

JOLIFER NOE
87-17 Seaview
Brooklyn, NY 11237

April 13, 2023

Lee Saunders
President
American Federation of State, County
and Municipal Employees
1625 L Street, NW
Washington, DC 20036

Re: Request to Put Local 983 in Trusteeship

Dear President Saunders:

Repeatedly, since last May, when the leadership of Local 983 decided first to have a mail ballot for officer elections, and then "internet and telephone" balloting, all of which violates the Local Bylaws, the Local has postponed officer elections.

Back on March 16, I sent the enclosed letter to the Judicial Panel when the election was once again scheduled by internet and telephone for April 11. My appeal was immediately (on March 20) denied by the Judiciary Panel Chair. See enclosed. Nevertheless, on April 11 there was no election. According to Local 983 Vice President Robbins, that occurred because I had written to the Judicial Panel on March 16. But the Panel had denied my request for intervention on March 20.

The postponement of the vote on April 11 was not announced in advance to the members and no new date has been announced. Meanwhile, the incumbents are now in office for an extra ten months. You put Local 375 into trusteeship for similar problems. It is time for you to take over Local 983 and its \$375,000-per-year salaried officers and have it run democratically.

Fraternally,



Jolifer Noe

cc: Joseph Puleo
Arthur Schwartz

JOLIFER NOE
87-17 Seaview
Brooklyn, NY 11237

March 16, 2023

By Email and Overnight Mail

Carla Insigna
Judicial Panel Chair
AFSCME
1625 L Street, NW
Washington, DC 20036

Re: Local 983
Complaint - Local Refusal to Hold As Per Bylaws

Dear Sister Insigna:

I am a member of Local 983, DC 37. You may recall that I wrote to you several times with a complaint that my Local was refusing to conduct an officer election.

Your response was that what I wrote was untimely, that I could not get any relief until after an election was held. Then you deferred to the Local's untrue assertion that the Court was holding up an election.

In early February, an appellate court dismissed our case, holding that New York law prohibits lawsuits against unions for violating their constitutions. A copy is enclosed. They never got to the merits of our dispute. They also held that we did not exhaust internal union remedies, Heaven knows I tried.

The Local has finally announced an election for April 11, 2023. They have announced that members will vote one of three ways: a combination of in-person, internet, and telephone. Nothing in the Local Constitution authorizes the use of internet and telephone voting, much less a combination of all three. Not only does this method violate our Bylaws, there is no real assurance that any of these methods is not corrupted. For example, besides that a telephone vote doesn't allow a member to look at a ballot, there is no safeguard that an incumbent won't go to members, one by one, ask them to call in to vote, and then listen to them vote. This is the violation of members rights in the extreme.

I am not "appealing. Please consider this a charge against Local 983 Election Committee Chair Joe Oro (our Local has a one person "Election Committee.") which requires expedited handling.

We ask the Judicial Panel to hold an immediate hearing to remove Oro and install a monitor to run a union election. We believe that the Judicial Panel has the power to order an election to be conducted properly if it knows in advance of the election that the Local is acting improperly. The Officers of Local 983, through their one-person "Election Committee," cannot just decree that the election will be held in a manner not authorized by the Local Bylaws. The Local Officers simply do not want to have an election conducted via in-person voting, even though that is what the Local Constitution requires.

If the Judicial Panel does not have power to process charges against a remove a local election committee and conduct an election before it is conducted unlawfully, then I request that this complaint be referred to President Saunders so that he can put the Local in trusteeship and have the trustee conduct an election.

In solidarity,

Jolifer Noe

Jolifer Noe

cc: Joe Oro (a/k/a "Local 983 Election Committee")
Lee Saunders, President of AFSCME

American Arbitration Association, Administrator

DISTRICT COUNCIL 37, LOCAL 983

Notice of Election and Voting Instructions

OPTION #1: VOTING BY INTERNET	OPTION #2: VOTING BY TELEPHONE
<ol style="list-style-type: none">1. Log on to www.electionsaaa.org2. In the space provided, enter <u>this</u> Organization ID: LOCAL9833. Enter your individual Personal Identification Number (PIN). <u>Your PIN number is printed above your name and address below.</u>4. Vote (Follow the instructions given)	<ol style="list-style-type: none">1. Call (toll-free) 1-(866)-745-69182. Enter your individual Personal Identification Number (PIN) then press the pound (#) key <u>YOUR PIN NUMBER IS PRINTED ABOVE YOUR NAME AND ADDRESS BELOW.</u>3. Vote (Follow instructions given).

Both voting systems will be in operation during the election.
ONLINE AND TELEPHONIC POLLING WILL OCCUR ON TUESDAY, APRIL 11, 2023, BETWEEN THE HOURS OF 6:00 AM AND 7:00 PM.

If you experience any problem with either system, or need your PIN, please call 1-800-529-5218 (Weekdays, 9:00 a.m. to 5:00 p.m. and on day of election until 7:00 p.m. EST).

ALTERNATIVE TO ELECTRONIC VOTING: IN-PERSON POLLING

1. In-person polling will occur between the hours of 6:00 AM - 7:00 PM at offices of District Council Local 1707 at 420 West 45th Street, New York, NY 10036.
2. In order to vote, you will need to provide a photo ID to verify your identity

PLEASE NOTE THAT YOU MUST CHOOSE WHICH METHOD OF VOTING YOU WOULD LIKE TO USE. ONLY ONE (1) METHOD CAN BE UTILIZED. MULTIPLE VOTING IS NOT ALLOWED IF A VOTER VOTES ON LINE OR TELEPHONICALLY AND ALSO VOTES IN PERSON. THE TELEPHONIC OR IN PERSON VOTE WILL BE COUNTED.

Appellate Division, First Judicial Department

Webber, J.P., Oing, González, Scarpulla, Rodriguez, JJ.

17304

In the Matter of JOLIFIER NOE et al.,
Petitioners-Respondents,

Index No. 154208/22
Case No. 2022-02598

-against-

LOCAL 983 et al.,
Respondents-Appellants.

Cohen, Weiss and Simon LLP, New York (Hanan B. Kolko of counsel), for appellants.

Advocates for Justice, Chartered Attorneys, New York (Arthur Z. Schwartz of counsel),
for respondents.

Amended order, Supreme Court, New York County (Lyle E. Frank, J.), entered June 17, 2022, which granted petitioners' petition to enjoin respondents from holding the duly scheduled election for respondent Local 983, Motor Vehicle Operators Union, American Federation of State, County and Municipal Employees and directed respondents to provide a plan, to be reviewed by petitioners, for a future election within 30 days, unanimously reversed, on the law, without costs. and the petition dismissed.

Supreme Court improvidently exercised its discretion to enjoin respondents from proceeding with their scheduled election. The petition alleged that respondents failed to conduct the election in accordance with the constitutions of Local 983 and the American Federation of State, County and Municipal Employees (AFSCME), and in accordance with AFSCME's election manual. However, as Local 983 is an unincorporated association, the petition fails because it does not plead "that each individual union member authorized or ratified the [allegedly] unlawful actions" (*Matter of Agramonte*

v Local 461, Dist. Council 37, Am. Fedn. of State County & Mun. Empls., 209 AD3d 478, 478-479 [1st Dept 2022], quoting *Charter Communications, Inc. v Local Union No. 3*, 166 AD3d 468, 469 [1st Dept 2018]; *see also* General Associations Law § 13). We decline to disregard this requirement, which was first articulated in *Martin v Curran* (303 NY 276, 282 [1951]).

In any event, even had the *Martin* requirement not applied, petitioners failed to exhaust their contractual remedies before bringing this action (*see Matter of People Care Inc. v City of N.Y. Human Resources Admin.*, 89 AD3d 515, 516 [1st Dept 2011]). AFSCME's constitution prohibits members from instituting a civil action without first availing themselves of the remedies in its constitution, which provides a procedure to challenge the conduct of an election so that a protesting party has an opportunity to be heard. Furthermore, according to the provisions of AFSCME's constitution, petitioners may appeal an adverse determination to a judicial panel, then to a full judicial panel, and then again to an international convention. The constitution also gives the union the authority to set aside an election outcome and hold a new election upon a finding of a violation. Petitioners have not advanced a sufficient reason to excuse them from

exhausting that remedial process (see *Clayton v International Union, United Auto., Aerospace, and Agric. Implement Workers of Am.*, 451 US 679, 689 [1981]).

We have considered petitioners' remaining arguments and find them unavailing.

**THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.**

ENTERED: February 9, 2023



**Susanna Molina Rojas
Clerk of the Court**



Lee Saunders
President

Elissa McBride
Secretary-Treasurer

Carla Insinga
Judicial Panel Chairperson

Judicial Panel Members:

Michael DeMarco
Staten Island, NY

Jacqueline Galiyano
United Domestic Workers

Denise Gilmore
Baltimore, MD

Nora Grambau
Port Huron, MI

Gerard Jolly
Grove City, OH

Frank Piccioli
Mesa, AZ

Ralph Portwood
Lockport, IL

Steve Tully
Hamilton, NJ

Timm Twardoski
Helena, MT

Tim Warren
Nelsonville, OH

March 20, 2023

Jolifer Noe
(Sent via email)

Dear Brother Noe,

Greetings. I am in receipt of your correspondence which is enclosed.

Because the charges that you seek to file concern the conduct of an election, they would not be considered by the Judicial Panel in the context of an Article X proceeding but would be appropriate to consider as an election protest under Appendix D of the International Constitution, were it not filed prematurely.

As I have previously stated, the Judicial Panel may not consider an election protest until an election has been held. Appendix D, Section 4B is clear in stating, "Any protest concerning the conduct of the election may be lodged at the meeting at which the election is conducted or by filing such protest in writing with the subordinate body or the Election Committee within ten days following the election. All interested parties shall be afforded an opportunity to be heard. The membership of the subordinate body shall either accept or reject the recommended decision of the Election Committee not later than thirty days after the filing of the protest."

If you desire to protest the election, it is within your rights to do so, however you must do so in accordance with the International Constitution.

In Solidarity,

Carla Insinga

Judicial Panel Chairperson

CI:am

cc: Lee Saunders, President

Elissa McBride, Secretary-Treasurer

American Federation of State, County and Municipal Employees, AFL-CIO

TEL (202) 429-1210 FAX (202) 872-8169 1625 I Street NW Washington, DC 20036

Jim Howell, Regional Director O&FS
Ryan Welles, AFSD
Henry Garrido, Executive Director of District Council 37
Joseph Puleo, President Local 983
Joe Oro
Arthur Schwartz, Counsel to Brother Noe



Marvin Robbins

Admin 2d ·



Notice to 983 members.

Do not listen to the lies.

The election was cancelled again because Jolifer sent the following letter to the international union. We are waiting for approval for the election committee to schedule the next date.

When the election is scheduled you will receive your ballots in the mail from AAA or notification from the 983 Election Committee.

JOLIFER NDE
87-17 Seaside
Brooklyn, NY 11237

March 16, 2023

By Email and Oversight Mail

Carla Insigna
Judicial Panel Chair
AFSCME
1625 L Street, NW
Washington, DC 20036

Re: Local 983
Complaint - Local Refusal to Hold An Officer Election

Dear Sister Insigna:

I am a member of Local 983, DC 37. You may recall that I wrote to you several times with a complaint that my Local was refusing to conduct an officer election.

Your response was that what I wrote was untimely, that I could not get any relief until after an election was held. Then you deferred to the Local's untrue assertion that the Court was holding up an election.

In early February, an appellate court dismissed our case, holding that New York law prohibits lawsuits against unions for violating their constitutions. A copy is enclosed. They never got to the merits of our dispute. They also held that we did not exhaust internal union remedies, Heaven knows I tried.

The Local has finally announced an election for April 11, 2023. They have announced that members will vote one of three ways: a combination of in-person, internet, and telephone. Nothing in the Local Constitution authorizes the use of internet and telephone

-2-

I am not "appealing." Please consider this a charge against Local 983 Election Committee Chair Joe Oro (our Local has a one person "Election Committee.") which requires expedited handling.

We ask the Judicial Panel to hold an immediate hearing to remove Oro and install a monitor to run a union election. We believe that the Judicial Panel has the power to order an election to be conducted properly if it knows in advance of the election that the Local is acting improperly. The Officers of Local 983, through their one-person "Election Committee," cannot just decree that the election will be held in a manner not authorized by the Local Bylaws. The Local Officers simply do not want to have an election conducted via in-person voting, even though that is what the Local Constitution requires.

If the Judicial Panel does not have power to process charges against a remove a local election committee and conduct an election before it is conducted unlawfully, then I request that this complaint be referred to President Saunders so that he can pier the Local in trusteeship and have the trustee conduct an election.

In solidarity,

Jolifer Noe

Jolifer Noe

cc: Joe Oro (1/1/23 "Local 983 Election Committee")
Lee Saunders, President of AFSCME