


# Insurgent Slate Roils Brooklyn Judicial Elections

Andrew Denney, *New York Law Journal*

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Judicial candidates, from left, Thomas Kennedy, Patrick Hayes, John O'Hara, Sandra Roper and Isiris Isaac.

David Handschuh/NYLJ

Of the 10 candidates vying for five of the open seats in Brooklyn Civil Court in the Sept. 12 Democratic primary, five are running as part of an insurgent slate that seeks to shake up a system that they say is under the thumb of the borough's Democratic establishment.

The slate is led by John O'Hara, a Brooklyn attorney who made headlines when he became the first person to be convicted of illegal voting since the 19th century, a charge that was later cleared after he was reinstated to the bar.

The other candidates who are raging against Brooklyn's Democratic machine are Patrick Hayes, a former Brooklyn prosecutor who went on to found his own firm, the Law Office of Patrick Hayes; Isiris Isaac, principal law clerk to Brooklyn Supreme Court Justice Shawndya Simpson; Thomas Kennedy, an associate at Glancy Prongay & Murray who represents plaintiffs in white-collar fraud cases; and Sandra

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Roper, a Brooklyn attorney who made a failed run for Brooklyn DA in 2001.

The candidates are running to loosen "the grip that the county machine has on the courthouse," said O'Hara.

Additionally, all but one of the candidates chose not to go before the 24-member independent screening panel that issues findings on candidates' fitness for the bench. Isaac did appear before the panel, and she was deemed qualified.

"The independent screening panel is just lawyers trying to get the inside track with people who want to be judges," O'Hara said. He also said the system creates the appearance that judges who get the thumbs-up from the panel and who are later elected may be in a position to return the favor to attorneys on the panel.

But Frank Carone, a partner at Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone who serves as law chair for the Brooklyn Democratic Party, said the screening panel is a mechanism for holding candidates accountable and that it relies on the input of attorneys from diverse backgrounds and affiliations, and disagreed with the notion that attorneys on the panel expect anything from the candidates it deems qualified.

"If you need to kind of pay back that de minimis task then the whole system is in trouble," Carone said.

In May, the independent screening panel deemed all five of the party-backed candidates as "qualified" for the bench.

Those candidates are incumbent Brooklyn Civil Court Judges Frederick Arriaga and Robin Sheares; Patria Frias-Colón, who serves as Brooklyn borough chief for the New York City Law Department's Family Court Division; Consuelo Mallafré Melendez, principal law clerk to Brooklyn Supreme Court Justice Marsha Steinhardt; and David Pepper, principal law clerk to Brooklyn Supreme Court Justice Martin Solomon.

Civil Court Judge Carolyn Wade is unopposed in her re-election bid.

As for the contention of O'Hara and his fellow insurgent candidates that the county party controls who gets on the bench, Carone said it's "really just spin."

"Elections are very healthy and we encourage them," Carone said.

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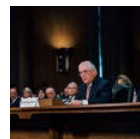
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The candidates are vying for five open seats that are elected countywide. All 10 candidates will be listed together on the ballot and the New York City Board of Elections will determine the order they are listed by drawing candidates' names out of a hat. Civil Court judges are elected to 10-year terms.

The insurgents' campaign manager is Gary Tilzer, who last year managed the campaigns of two anti-establishment candidates who won contested races for Brooklyn Civil Court.

Tilzer managed the campaigns of Odessa Kennedy, who became the first woman of Iranian descent to serve on the Civil Court after beating Melendez in a head-to-head countywide race last year; and Rachel Freier, who became the first Hasidic Jewish woman to take the bench in Civil Court after winning a three-way Democratic primary and a head-to-head matchup with Morton Avigdor, who ran in the general election on the Conservative line.

"I just run these campaigns because I want the voters to have a choice," Tilzer said. "What's so horrible about that?"

The Brooklyn Democratic Party's role in the judicial selection process in the city's most populous borough has caused controversy in the past, specifically with the process for putting candidates for state Supreme Court on the ballot.

Last year, former Brooklyn Supreme Court Justice Laura Jacobson was denied nomination for re-election after the New York Post published an [article](#) quoting unnamed sources who stated that the screening panel deemed the judge "not qualified" for the bench because an abnormally high number of her decisions had been overturned on appeal and that she is "not the brightest bulb in the courthouse." According to papers from her suit against party leaders, she was informed that the committee had found her not qualified. The party's executive committee is barred by its own rules from putting a candidate on the ballot who didn't receive the screening committee's blessing, and she withdrew from the race and left the bench.

Jacobson [sued](#) Democratic leaders in the Eastern District, alleging violations of the equal protection clause, breach of contract and a state claim of libel and slander.



On Thursday, Eastern District Judge LaShann DeArcy Hall heard arguments on the defendants' motion to dismiss, in which they argue that members of the party's judicial screening panel are not state actors, are entitled to qualified immunity and that Jacobson failed to state a "class of one" equal protection claim.

Hall took the arguments under advisement and did not issue a ruling.

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