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SUIT FILED AGAINST NYS BOARD OF ELECTIONS TO PUT CONSTITUTIONAL CONVENTION ON FRONT OF BALLOT IN NOVEMBER

New York, NY – August 11, 2017 – Evan A. Davis, former Counsel to Governor Mario Cuomo, has sued the New York State Board of Elections to obtain a court order requiring that the Constitutional Convention Question be placed on the front rather than the back of the ballot in November. The State Constitution requires that the Convention Question – whether or not to hold a Constitutional Convention – be submitted to voters every 20 years, as a means for the public to make reforms in Albany that the Legislature has not otherwise made.

In response to the suit, filed yesterday, Acting Justice Denise A. Hartman scheduled a hearing for next Thursday, August 17, at 10:00 am.

Davis's suit contends that the constitutional mandate to submit the Convention Question to the voters carries with it the obligation to do so in an effective way. Placing the Convention Question on the back of the ballot is not effective, because it will not be seen by voters who fail to turn over the ballot. Also, such placement is not effective because it suggests that the constitutionally mandated Convention Question is of lesser importance than the local races that will appear on the front of the ballot.

Davis also contends that while the Constitution expressly gives the Legislature discretion as to the manner of submitting constitutional amendments proposed by the Legislature, no such discretion exists with respect to the constitutionally mandated Convention Question, which the framers of Article 19 recognize might need to be considered by the voters over the opposition of the Legislature. He urges that because the Constitutional Convention Question is only 13 words it can easily be accommodated on the front of the ballot.

“This once-in-a-generation chance to reform State government is too important not to be on the front of the ballot,” said Evan Davis. “The public won't have another chance until 2037.”

Prior to 2010, voting at the polls in New York was by voting machine. Since then, paper ballots have been used. Since the last time that the Convention Question was put to the voters was in 1997, there is no precedent for whether the Convention Question should appear on the front or back of the paper ballot distributed at the polls.

Davis has since May of this year been urging the State Board to place the Convention Question on the front of the ballot. On August 4, he was informed by the Board's Counsel that the Convention Question would appear on the back of the ballot at the general election on November 7.

Davis is the Manager of the Committee for a Constitutional Convention, which is comprised of civic leaders from across the State who are advocating for a YES vote this November on the Convention Question. The Committee believes that a Convention is needed because reforms in such areas as corruption, fair and competitive elections, home rule and court reform have repeatedly been rebuffed by the Legislature for self-protective reasons, and that these reforms cannot be achieved through the normal amendment process, which the Legislature controls.

The Constitution specifies the wording of the Convention Question: “Shall a convention be called to revise the constitution and amend the same?” If a majority of the voters voting on the question vote yes, Convention Delegates will be elected in November 2018 and the Convention will convene in April 2019. Any proposal for constitutional change adopted by majority of Delegates must be approved by the voters before it becomes part of the Constitution.

Davis served as Counsel to Governor Mario M. Cuomo from 1985 to 1990 and as President of the New York City Bar Association from 2000 to 2002.

For more information or to speak with Evan Davis, contact Henry Miller at 917-921-8034 or henrymiller412@gmail.com.

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