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## Lawsuit would end rule curbing independent party power

Court case in Onondaga County seeks to curb two-party dominance on ballot



IMAGE 1 OF 3

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Keynote speaker Martin Babinec speaks during The Center for Economic Growth's (CEG) 18th Annual Technology Innovation Awards Luncheon at the Century House on Wednesday, June 25, 2014 in Latham, N.Y. Babinec is ... [more](#)

ALBANY — Two New York political parties have filed litigation to strike down a law requiring the merging of smaller parties onto single ballot lines, allegedly undercutting their influence in state politics.

The Upstate Jobs Party, an independent political party focused on revitalizing the upstate economy and fixing the two-party system, and the state Independence Party, whose official third party ballot line can play a significant role in local or statewide elections, jointly filed the lawsuit Tuesday in state Supreme Court in Onondaga County.

Under state law, if a candidate is endorsed by two or more parties that have obtained official ballot status in New York elections – including the Independence Party – and that candidate also gets the ballot line of another, independent political party, such as Upstate Jobs, the independent ballot line must be consolidated with a third party line.

The law has harmed the Upstate Jobs Party, which formed in 2016 and wants to build its brand enough that it could gain 50,000 votes in the 2022 election for governor, according to the lawsuit. In two elections already completed, the law has meant that voters who wanted to vote solely for a candidate running on Upstate Jobs have not been able to do so.

The lawsuit challenging the domination of the two-party system argues that the law violates the state Constitution, including provisions providing for freedom of speech, equal protection under the law and freedom of association.

"Since forming Upstate Jobs in 2016, we have worked to change a broken political system in New York state so our economy can finally recover and we can reverse the outmigration of our talent," said Upstate Jobs founder and businessman Martin Babinec.

"Over time, elected officials have increased the advantages established parties hold over new entrants that now thwarts the political expression fusion voting was intended to create," he added. "Without independent candidates and a fundamental freedom to seek office, the two-party system will continue to wreak havoc on our people. This approach to elections has hurt candidates on the UJP line for multiple elections and must end now."

Several previous lawsuits challenging the same state law have been unsuccessful.

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The case specifically revolves around the November 2019 re-election bid of Ryan McMahon, the Republican Onondaga County executive. McMahon has the nominations of the Republican, Independence and Conservative parties, as well as the endorsement of the Upstate Jobs Party, which gathered petition signatures for his candidacy.

The state law means that McMahon's nomination by the Upstate Jobs Party must be combined on voters' ballots into a single ballot line with a third party, in this case the Independence Party. The law applies to county and municipal elections in New York, as well as federal elections, but not statewide races such as for governor, state Senate or the Assembly.

The lawsuit seeks to not only strike down the state law in McMahon's instance, but also generally declare it invalid and discriminatory towards independent parties.

The respondents in the matter are the state Board of Elections and the Onondaga County Board of Elections, which was responsible in July for consolidating McMahon's Independence and Upstate Job endorsements on the upcoming ballot.

A state Board of Elections spokesman declined to comment.

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Winning 50,000 votes in the 2022 governor's race would give Upstate Jobs official ballot status for at least the next four years, putting it in the same league as other, more powerful New York political parties that can cross-endorse Democrats and Republicans under the state's fusion voting system, including Working Families, Conservative, Green, Independence, Reform, Libertarian and SAM.

Officially designated parties enjoy fundraising and ballot-access advantages not currently available to Upstate Jobs, the lawsuit asserts.

In 2016, Babinec, the Upstate Jobs Party's founder, was making noise as a candidate in a three-way race in the 22nd congressional district. But his hopes faded and poll numbers dropped after Babinec's Upstate Jobs endorsement was combined onto a single ballot with the Libertarian Party.

In 2019, Ben Walsh, an independent candidate, surprisingly beat out major party candidates to win election as mayor of Syracuse. In that case as well, however, his Upstate Jobs ballot line was combined with that of the Reform Party.

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