

Please Take Notice that the within is a true copy of the Order and Judgment of Dismissal entered in this action on the 11 day of April, 2012 in the office of the Clerk of the within described court. Dated: April 30, 2012
STEVEN J. GETMAN, ESQ., FRANKLIN & GABRIEL, 7185 Main Street, PO Box 449. Ovid, NY 14521, 607.869.9646, Attorney for respondents

At a Term of the Court held
at the Courthouse in
Penn Yan, New York on the
22 day of February, 2012

Present: Hon. W. Patrick Falvey, Acting JSC

**SUPREME COURT: STATE OF NEW YORK
COUNTY OF SENECA**

FILED
County Clerks Office
Apr 11, 2012 01:05P
Christina L. Lotz
Seneca County Clerk

In the Matter of

PETER W. SAME,

Objector-Petitioner

**ORDER AND
JUDGEMENT OF
DISMISSAL**

-v-

GERALD GRAZIANO, Contact Person for
Permissive Referendum Petition

Index No. 45943

and

CHAD SANDERSON, STANLEY PRASZKOWICZ,
GERALD GRAZIANO, ANTONIO COSTANTINO,
AILENE PHILLIPS, WILLIAM J. WAYNE,
KATHERINE S. ROBSON, DOMENICK PARADISE,
DAVID A. CARFORA, ROBERT WAYNE, et al,
Signatories to the petition as witnesses or as
Notary Public,

Respondents.

**Appearances: David K. Ettman, Esq., Seneca Falls, for Objector-Petitioner
Steven J. Getman, Esq., Ovid, for Respondents**

The petition-objections of Peter W. Same, verified February 3, 2012, having been presented to this court said date, seeking to invalidate the Petition for Permissive Referendum, Town of Seneca Falls, New York, pertaining to the resolution of the Town Board of the Town of

Seneca Falls, to expend Capital Improvement funds, which Petition for Permissive Referendum having been filed with the Town of Seneca Falls on January 27, 2012; and

Respondents, Gerald Graziano, Chad Sanderson, Stanley Praszkowicz, Antonio Costantino, Ailene Phillips, William J. Wayne, Domenick Paradise, and Robert Wayne having appeared in this matter, with and by their attorney Steven J. Getman, Esq., and filed a general answer; and

Respondents, Katherine S. Robson and David A. Carfora, having appeared herein with and by their attorney, Steven J. Getman, Esq., only for the purposes of making objection to jurisdiction under CPLR §§ 320(b) and CPLR 3211(a) (8) and having each filed a separate answer alleging the court lacks jurisdiction over each said respondent in the above entitled action for the reason that each said respondent was not personally served with process in conformance with the Order to Show Cause herein and the provisions of CPLR §§ 308, 3211(a) CPLR 3211(10) and other applicable authority; and

All respondents having moved, by way of Notice of Motion dated February 16, 2012, for an order dismissing the petition-objections herein upon various grounds including: Upon the ground of petitioner-objector's failure to serve and/or join necessary named parties, including respondents Robson and/or Carfora, pursuant to the Order to Show Cause herein, CPLR §§ 1001, 1003, 3211(10) and other applicable authority; and Upon the ground of failure by petitioner-objector to comply with statutory time requirements to both file the objections and present the verified petition setting forth the objections to the court within five days of the date of filing the petition for referendum, pursuant to Town Law § 82; Election Law § 16-116, and other applicable authority; and

The matter having duly come on to be heard this date; and due deliberation having been had herein;

NOW, THEREFORE, upon the Order to Show Cause of this court, dated February 3, 2012; the Petition-Objections of Peter W. Same, verified February 3, 2012; the Answers filed by the respondents herein; the respondents' Notice of Motion dated February 16, 2012, the affirmation of Steven J. Getman, Esq., dated February 16, 2012 in support of the motion to dismiss with exhibits "A" through "H," inclusive, annexed thereto; and upon all proceedings had herein, and on motion of Steven J. Getman, Esq., attorney for respondents; it is

ORDERED, ADJUDGED AND DETERMINED that the petition and objections herein be and are hereby dismissed, upon the grounds of petitioner-objector's failure to serve and/or join necessary named parties pursuant to the Order to Show Cause herein, CPLR §§ 1001, 1003, 3211(10) and other applicable authority; and, further, upon the ground of failure by petitioner-objector to comply with statutory time requirements to both file the objections and present the verified petition setting forth the objections to the court within five days of the date of filing the petition for referendum, pursuant to Town Law § 82; Election Law § 16-116, and other applicable authority and pursuant to the court's oral decision on the record this date.

Waterloo
Dated: ~~Penn Yan~~, New York

March 22, 2012.

ENTER

W. Patrick Falvey
Hon. W. Patrick Falvey, Acting JSC