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**IN THE MATTER OF THE
NOMINATION PAPER OF
JENNIFER L. SMALLWOOD
(FOR THE OFFICE OF
HARRISBURG CITY CONTROLLER)**

**IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY**

2013 CV 6883 EL
(ELECTION LAW)

PETITION TO SET ASIDE NOMINATION PAPER

The Petitioner, Paul N. Thompson, by his attorney, Karen M. Balaban, of Karen M. Balaban LLC, respectfully represents that:

1. This Court has original jurisdiction pursuant to 42 Pa.C.S. § 931 and 25 P.S. § 2937.
2. This cause of action is authorized under the Election Code, 25 P.S. § 2937, which designates the initial filing as a petition.
3. Petitioner Paul N. Thompson is an adult individual who resides at 2343 Swatara Street, City of Harrisburg, Dauphin County, Pennsylvania, 17104 (the "Objector").
4. Objector is a qualified elector in the City of Harrisburg and is a registered and enrolled member of the Democratic Party in the 13th Ward 3rd Precinct.

5. On or about March 12, 2013, the filing deadline for a nomination petition for the 2013 Primary, Jennifer L. Smallwood (the "Candidate") filed a nomination petition for the office of City Controller for the City of Harrisburg as a candidate seeking the nomination of the Democratic Party in the Municipal Primary scheduled for Tuesday, May 21, 2013 ("Nomination Petition").
6. On March 19, 2013, the last day for filing objections to a nomination petition, Objector filed a Petition to Set Aside Candidate's Nomination Petition and served it upon the Dauphin County Office of Elections and Voter Registration.
7. Due to the challenges filed against Candidate's Nomination Petition, on March 21, 2013 Candidate withdrew her Nomination Petition, resulting in Objector discontinuing the Petition to Set Aside Nomination Petition and the Court issuing an order canceling the March 22nd hearing. March 27th was the last day for withdrawal by candidates who filed a nomination petition for the 2013 Municipal Primary. 25 P.S. § 2874
8. Consequently, on April 3, 2013 Candidate changed the affiliation on her voter registration from Democratic Party to Independent.
9. On July 26, 2013, Candidate filed a nomination paper in connection with the political body known as the "Independent Party" as its nominee for the office of City Controller for the City of Harrisburg in the Municipal Election scheduled for Tuesday, November 5, 2013. Candidate filed supplemental pages to her Nomination Paper on August 1st, the deadline for filing a nomination paper. Candidate's nomination paper consists of a total of 9 pages. A copy of the Nomination Paper is attached hereto and incorporated herein, as Exhibit "A".
10. Candidate's Nomination Paper should be set aside for failure to satisfy the requirements of the Election Code, Act of June 3, 1937, P.L. 1933, as amended (25 P.S. §2601 et seq.) as set forth in the following particulars:

- a. The Nomination Paper failed to provide the names and place of residence of at least three persons to act as a committee authorized to fill vacancies;
 - b. Signers of the Nomination Paper failed to appoint at least three persons authorized to act as a committee authorized to fill any vacancy caused by the death or withdrawal of Candidate;
 - c. Each Affidavit of Qualified Elector on pages 1 through 9 of the Nomination Paper is false in that the signers to the Nomination Paper did not sign the Nomination Paper with full knowledge of the contents thereof since its contents were incomplete, i.e. Section C. Committee to Fill Vacancies contained no names or place of residence; and
 - d. Candidate filed a nomination petition for City Controller for the City of Harrisburg for the 2013 Municipal Primary. (See Section 976(e) of the Election Code, 25 P.S. §2936(e).
11. The aforesaid objections, if proven to be true, would result in striking all signatures on all pages of Candidate's Nomination Paper.
12. Candidate's Nomination Paper should be set aside for failure to satisfy the requirements of the Election Code, Act of June 3, 1937, P.L. 1933, as amended (25 P.S. §2601 et seq.) and the laws of this Commonwealth.
13. For the foregoing reasons, Candidate's name must be removed from the ballot for the office of city controller for the City of Harrisburg in the November 5, 2013 Municipal Election.

WHEREFORE, Petitioner respectfully requests the Court to enter an Order:

- a. to set aside the Nomination Paper of Jennifer L. Smallwood as the nominee of the political body identified as the "Independent Party" for the office of City Controller for the City of Harrisburg, to be voted on at the November 5, 2013 Municipal Election, for failure to satisfy the requirements of the Election Code, 25 P.S. § 2601 et seq., as aforesaid;
- b. to remove Candidate's name from the ballot of the political body identified as the "Independent Party" for the November 5, 2013 Municipal Election;
- c. directing Candidate to pay the costs of the proceedings, including witness fees; and