

DOCKET NO.: DBD-CV-23-6047566-S

ROBERTO ALVES

V.

JANICE GIEGLER, ET AL.

**FILED**

**OCT 16 2023**

SUPERIOR COURT  
JUDICIAL DISTRICT  
OF DANBURY / G.A. 3

SUPERIOR COURT

J.D. OF DANBURY

AT DANBURY

OCTOBER 16, 2023

**MEMORANDUM OF DECISION**

**The Nature of the Proceedings**

Dean Esposito (hereinafter, Esposito) is the mayor of Danbury, Connecticut and is seeking re-election on November 7, 2023 as the nominee of the Republican Party. Roberto Alves (hereinafter, "Alves" or "plaintiff") is challenging Esposito as the mayoral nominee of both the Working Families Party and the Democratic Party. Alves and Esposito sought the endorsement of the Independent Party of Danbury (hereinafter, IPD). Alves and Esposito have slates of candidates who are running with them for other municipal offices. Each of their respective slates were submitted to the Danbury Town Clerk's Office for placement on the IPD ballot line. On September 18, 2023, Danbury Town Clerk Janice Giegler (hereinafter, Town Clerk or Giegler) submitted to the Office of the Connecticut Secretary of State the Esposito slate of candidates. In this action Alves, invoking General Statutes §§ 9-328 and 9-329b, challenges the actions of the Town Clerk.

**Procedural History**

Alves commenced this action on September 27, 2023 with an original complaint (#100.31) naming four defendants: Giegler, Esposito, Veasna Rouen, IPD's chairperson (hereinafter, "Rouen") and Stephanie Thomas, Connecticut's Secretary of the State (hereinafter, Secretary). Esposito never appeared. Defendants Giegler, Rouen and the Secretary appeared through counsel. On October 3, 2023, the Secretary filed a motion to dismiss (#108.00) as to her, asserting the

10/16/2023  
Notice sent to all counsel  
and Supreme Court.  
Art Archer  
Chief Clerk

absence of any aggrievement suffered by Alves as a result of any ruling of the Secretary. Alves and the Secretary reached agreement on a stipulation that the Secretary would be bound by any decision of this court but would be dismissed from this case. This court accepted such stipulation and granted the motion to dismiss (#108.01).

Alves's original complaint and filings sought temporary and permanent injunctive relief as well as relief under §§ 9-328 and 9-329. Thereafter, Alves sought and obtained permission to amend his complaint (#114.05). The operative complaint for these proceedings is Alves's Second Amended Complaint of October 4, 2023 (# 114.00) which names Giegler, Esposito and Rouen and seeks relief under §§ 9-328 and 9-329b. Notice of the pendency of these proceedings was provided to all the candidates on the Esposito slate. No motions to intervene were filed. No claim has been made asserting the absence of any necessary party.

In lieu of considering temporary injunctive relief, this court provided the parties an expedited trial schedule pursuant to which hearings were held on October 3, 4 and 5, 2023.<sup>1</sup> Thursday, October 5, 2023 was the statutory deadline by which the Town Clerk, absent a court order to the contrary, would have been compelled to begin distributing absentee ballot applications and/or ballots to voters for the November 7, 2023 election. Alves orally moved for an order staying such activity. The Town Clerk did not object. This court granted the motion on October 5, 2023 (#116.00).

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<sup>1</sup> Prior to the commencement of evidence on October 4, 2023 the Court sua sponte raised the issue of whether the notice of the hearings to the State Election Enforcement Commission ("SEEC") required by General Statutes § 9-328 had been provided by the court. Evidence resumed after the court confirmed that the SEEC had notice of both the action and the hearings and had no interest in participating in the matter. On that basis, statutory notice was satisfied. The court canvassed the parties on the issue and no objection to proceeding was ever raised.

The evidentiary hearing included testimony from Alves, Giegler, Rouen and two additional witnesses: Gretchen Lombardi and Attorney Justin Chan. Giegler and Lombardi were called by the plaintiff. The Town Clerk called no witnesses. Rouen testified and called the plaintiff and Attorney Justin Chan as additional witnesses. The court received into evidence eighteen full exhibits, eight by plaintiff and ten from the defendants.

At the conclusion of evidence, the parties requested leave to submit post-hearing briefs. At the request of counsel for the Town Clerk, the parties were permitted to file their respective memorandum on Tuesday, October 10, 2023. The court set a hearing for 11:00 a.m. on October 11, 2023 to inquire of counsel regarding the arguments in their briefs and allow all counsel an opportunity to offer any concluding remarks.

On October 12, 2023, this court entered an order (#125.00) granting plaintiff's request under § 9-329b. That order compelled the Town Clerk of Danbury, Connecticut to remove from the IPD line for the November 7, 2023 general election ballot the Esposito slate of names submitted to the Secretary by the Town Clerk on September 18, 2023. The order excluded four candidates covered by the stipulation of the parties at #120.00. On October 12, 2023, defendant Janice Giegler filed her Motion for Supreme Court Review (#126.00). On October 13, 2023, plaintiff filed a motion for contempt against the Town Clerk (#128.00). This court denied that motion on October 16, 2023 (# 128.01).

Pursuant to General Statutes § 9-325, this memorandum inclusive of the court's findings of fact, constitute the court's decision and shall be transmitted to the Chief Justice of the Supreme Court.

## Facts

Notice was published in the Danbury News-Times on Friday, October 4, 2023 of an “Endorsement Meeting” of the IPD to be held on August 11, 2023 at the Maron Hotel (Def. Ex. F, p. 2). A copy of the notice is on file in the Office of the Town Clerk (Def. Ex. F, p. 1). Defendant Rouen is the chairperson of the IPD and called the August 11, 2023 endorsement meeting to order. Giegler testified she attended the August 11 meeting (Tr. 10/3, pp. 52-53 ). Defendant’s Ex. D is a copy of the minutes of the August 11 meeting prepared by Jennifer Doran, the Secretary/Treasurer of the IPD. The minutes consist of a single page and recite that Rouen called the meeting to order at 6:42 p.m. and adjourned it at 6:46 p.m. Those minutes describe what happened during the reported four minutes in between thusly:

The chairman started to read our meeting Rules but was challenged by Justin Chan as to who is allowed to vote.

The Chairman said we would need legal counsel to clarify who is allowed to vote. Immediately chaos ensued. The room was unruly.

Both the Chairman and Deputy Treasurer simultaneously made a motion to adjourn the meeting. The Secretary/Treasurer seconded the motion.

The Executive Board made the unanimous decision to adjourn the meeting.

Def. Ex. D, p. 2

Plaintiff’s Ex. 8 is a three-page document consisting of minutes of the same August 11 meeting but prepared by Gretchen Lombardi. This version was submitted to the Secretary and purports to describe in more detail the disagreement over voting which is referenced in Defendant’s Ex. D and what happened thereafter. As to the former, Plaintiff’s Ex. 8 states that the disagreement over voting was between Attorney Chan and a Mr. Mike Sfranek, described as the Chair of the

Republican Party and Sfrank's view that only Republicans could vote. As to the latter, Plaintiff's

Ex. 8 states:

After an impromptu halt to the proceedings called by Mr. Rouen, he stated that a legal opinion would need to be rendered and, therefore, the caucus should be adjourned after Mr. Sfrank, the Danbury Republican Party Chair, said the meeting should be adjourned. Mr. Rouen, asked for those in favor of adjournment and **never** asked for those opposed to adjournment, despite repeated calls for a roll call vote, a "Point of Order" request, and for nays to be heard. He then called the caucus adjourned and left the meeting, even though "Point of Order" was requested by Tom Brown, a registered voter and a member of the Independent Party of Danbury. This request was ignored by Mr. Rouen (sic). (Emphasis in original).

The minutes then describe that those in attendance proceeded to unanimously nominate the Alves slate to be the nominees of the IPD, Plaintiff's Ex. 8, pp. 2-3.

While notice of the August 11, 2023 meeting was published in the newspaper and Giegler was aware of the scheduled meeting and attended the meeting, no separate letter or other notification to the Town Clerk was sent by Rouen or anyone else.

On August 15, 2023 Rouen did send a letter to Giegler informing the office of the Town Clerk of a second meeting – a "caucus" – to be held on August 21, 2023, Defendant's Ex. C, p. 2 stating in part that:

... I hereby formally and properly announce our party's Caucus to nominate a slate of candidates on the Independent line for the 2023 Danbury municipal election.

Notice was published in the Danbury News-Times on August 16, 2023 of the caucus scheduled for 6:30 p.m. on August 21, 2023 at the Maron Hotel (Defendant's Exhibit G.) On cross examination, Giegler was asked about the significance to her of the Defendant's Exhibit C. Her first response was "It showed that the caucus had not been held yet to appoint the candidates" (Tr. 10/5, p. 9). Given her awareness of and attendance at, the August 11 caucus, that answer is not

literally accurate, a point she conceded on re-direct (Tr. 10/5, p. 30). Giegler's counsel agreed it was an inference she drew from the documents (Tr. 10/5, p.14). Subsequently, on cross-examination Geigler elaborated and testified that the cumulative effect of Defense Exhibits C, D and F led her to conclude that the Alves slate submission was invalid leaving her with the Esposito slate as the one valid slate to submit to the Secretary (Tr. 10/5, p.19).

On August 16, 2023 Lombardi, accompanied by Attorney Peter Buzaid attempted to file with the Office of the Town Clerk a four page (Plaintiff's Exhibit 2) document consisting of the Alves slate of candidates, a copy of the August 4, 2021 published notice of the August 11, 2023 meeting and a page captioned: **CERTIFICATION OF PARTY NOMINATIONS FOR MUNICIPAL OFFICE** (emphasis in original). The body of the document contains the phrase "... It is hereby certified that at the Independent Party Caucus called for that purpose, held on August 11, 2023. . . by a majority vote, the persons listed on the attached sheets were nominated as candidates for election." The attached slate was the Alves slate. The attempted filing was rejected by the Office of the Town Clerk.

On the same day that the Alves slate was rejected, Giegler contacted the Secretary's office for guidance on how to proceed and spoke to two individuals: Ms. Reeves and Attorney Button (Tr. 10/3, p.55). On August 17, 2023, Attorney Button sent Giegler an email (plaintiff's Ex. 4) which reads:

My advice, and of course, this office does not have jurisdiction over municipal endorsements, as they are filed with the Clerk, but my advice is to accept any endorsements that either side files with you. If there are more endorsements than offices to be filled on the ballot, then an over endorsement has occurred, and you may not place any candidates on the ballot for that party line. If this occurs, you should send a letter to both sides confirming the fact that you have received multiple endorsements and may not be able to put anyone on the ballot. We would not want an election official to choose among varying nominations, nor would we want to place a municipal officer in a role meant for the judiciary. I say this because if the

Independent Party has a dispute regarding nominations, the merits of such a dispute must likely be tried in a court of law.

On August 17, 2023, the office of the Town Clerk agreed to accept the Alves slate (Plaintiff's Ex. 2) which it had previously rejected. The submission was stamped by the office but not initialed. On this point Giegler ultimately testified she accepted it based on the advice she received from Attorney Button of the Office of the Secretary of State. She testified that the absence of any initials signified, in keeping with what she described as the practice of her office (Tr. 10/5, p. 33), that the filing might not be valid, a point she reaffirmed on cross-examination (Tr. 10/5, P.16).

The August 21, 2023 caucus went forward and resulted in a vote awarding the endorsements of the IPD to the Esposito slate. On August 22, 2023 Rouen submitted the Esposito slate to the office of the Town Clerk (Plaintiff's Ex. 1, Defendant's Ex. A) with a cover letter which reads:

As Chairman of the Independent Party of Danbury, I hereby submit the Party's official endorsements of candidates for the November 7<sup>th</sup>, 2023 municipal elections. The nominations meeting was conducted on August 21<sup>st</sup>, 2023 as advertised in the Danbury News-Times.

The Independent Party of Danbury is aware of a submission of an unofficial Slate, which was never recognized or approved by the Executive Board, and out of caution, has been vetoed and deemed invalid in accordance with the rules of the Independent Party of Danbury.

The Esposito slate submitted reflects that the individual proposed candidates all signed the sheet on which their names appeared weeks before the August 21, 2023 caucus. The third page of the exhibit is headed: **INDEPENDENT PARTY OF DANBURY, CANDIDATE'S STATEMENT OF CONSENT.** The fifth page of the exhibit, over the signatures of Rouen as

Chairman and Dorin as Secretary, recites that the events occurred “At a Special Meeting of the Danbury Republican Town Committee. . .” In response to a question from the court, Giegler testified she did not notice those words when the slate was received and approved (Tr. 10/5, p. 49). The Esposito slate was accepted on August 23, 2023 and initialed. On October 3<sup>rd</sup>, Giegler testified that because her name appeared on the Esposito slate she played no role in it being accepted and initialed. However, on October 4<sup>th</sup>, she testified to the contrary and said she instructed her assistant, Lisa Todman to initial the submission.

Giegler has been Danbury’s Town Clerk for eight years. It is an elected position (Tr. 10/3, p. 29). Giegler sought the nomination of the IPD for her re-election (Tr. 10/3, p. 54). The position has various duties which include accepting certified slates of candidates (Tr. 10/3, p. 30). Over her eight years in office, Giegler has worked approximately twelve elections (Tr. 10/5, p.5). Giegler knows that a slate of prospective nominees must be certified to be valid and accepted (Tr. 10/3, p. 78). Giegler was out of the Town Clerk’s office when the Alves slate was brought in the first time but arrived fifteen minutes later while Lombardi and Buzaid were still there. They requested to speak with her and she complied.

Giegler’s testimony was not completely consistent. It varied. Giegler’s first response as to why she rejected the Alves slate was to testify that she had “a number of reasons” and wanted to confer with legal counsel first. Giegler said she looked at some but not all of the pages of the submission at the time she rejected it. (Tr. 10/3, pp. 41-42). She also added that she did not accept documents for elections in which she is a candidate. Giegler is seeking re-election as a nominee of the Republican Party and is on the Esposito slate in question in this dispute. Giegler ultimately testified on October 4, 2023 that she never did receive advice of counsel and that the ultimate decision to disqualify the Alves slate and submit the Esposito slate was hers and hers alone.



Giegler also acknowledged that she had never rejected a certified slate (Tr. 10/3, p. 34) but did so here despite knowing it was her duty to accept it (Tr. 10/3, p. 36) and being unaware of any statute that would give her the authority to reject a certified slate of candidates (Tr. 10/3, pp. 66-67).

Under further questioning, Giegler's testimony expanded to include additional reasons why she rejected the Alves slate on that first day. Those included that she did not accept petitions with her name on them (Tr. 10/3, p. 35). When plaintiff's counsel pointed out to her that her name was not on the slate she rejected, Giegler first said "I don't know if I can speak to this" before acknowledging she knew her name was not on the slate she rejected (Tr. 10/3, p. 35). Consistent with this approach, Giegler also testified she did not personally accept the Esposito slate when it came into the office (Tr. 10/3, p. 72).

A second alternative reason for rejecting the Alves slate that first day, according to Giegler was that the document was not signed by the Chair (Rouen) despite acknowledging a few minutes later that a slate may be submitted by a caucus chair (Tr. 10/3, p. 39), such as Chan.

The third rationale offered by Giegler for rejecting the Alves slate that first day was because "I also knew that there were issues with the Independent Party meeting" (Tr. 10/3, p. 40). Giegler testified she went to the August 11 meeting. She was not there when Chan was purportedly elected caucus Chair (Tr. 10/3, p. 43) but believed the meeting had been adjourned without endorsements (Tr. 10/3, p. 53).

Geigler then revised her testimony concerning the submission by a caucus chair and not the party chairman by raising an issue of the IPD's by-laws (Tr. 10/3, p. 44). The by-laws were admitted as Plaintiff's Exhibit 3 and Giegler ultimately admitted none of the by-law provisions precluded the valid submission of a slate of candidates by the caucus chair (Tr. 10/3, p. 51).

Following her decision to reject the Alves slate, Giegler testified she then sought advice from Attorney Button of the Secretary's office. She had a telephone conversation with Attorney Button before the Alves slate was resubmitted the next day. Giegler believes she saw the email (Plaintiff's Ex. 4) on the afternoon of the next day, the day the slate was accepted (Tr. 10/3, p. 65). The email recommended Giegler contact the interested parties. Giegler did not contact the parties. Giegler further testified that as best as she could recall, her decision to not follow the advice she received from the Secretary of State's office in this matter (regarding the issue of over nominations) was the first time she had done so (Tr. 10/4).

On August 29, 2023, a second certified list of only 5 candidates (Plaintiff's Ex. 5) was submitted by Chan/Lombardi to the office of the Town Clerk arising out of the August 11 meeting. Giegler testified that she considered it invalid because "supplemental list not valid to join with the other previous list" (Tr. 10/4). On that same day, Chan sent Giegler an e-mail offering to meet with her regarding her intentions with respect to Attorney Button's guidance (Defendant's Exhibit I). Giegler refused to meet with Chan testifying that "I didn't feel I needed to talk to him, no" (Tr. 10/5, p. 34) and never responded to the e-mail (Tr. 10/5, p.39). On August 31, Giegler received another e-mail, this one from the chair (Larry Riefberg) of the Democratic Party (Defendant's Exhibit J) following up on the Chan e-mail. Giegler did not respond to Riefberg either.

Plaintiff's only other witness, Gretchen Lombardi testified briefly on a few subjects. The most salient to this dispute was whether Giegler told her and Buzaid that she was accepting the Alves slate but that it might be invalid. Unfortunately, on direct Lombardi said she wasn't told why it was not being initialed (Tr. 10/5, p. 12). While on cross-examination she said the opposite – that she was told they were invalid (Tr. 10/5, p. 17). Under these circumstances, the court gave no weight to Lombardi's testimony.

Defendant Rouen testified on his own behalf, confirmed he is the IPD Chair (Tr. 10/5, p. 23) and that the purpose of the August 22 caucus was “to have a proper nominating night” (Tr. 10/5, p. 28). He testified he did not know why the words “Republican Town Committee” appear on the Esposito slate accepted by the Town Clerk. Rouen testified he “assumed” a submitted slate had to be certified but did not actually know (Tr. 10/5, p. 48). Defendant Rouen also called Justin Chan as a witness. Attorney Chan testified he did not attend the August 21<sup>st</sup> caucus because “I didn’t believe it to be a valid caucus” (Tr. 10/5, p. 60).

Lastly, defendant Rouen subpoenaed the plaintiff. Plaintiff moved to quash. The court denied the motion to quash. Other than confirming a few facts already well established in admitted exhibits, Alves had no meaningful testimony. Further facts and procedural history will be addressed as necessary below. While not all of the exhibits submitted into evidence are referenced in this memorandum, each exhibit was reviewed by the court in reaching its decision.

## Discussion

### A. General Statutes §9-328

To sustain an action under General Statutes. § 9-328 plaintiff must be an “. . . elector or candidate claiming to have been aggrieved by any ruling of any election official in connection with an election for any municipal office. . .” In this case there is no dispute that plaintiff is a candidate, and that defendant Giegler is an election official. Defendant Giegler concedes placement of candidates on a ballot constitutes a ruling (post-hearing brief, p.7). Rouen disputes that Giegler made a ruling, arguing at pages 13-15 of his post-hearing brief that the only ruling made in this matter was made by the IPD. On that basis, and for the first time in these proceedings, Rouen argues in his brief that this court lacks subject matter jurisdiction because plaintiff is not aggrieved.

The court sees no merit in the argument. Defendant Giegler's decisions to invalidate the Alves slate and certify the Esposito slates were rulings of an election official. See, *Price v. Independent Party of CT – State Central, et.al.* 323 Conn. 529, 536 (2020); *Arora v. Kohler*, Superior Court, judicial district of Hartford, Docket No. CV-22-6160672-S (Oct. 6, 2022, *Farley, J.*).

B. Laches

Defendant Giegler denies committing any error but argues in the alternative that even if she did, the doctrine of laches bars this court from awarding plaintiff any relief. Defendant Giegler cites dicta in *Price v. Independent Party*, supra, 323 Conn. 529. In *Price*, the delay that troubled the court was 21 days.

As *Price* makes clear, defendant Giegler bears the burden of proof on laches. Here, the time lapse between the action she took on September 18, 2023 and the commencement of the action challenging her action was 9 days. Moreover, the record is clear that defendant Giegler deliberately refused to respond to inquiries made of her in late August regarding her intentions. Instead, she chose to remain silent. This court can reasonably infer from those facts that had she responded and disclosed her intentions, the challenge would have been made earlier. On these facts, defendant Giegler cannot prevail on laches.

C. General Statutes §9-414

General Statutes § 9-414 prohibits “over endorsements” i.e., more candidates endorsed and certified than offices to be filled on the ballot. Here, if both the Alves and Esposito slates qualified then neither slate could be submitted by the Town Clerk for the Independent line in November. Only defendant Rouen argues that General Statutes § 9-414 is inapplicable to minor parties. There is no dispute that IPD is a minor party as defined by General Statutes § 9-372(6). Rouen offers no case law in support of his argument which rests on the fact that Chapter 153 of the General Statutes

is structured with subparts and Part III thereof relating to “Nomination of Candidates” has a Section A for major parties and a Section B for minor parties. Part B includes §§ 9-451, 9-452 and 9-452 (a) (the latter two being the provisions Giegler asserts are dispositive). Lastly, Rouen argues that § 9-414 is in the major party subpart.

Rouen overlooks § 9-373 of Chapter 153 which appears in the general section of the statute and therefore applicable to all of Chapter 153, minor parties included. General Statutes § 9-373 reads in pertinent part: “All nominees for state, district and municipal office. . . shall be chosen as provided in this chapter.” All means all. Chapter means Chapter 153. Minor parties are addressed in Chapter 153. Rouen’s argument therefore fails. See also, General Statutes § 9-250 which provides in relevant part: “No column, under the name of any political party or independent organization, shall be printed on any official ballot, which contains more candidates for any office than the number for which an elector may vote for that office.” (Cited in *Price* 323 Conn. at 533, n. 4).

Moreover, to endorse Rouen’s argument would be to create an unworkable anomaly in election law wherein a basic building block of orderly elections – the right number of nominees for the right number of offices to be elected – would apply to major parties only and not minor parties. This court finds that such a result would be inconsistent with well settled Connecticut public policy.

#### D. Applicable Standards

Giegler’s ruling was an exercise in statutory construction. The court’s review of such a ruling is plenary. *Independent Party of CT – State Central v. Merrill*, supra, 330 Conn. 704 (2019).

With respect to the witnesses’ testimony, “It is well established that in cases tried before courts, trial judges are the sole arbiter of the credibility of witnesses and it is they who determine

the weight to be given specific testimony. . . it is the quintessential function of the fact finder to reject or accept certain evidence. . .” (Citations omitted; internal quotation marks omitted.) *In re Antonio M.*, 56 Conn. App. 534, 540, 744 A2d 915 (2000). The trier of fact must evaluate the credibility of both testimonial and documentary evidence. *Coombs v. Phillips*, 5 Conn. App. 626, 627, 501 A.2d 395 (1985) (per curiam). “The fact finding function is vested in the trial court with its unique opportunity to view the evidence presented in a totality of the circumstances, i.e., including its observations of the demeanor and conduct of the witnesses and parties.” (Internal quotation marks omitted.) *Cavoli v. DeSimone*, 88 Conn. App. 638, 646, 870 A.2d 1147, cert. denied, 274 Conn. 906 (2005).

This court watched and listened carefully to the witnesses’ testimony. Defendant Giegler was the most significant witness. In assessing Giegler’s demeanor and making findings on her credibility, this court is mindful that testifying in court is stressful, no one (or very few) have perfect recall, memories can be permissibly prodded and almost all witnesses stiffen when being questioned by counsel of an adverse party. Even with all of those allowances extended to the witness here, this court did not find Giegler a credible witness. Using her terms, this court finds she did not approach this admittedly messy situation in “good faith.” Giegler’s testimony was, in this court’s view, often (not always) evasive and inconsistent. She parried, instead of answered, questions from both counsel and the court, all in what this court concluded was an apparent effort to serve her self-interest. At one point, she openly looked to counsel for help answering a question. To her credit, that happened only once.

The court does not make these findings lightly or as part of some general criticism of the Town Clerk. The court has no jurisdiction for that purpose and a healthy respect for the demands

of the job of Town Clerk in an election season. The court does have the task of reviewing her rulings and in construing those rulings, her credibility is a relevant factor.

E. General Statutes §§ 9-461, 9-452 and 9-452a

Defendant Giegler correctly argues she had a statutory obligation under General Statutes § 9-461 to timely submit Danbury's list of candidates to the Secretary's office. A looming deadline does not however excuse non-compliance with other statutory obligations. Giegler maintains that the Esposito slate she submitted satisfied General Statutes § 9-452. This court disagrees.

It is undisputed that § 9-452 requires that slates be certified. Giegler maintains that Plaintiff's Exhibit 1 (also Defendant's Exhibit A) complies with the statute because (a) the transmittal cover page reads in part "As Chairman of the Independent Party of Danbury, I hereby submit the Party's official endorsements of candidates for the November 7, 2023 municipal elections" and (b) the third page bears the signatures of Rouen and Dorin.

All parties agreed the statute does not define the word "certify." Its central importance is clear from the fact that "Certification" appears in the title of the statute which also states in part "all minor parties nominating candidates for any elective office shall make such nominations and certify and file a list of such nominations. . . . In addition, the statute states any list of nominees submitted "shall be certified."

The court concludes the Esposito slate forwarded by Giegler was not certified and therefore did not comply with § 9-452. Giegler's submission of that slate was therefore in error for such reason. Certification must mean more than just using the words "official endorsements". At a minimum, it is a warranty by the issuer with consequences. Here, the slate deemed compliant has to be viewed on its face and in light of the totality of the evidence relating to both slates and the

process of review by the Town Clerk. The totality of the evidence includes the fact that the Esposito slate bore signatures of the individual candidates which were affixed to the page weeks before the date of the caucus and that the signature page clearly states it came from a special meeting of the Danbury Republican Town Committee. Unlike the many concerns or issues Giegler saw with the Alves slate, none of the Esposito slate issues triggered the same level of scrutiny or inquiry by Giegler.

Giegler argues that the Alves slate did not satisfy General Statutes § 9-452a because the presiding officer of the August 11 caucus did not provide the Town Clerk with notice of the meeting at least five days in advance of the meeting. Section 9-452 requires such notice and “concomitantly” legal publication in a newspaper of the meeting notice. Plaintiff responds that Giegler’s presence at the August 11, 2023 caucus is enough to infer she received notice. Plaintiff also cites the alleged lack of prejudice from any noncompliance as well as the newspaper publication as sufficient compliance.

The court agrees with Giegler and on the evidence produced at trial concludes the Alves slate did not satisfy § 9-452a.

#### F. Discretion of Town Clerk

This court’s findings above that the Esposito slate was not certified under § 9-452 and that the Alves slate did not comply with all of the notice requirements of § 9-452a constitute sufficient basis upon which to issue relief under General Statutes § 9-329b. However, in the interest of providing as full a record as possible, this court will now address the additional arguments made by the parties.

Plaintiff vigorously argues that Connecticut statutes governing Town Clerks generally and more specifically their role in election administration, provide no authority for a Town Clerk to do



what Giegler did here. Plaintiff argues that Giegler had a duty to accept facially valid certified lists of nominations, a duty violated by her stated practice of accepting a slate but then deciding whether to initial the filing meaning it was valid or withholding the initialing if deemed invalid. Giegler admitted on the witness stand that she was unaware of any statutory authority for that practice. Citing *Stefanowski v. Kohler*, Superior Court, judicial district of Hartford, Docket No. CV-22-6160145-S (September 15, 2022, *Noble, J.*), plaintiff argues that Giegler's duties under the relevant statutes are ministerial. Relying upon *Butts v. Bysiewicz*, 298 Conn. 665, 669, 5A.3d 932 (2019), plaintiff further argues that the courts are where evidence is weighed when a dispute arises, not the Secretary of State's office (or here, the Town Clerk's office).

After acknowledging the "delicacy of judicial intrusion into the electoral process," *Price v. Independent Party of CT – State Central*, supra, 323 Conn. at 542 (quoting *Bortner v. Woodbridge*, 250 Conn. 241, 254, 736 (1999)), our Supreme Court nevertheless concluded that in the appropriate circumstances ". . . the judiciary has a role to play in promoting fair play even within the nomination process." *Price v. Independent Party of CT – State Central*, supra, Conn. at 543.

In her testimony, Giegler provided her various reasons for her actions. For the reasons set forth above, this court found her testimony unconvincing. In her post-hearing brief, Giegler attempts to effectively distance herself from at least some of her testimony by arguing that her ". . . position does not rely on the events that allegedly occurred at either the August 11<sup>th</sup> or the August 21<sup>st</sup> meetings. Rather, she relies on the documents contained in the official files of the Town Clerk" (Giegler memorandum, p. 17). Giegler also argues that her conclusion to submit solely the Esposito slate was required by her duties under §§ 9-452, 9-452a and 9-461.

This court agrees with plaintiff that under *Price* and *Butts*, the Town Clerk exceeded the limited ministerial authority granted her under the statutes. She did so in a manner that convinced this court that the promotion of “fair play” principle of *Price* was violated and requires judgment for plaintiff.

G. IPD Interests

Rouen urges this court to focus on the consequences to the IPD of a ruling under § 9-329b which removes candidates from the IPD line. This court acknowledged and weighed Rouen’s arguments but cannot conclude that collateral consequences to the IPD can be a basis for a ruling in defendants’ favor.

Rouen’s other arguments were addressed above. His sole remaining argument is that there was collusion between the Chan wing of the IPD and the Democratic party. There is no complaint made of any collusion between IPD members and the Republican party. Rouen’s collusion argument is not supported by the record and more importantly, is immaterial and irrelevant to the issues before this court.

Conclusion

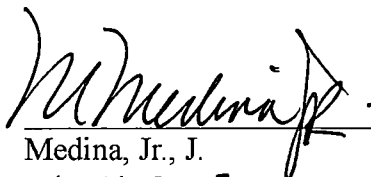
*Bortner* and its progeny caution trial courts to proceed cautiously in election disputes and respect that remedies which constitute an intrusion by the judiciary in elections are to be provided “under narrowly defined circumstances.” *Bortner v. Woodbridge*, supra, 250 Conn. at 254. It was with that caution that this court considered all of the evidence in this matter.

Upon careful consideration of all of the evidence and after assessing the demeanor and credibility of the witnesses, this court concluded that relief under § 9-329b was required. The totality of the circumstances convinced this court that placement of the Esposito slate on the

Independent Party of Danbury line would be improper. The court further concludes that placement of the Alves slate on the line of the Independent Party of Danbury would be equally improper.<sup>2</sup>

Declaratory judgment shall enter that defendant Giegler improperly exceeded her statutory authority to invalidate the Alves slate which coupled with the Town Clerk's decision to validate the Esposito line created an impermissible over endorsement in violation of General Statutes § 9-414. In such case, no endorsement should appear on the line in question.

For all of the foregoing reasons, Town Clerk Giegler is hereby ordered to remove from the Independent Party line those names submitted by her to the Office of the Secretary of State on September 18, 2023 excluding only those four candidates set forth in the parties' October 10, 2023 stipulation (#120.00).

  
Medina, Jr., J.  
10.16.2023

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<sup>2</sup> Plaintiff has not sought such relief.