form a belief as to the rest. Respondent also emphasized that Lander's petitions contained over 10,000 signatures and only 1,250 were required, but that numerical argument does not answer the allegation of candidate or campaign knowledge of fraud and false witnessing.

Petitioner's reply brief argued that Respondent mischaracterized the fraud claim as a teenager "holding a clipboard." Petitioner argued that the claim was active collection of signatures by a minor, not passive assistance. Petitioner also argued that Respondent's "team method" theory was a post-hoc justification because Respondent did not identify the subscribing witness, did not state that the witness

observed the signatures, and did not explain how the campaign removed or cured signatures collected by the minor after notice.

The lower court never decided whether the individual was under eighteen, whether signatures were falsely witnessed, whether the campaign had notice, or whether the campaign took any action to remove affected signatures. The case ended on service grounds. That denied Petitioner a meaningful opportunity to be heard.

X. The Denial of Renewal and Reargument Reinforced the Due Process Problem

After dismissal, Petitioner moved to renew and reargue. The renewal/reargument brief stated that Petitioner identified specific overlooked facts: the Verified Petition did not list, attach, incorporate, or refer to any exhibit; the supporting Affirmation did not list, attach, incorporate, or refer to any exhibit; and the Order to Show Cause did not identify the March 22 email, NYSCEF Doc. No. 4, or any exhibit as required service papers.

Petitioner also submitted additional proof of timely notice. The brief stated that UPS Next Day Air documentation showed documents were sent to Brad Lander at 256 13th Street, Brooklyn, New York on April 20, 2026, for expected delivery on April 21, 2026, and that UPS proof of delivery listed delivery on April 21, 2026 at 4:34 p.m. with the delivery location marked "Met Customer."

The Supreme Court denied renewal and reargument, stating that Petitioner had not identified matters of fact or law overlooked or misapprehended and had not offered new facts that would change the prior determination.

That denial reinforced the due process problem because Petitioner identified the precise ambiguity in the service order and presented proof of timely notice, yet no court restored the case for a merits hearing.

XI. The Appellate Division Affirmed Without Addressing the Federal Questions

The Appellate Division's corrected order confirms the final posture of this case. The First Department affirmed the Supreme Court's April 28, 2026 judgment "for the reasons stated" by Justice Grieco, affirmed the April 30, 2026 order to the extent appealable, and dismissed the portion denying reargument as taken from a nonappealable paper. The order contains no opinion addressing Petitioner's constitutional arguments, service-ambiguity arguments, fraud allegations, record-access concerns, or due process claims.

The Board of Elections did not appear in the proceeding below and informed the Appellate Division that it did not take a position on the appeal and would not file a brief. This is significant because the dismissal rested largely on Respondent-Candidate's service arguments and characterization of the record.

The state courts ended the case without any merits review. The trial court dismissed on service grounds. The Appellate Division affirmed without its own

explanation. The Court of Appeals later denied leave and constitutional review. The result was a final state-court disposition ending the proceeding without any evidentiary hearing on the fraud allegations.

XII. Record and Transcript Barriers Further Prevented Meaningful Review

The Court of Appeals required Petitioner to address finality and jurisdiction, serve proof that the preliminary appeal statements were served, and submit Appellate Division briefs and any record or appendix by a tight deadline. The Court also scheduled oral argument on jurisdiction during its election session.

Petitioner responded that the orders finally determined the proceeding because the Supreme Court dismissed the Election Law proceeding on jurisdictional/service grounds and denied renewal and reargument, leaving no claims to be heard.

Petitioner also argued that the dismissal raised constitutional questions involving due process, access to courts, meaningful judicial review, unclear service requirements, court delay, process-server burdens, and denial of a hearing on serious ballot-access allegations.

Petitioner also told the Court of Appeals that Appellate Division staff had been asked to upload the record to the appellate docket but declined, and that staff said the record would be provided to the Court of Appeals upon request. Petitioner asked the Court of Appeals to request the record directly or allow supplementation.

Petitioner also requested permission to submit transcripts later because the court reporter had not provided them despite timely request and repeated follow-up. The transcript email shows Petitioner telling court staff that the transcript provided was not the correct transcript and that she needed the transcript from Index No. 451585/2026 for the April 24, 2026 proceeding because of a 4:00 p.m. Court of Appeals deadline.

These record and transcript issues matter because they show that Petitioner was denied meaningful review not only at the trial level, but also during emergency appellate review. A pro se litigant cannot fairly present constitutional and ballot-access issues when the record is not uploaded, the transcript is unavailable, and appellate deadlines are compressed.

XIII. The Court of Appeals Denial Left a Final Judgment Reviewable by This Court

The Court of Appeals asked whether the orders appealed from finally determined the proceeding and whether any jurisdictional basis existed for appeals as of right. Petitioner responded that the Supreme Court dismissed the Election Law proceeding on jurisdictional/service grounds and denied renewal and reargument, leaving no remaining claims or issues to be heard. Petitioner argued that the Appellate Division orders likewise left her without further relief and that the case ended before any merits determination of the fraud claims.

Petitioner also filed a motion for leave to appeal and for expedited consideration, seeking review of the Appellate Division orders and the underlying Supreme Court orders dismissing the proceeding and denying renewal and reargument.

The New York Court of Appeals denied leave and denied review based on constitutional questions. That left Petitioner with a final state-court disposition ending the ballot-access proceeding without a merits hearing. This Court has jurisdiction to review federal constitutional questions arising from that final state-court judgment.

XIV. The Federal Questions Were Preserved and Outcome-Determining

Petitioner's proposed issues for the Court of Appeals identified the federal and constitutional questions now raised here. Those issues included whether the lower court erred by dismissing based on an alleged service defect not clearly stated in the Order to Show Cause; whether strict compliance means compliance with the order as written, not unstated requirements later inferred by the court or respondent; whether the omitted email was cumulative; whether ambiguous language about "papers upon which the order was granted" became a jurisdictional trap; and whether court delay, transcript delay, strict CPLR service rules, New York City process-server rules, indigency, pro se status, disability, and use of a service animal made compliance unreasonably burdensome.

Those federal questions were outcome-determining. The case was dismissed because the lower court treated unlisted materials as jurisdictionally required. Petitioner

argued that due process required clear service directives, that the Verified Petition and Affirmation gave full notice, that Respondent-Candidate appeared and answered, that the Notice of Electronic Filing provided docket access, and that court delay and service burdens made compliance unreasonably difficult.

The courts never reached the fraud allegations. They never held a hearing. They never determined whether Respondent-Candidate's campaign had notice of underage collection before submission. They never determined whether another person falsely witnessed those signatures. They never determined whether the alleged "team method" defense actually applied.

XV. The Questions Presented Are Recurring, Important, and Capable of Evading Review

Election Law proceedings move on extremely compressed timelines. By the time ordinary appellate review is complete, ballots may be certified, printed, mailed, or the election may have passed. That makes the constitutional questions recurring and capable of evading review.

This case is a concrete example. Petitioner alleged serious fraud, alleged campaign notice, alleged false witnessing, served the Order to Show Cause and Petition, served the Notice of Electronic Filing, and Respondent appeared and answered. Yet no court held an evidentiary hearing on whether an underage individual collected signatures, whether signatures were falsely witnessed, or whether the campaign had notice.

The questions presented affect more than this case. They affect pro se candidates, indigent litigants, voters who sign petitions, voters who seek meaningful ballot choices, and courts administering expedited election proceedings. They also affect whether state courts may use unclear service requirements, late-signed Orders to Show Cause, inaccessible records, and unavailable transcripts to deny merits review of serious ballot-access fraud allegations.

This Court's review is warranted to clarify that due process and ballot-access rights require clear service directives, meaningful opportunity to comply, consideration of actual notice, access to the record needed for review, and a merits hearing where serious fraud allegations are properly pleaded in a verified petition and the respondent appeared and answered.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

This case presents important federal questions concerning due process, ballot access, access to courts, and meaningful appellate review in expedited Election Law proceedings. Petitioner timely sought judicial review of serious ballot-access fraud allegations, including allegations of underage signature collection, campaign notice, submission of signatures despite notice, and false witnessing. No court held an evidentiary hearing on those allegations.

Instead, the proceeding was dismissed on service grounds based on documents that were not clearly identified in the signed Order to Show Cause as jurisdictionally

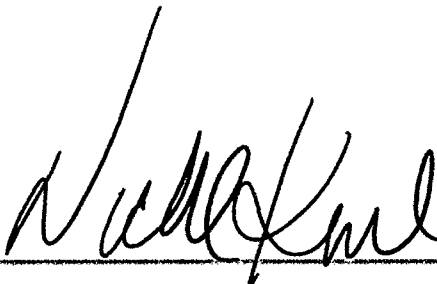
required service papers. Respondent-Candidate had actual notice, received the Petition, Order to Show Cause, and Notice of Electronic Filing, appeared in the case, and filed a detailed Verified Answer. The Verified Petition and supporting affirmation contained the operative sworn facts. The alleged omitted email was cumulative.

The dismissal also imposed severe burdens on a pro se indigent candidate. The court signed and uploaded the Order to Show Cause late in the day, after Petitioner had filed in advance, leaving little time to complete service under strict Election Law deadlines. The combination of third-party service requirements, process-server costs, New York City process-server rules, court delay, transcript delay, and record-access barriers denied Petitioner a meaningful opportunity to be heard.

These issues are recurring, important, and capable of evading review because election deadlines often expire before ordinary appellate review can occur. This Court should grant the petition, reverse the judgment below, and remand for further proceedings consistent with due process, ballot access, and meaningful access to the courts.

Respectfully submitted,

Dated: May 21, 2026
Brooklyn, New York



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