



September 6, 2008

Contact: Joan Elliott  
(518) 3464414

FINDINGS IN THE COMPLAINT OF  
KURT MAUSERT AGAINST COURTENAY HALL  
COMPLAINT 2008-1

Fair Campaign Practices for the Capital Region, Inc. (FCP) met on September 6, 2008 to consider an emergency complaint made by Kurt Mausert against his opponent Courtenay Hall. Both men are candidates for Family Court Judge in Saratoga County.

Present were Hearing Panel members: Jill Nagy (Chair), Jean Wilkinson, Michael Foster, Terry Lowenthal, Aimee Allaud, and Harriet Warnock-Graham, along with President Joan Elliott and Coordinator Betsey Swan.

The gravamen of Mr. Mausert's complaint was twofold:

1. Incumbent Judge Hall misappropriated Mr. Mausert's copyrighted campaign slogan, "A Family Man for Family Court" in violation of FCP Principle 1;
2. Judge Hall failed to identify and name and address of the sponsor for a piece of campaign literature, in violation of FCP Principle 5.

FINDING ONE: NO FINDING

Copyright infringement is a legal claim that is appropriately resolved by the courts.

FINDING TWO: NO UNFAIR CAMPAIGN PRACTICE

The panel first considered whether there was a basis for an emergency complaint, one that occurs in sufficient proximity to the election so that there is not time to convene a full hearing with the candidates present and that on its face is so egregious that it calls for an immediate response (Candidates' Manual, Section V.A.1).

The Panel did not have sufficient information to determine when the offending pamphlet was distributed, although a mailing did occur on August 25, 2008, sufficiently late for it to fall within emergency complaint procedures for the primary election. More importantly, the panel determined that failure to include the publication's sponsor and contact information without other evidence of the publication's potential to mislead voters, was insufficiently egregious to demand an immediate response. In calculating whether the egregious standard has been met, it is important to consider the purpose of the standard, which is to curtail those campaign publications that contain representations likely to mislead voters that are issued so late in the campaign that it is not possible for the opponent to mount a meaningful response or to otherwise educate voters about the truth or falsity of the material.

If this matter had come to FCP as a regular complaint, the panel would have found a violation of FCP Principal 5.

The panel directed that these findings be forwarded to the candidates and posted on the FCP website to provide a guide for candidates in the future.

***Candidates are reminded that misrepresentation of FCP findings in order to obtain political advantage constitutes an unfair campaign practice.***