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Attorneys for Plaintiffs

ROBERTA REAVEY, DENNIS GORMLEY,
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CRETAZ, JEREMIAH SCHENERMAN,
NOELLE JACQUELIN, JACK SURRENCY,
TRACEY L. WELLS-HUGGINS, DONNA
M. PEARSON, DENNIS D'AUGOSTINE,
SHERRY LYNN HALL, HOWARD
CLARK, and LISA C. BONANNO,

Plaintiffs

v.

TAHESHA WAY, as Chief State Election
Official of the State of New Jersey;
JOSEPH RIPA, as Clerk of Camden County;
RITA FULGINITI, as Clerk of Cape May
County;
CELESTE M. RILEY, as Clerk of
Cumberland County; and
JAMES N. HOGAN, as Clerk of Gloucester
County;

Defendants

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – MERCER COUNTY

DOCKET NO.: _____

VERIFIED COMPLAINT

PLAINTIFFS, by way of Verified Complaint against the Defendants, allege and say as follows:

INTRODUCTION

1. New Jersey is currently in a Public Health Emergency and State of Emergency due to the pandemic of COVID-19 virus now impacting the State. Balancing the needs of protecting public health and safety, with the need for essential governmental and private activity to continue, Governor Murphy has issued a series of executive orders. Of particular import here, the Governor issued Executive Order 105 (“EO 105”), which permitted candidate petitions to be collected by solely electronic means “via an online form created by the Secretary of State” and required election officials to accept and process such electronic forms as valid petition signatures. EO 105, ¶ 2. However, the Defendant County Clerks, despite having duly received sufficient signatures, submitted electronically, for county offices sought by Plaintiffs, have wrongly claimed, in violation of EO 105, ¶ 2, and of applicable provisions in Title 19, that Plaintiffs have submitted insufficient signatures for various offices. This action is brought to compel those clerks to place these candidates on the ballot and to vindicate the invasion of their rights.

PARTIES

2. On March 30, 2020, Plaintiffs Roberta Reavey and Dennis Gormley submitted nominating petitions to become candidates for Freeholder (full term) in Camden County. The defendant Joseph Ripa, Clerk of Camden County, subsequently made and published knowingly false public statements to the effect that (a) Gormley was running for and filed petitions for an unexpired, not full term, for Freeholder; (b) a person named Rolland Coutinho was running for and had filed petitions for, the office of Surrogate, together with Reavey and Gormley as freeholder candidates, when in fact Coutinho had withdrawn from running and never submitted any petitions or documents to run for any office; (c) a person named Edward Jordan III was running for and had filed petitions for, the office of Freeholder (full term), when in fact Jordan had withdrawn from running and never submitted any petitions or documents to run for any office.

3. On March 30, 2020, Plaintiffs Shaheed Bashir and Deborah De La Cretaz, submitted nominating petitions to become candidates for Freeholder in Cape May County. On March 30, 2020, Plaintiff Jeremiah Schenerman submitted nominating petitions to become a candidate for Sheriff in Cape May County. On March 30, 2020, Plaintiff Noelle Jacquelin submitted nominating petitions to become a candidate for Clerk of Cape May County.

4. On March 30, 2020, Plaintiffs Jack Surrency, Tracey L. Wells-Huggins and Donna M. Pearson submitted nominating petitions to become candidates for Freeholder in Cumberland County.

5. On March 30, 2020, Plaintiff Dennis D'Augostine submitted nominating petitions to become a candidate for Sheriff in Cumberland County.

6. On various dates on and before March 30, 2020, Plaintiffs Sherry Lynn Hall, Howard Clark, and Lisa C. Bonanno have submitted petitions nominating petitions to become candidates for Freeholder in Gloucester County.

7. Defendant Tahesha Way is New Jersey Secretary of State and by virtue of N.J.S.A. 19:31-6a, is the “chief State election official” with overall supervisory responsibility for elections in the State. Defendant Way was additionally assigned various additional responsibilities for supervising elections under the terms of EO 105, §§ 1, 2, 4, and 15, including the design of online nominating forms and the responsibility of establishing standards “for ensuring that all eligible citizens are able to exercise their right to vote” for the candidate of their choice.

8. Defendants, Joseph Ripa, Rita Fulginiti, Celeste Riley, and James Hogan are the county clerks of Camden, Cumberland, and Gloucester Counties, respectively. Among their powers and duties are to receive and certify nominating petitions for certain public offices, including Freeholder and Sheriff, and to design and produce copies of all official ballots.

VENUE

9. Venue is appropriate in Mercer County because the Secretary of State is a party defendant and because the issue of the handling of electronically-submitted petitions pursuant to EO 105, which is a common issue in this case with all four counties, requires uniform resolution throughout all counties of the State in the interest of justice, and of uniformly securing the rights of candidates and voters within the meaning of N.J.S.A. 19:13-12 and other applicable law.

FACTS

10. On or about March 19, 2020, Governor Phil Murphy issued Executive Order 105, available at <https://nj.gov/infobank/eo/056murphy/pdf/EO-105.pdf>.

11. Paragraph 2 of EO 105 permitted candidate petitions to be collected by solely electronic means “via an online form created by the Secretary of State” and required state, county and local election officials to accept and process such electronic forms as valid petition signatures.

12. David Parano and his company, Parano & Associates (“Parano”), was engaged as consultants on behalf of Plaintiffs to conduct signature-gathering activity on Plaintiffs’ behalf.

13. Parano consistently used a program known as DocuSign, dedicated to collecting and authenticating electronic signatures, for his signature collection activities on behalf of Plaintiffs. DocuSign is an established and commercially reasonable system for the collection of signatures electronically.

14. Parano would engage in petition-collecting activity as follows: by emails and other electronic communications, voters in the counties at issue in this Complaint would be asked to sign the nominating petitions for the Plaintiffs from their respective counties.

15. A voter wishing to sign would click on a link that led them to a DocuSign URL, and when the page loaded, the voter would be asked for his or her full name as it appeared on the voter rolls, and his or her email.

16. The voter would then be shown the names of the candidates for whom the petition was being circulated. Thereafter, the voter would be shown the actual online petition form prepared by the Secretary of State, prepopulated with the names, addresses, office sought, etc., for the candidates.

17. Thereafter, the voter would be invited to sign the petition. If there were multiple petitions in that county (e.g., in Cape May there was a joint petition for freeholder, one for sheriff, and one for clerk), that process of showing the voter the petition and inviting the voter to sign, would be repeated for each petition.

18. Once he or she signed it, the voter would be asked to re-enter his or her name and provide their full address.

19. Thereafter, the voter would submit the petition and the signed petition would be transmitted to DocuSign, and available to Parano for further processing.

20. The DocuSign process simultaneously produces a document containing authenticated data about the date and time the form was signed and other relevant information.

21. The size of the signed petition and the accompanying authentication are substantial, approximately 4MB for each signer. Accordingly, rather than trying to aggregate all petitions into a single .pdf file, or send multiple individual emails each with a signed petition, Parano instead placed all signed petitions for a given county into a Google Drive file, and then then transmitted the URL to the Google Drive file to the appropriate clerk.

22. Parano thereafter submitted electronic petitions for each plaintiff candidate to each respective clerk as follows, to the email specified by them for the delivery of candidate petitions:

Camden Co. (Reavey, Gormley)	131
Cape May Co. (Bashir, De La Cretaz, Schenerman and Jacquelin)	116
Cumberland Co. (Surrency, Wells-Huggins, Pearson, D'Augustine)	151
Gloucester Co. (Hall, Clark, Bonanno)	151

23. Each petition submitted to each of the aforesaid counties, together with the DocuSign authentication document showing that each of the petitions were timely signed and filed, have been placed into a Dropbox account by Mr. Parano as evidence in this matter, who affirms to their accuracy and completeness.

24. Because these files are voluminous, for the convenience of the Court and of counsel, the clickable links to the Dropbox accounts are provided here:

Camden Co.:
<https://www.dropbox.com/sh/bx5hugmer4z7olg/AAAnJPFaLzr7gsQG6Mq4LorYa?dl=0>

Cape May Co.:
https://www.dropbox.com/sh/sx1h4pbjfg5dfm4/AACcZV2BIFPB7X_0N2TRTBIda?dl=0

Cumberland Co.
<https://www.dropbox.com/sh/z4qiip98b626lfu/AACzaGkEcs8NzYtUAgvrrCtna?dl=0>

Gloucester Co.
<https://www.dropbox.com/sh/qlypergqm1c41q2/AAAcIqICv4oBvVXsu3Pv1O31a?dl=0>

25. The process of collecting signed documents via DocuSign and transmitting them to the recipient in a Google Drive file folder is a reasonable and customary way of receiving and transmitting documents like these. Indeed, under the relaxation of petition rules provided by EO 105, Parano followed the exact same practice for other filing officials, who successfully opened the files, and found the exact number of signatures submitted by Parano. For example, Parano submitted 42 electronic signatures collected in the same manner as described above to the

Secretary of State, on behalf of CD-2 candidate Amy Kennedy, and the Secretary of State acknowledged receiving all 42 electronically submitted signatures.

COUNT I

26. Paragraphs 1-25 are incorporated herein by reference.

27. The defendant county clerks were faced with a process for the collection and processing of signatures that was newly-minted (having been created only on March 19, 2020 when EO 105 was issued) and was apparently untested. Adding to the fact that this was a brand new process, in the professional opinion of Mr. Parano, the defendant clerks either (1) had a lack of adequate technology software and hardware and/or (2) failed to possess adequate knowledge about how to extract files, and have each claimed that they did not receive Parano’s full submissions on behalf of the candidates. The methods used by Parano to collect and filed signatures are customary in business, and work properly if the recipient has the equipment and skill to retrieve the signatures. Parano received communications from the respective clerks or their representatives, in which the clerks claim to have received signatures in the following numbers:

Camden Co.	96 (Gormley) 109 (Reavey)
Cape May Co.	<100
Cumberland Co. (in respect of Sheriff candidate D’Augustine)	zero
Gloucester Co.	94

28. In other words, each of these clerks wrongly claimed to have received less signatures than what was, in actual fact, timely submitted and filed with them as described in Paragraph 22. This has led directly or indirectly to the Plaintiff candidates being excluded from the ballot.

29. This Court has jurisdiction under N.J.S.A. 19:13-12 to summarily hear and decide actions like this which threaten the rights of candidates and voters, and to render a decision thereon within three days. The Court also has inherent authority to decide and remedy matters which will lead to unjust consequences for voters or candidates under the rule in In re Gen. Election of November 5, 1991 for Office of Twp. Comm. of Twp. of Maplewood, Essex Cty., 255 N.J. Super. 690, 696 (Law. Div. 1992).

30. Plaintiffs seek an immediate order compelling each of the respective county clerks to accept Plaintiffs' petitions as sufficient, place them on the ballot, include such candidates in a successive ballot draw, and have their names printed on all official ballots in the Primary Elections. Because of the Governor's postponement of the June 2 primary, all relief requested herein can be granted without impinging on any applicable election deadline.

WHEREFORE, all Plaintiffs demand judgment in their favor and against Defendants:

A. Directing the respective county clerks to treat Plaintiffs' petitions as accepted and valid, with a sufficient number of signatures filed;

B. If necessary because of any relief awarded by this Court, ordering the respective Clerk to conduct a second or successive ballot draw to include the candidates reinstated by any Order of the Court in this matter;

C. Directing the respective county clerks to design all ballots (to include voting machine face, mail-in, provisional, emergency, or otherwise) to include the names of Plaintiffs from that county reinstated to the ballot by Order of this Court as candidates for the office for which they filed; and

D. For such other and further legal and equitable relief as is just and proper.

COUNT II

31. Paragraphs 1-30 are incorporated herein by reference.

32. Defendant Clerk of Camden County, in addition to making false and wrongful claims about which candidates filed petitions and which offices they are pursuing (see Paragraph 3 above), and in addition to making false and wrongful statements about the total signatures submitted by these candidates (see Paragraph 23-28 above), has also failed to correctly process the petitions that were in fact filed by the Plaintiff candidates in Camden,

33. In particular, in the case of candidate Reavey, the Clerk takes the position that 109 petitions were submitted, but there were duplicates and omitted addresses of certain signers, which placed Reavey below the 100 signature threshold.

34. In the case of candidate Gormley, the Clerk, after falsely stating that Gormley was running for the unexpired, rather than full, term, also takes the position that 96 petitions were submitted, but there were duplicates and omitted addresses of certain signers, which placed Gormley below the 100 signature threshold.

35. A petition signer's omission of an address is a curable defect within the meaning of N.J.S.A. 19:23-19 and -20.

36. A sufficient number of the excluded Reavey petition signers and the excluded Gormley petitions signers have now submitted sworn documentation setting forth their address of record, thus correcting the defect. Taking into account the true number of signatures actually submitted plus the certifications of voters correcting addresses, there are now sufficient signatures to bring these candidates above the 100-signature threshold. This corrective information has been sent to defendant Ripa and is available to the Court and counsel at https://www.dropbox.com/sh/2mzgc991ci1sbh4/AABOOKFTy-XU5vWXs_hO57Gma?dl=0.

37. For these reasons, Plaintiff Reavey has successfully filed a petition for full-term Freeholder bearing, after the allowable statutory corrections for addresses under N.J.S.A. 19:23-19 and -20, 100 or more valid signatures.

38. In addition, Plaintiff Gormley has successfully filed a petition for full-term Freeholder bearing, after the allowable statutory corrections for addresses under N.J.S.A. 19:23-19 and -20, 100 or more valid signatures.

39. To the extent that Reavey's and Gormley's petitions were deemed deficient because of the omission of the name/address of circulator and the certificate of acceptance of office, those objections lack merit as the name/address of circulator requirement was waived by EO 105, ¶ 4, and the certificate of acceptance of office was submitted with these candidates' papers.

40. These candidates are being wrongfully excluded from the ballot by defendant Ripa.

41. Because of the Governor's postponement of the June 2 primary, all relief requested herein can be granted without impinging on any election deadline.

WHEREFORE, Plaintiffs Gormley and Reavey demand judgment in their favor and against Defendants:

A. Directing defendant Ripa to treat Gormley and Reavey's petitions as accepted, valid, and containing a sufficient number of signatures for the office sought;

B. Ordering Ripa to conduct a second or successive ballot draw to include the names of Gormley and Reavey if reinstated as candidates by any Order of the Court in this matter;

C. Ordering Ripa to design all ballots (to include voting machine face, mail-in, provisional, emergency, or otherwise) the names of Gormley and Reavey if reinstated as candidates by any Order of the Court in this matter; and

D. For such other and further legal and equitable relief as is just and proper.

Respectfully submitted,

WEISSMAN & MINTZ
Attorneys for Plaintiffs

By: /s/ Flavio L. Komuves
Flavio L. Komuves, Esq. (No. 018891997)

Dated: April 8, 2020

VERIFICATIONS

I am an assistant campaign manager for each of the Plaintiffs. I have read the aforesaid complaint and certify that the factual statements made therein in paragraphs 1 and 8-11 therein are true and are based on my personal knowledge and/or admissible records of regularly conducted business activity.

I am aware that if any of the foregoing statements made by me are willfully false, that I am subject to punishment.



SUSAN ALTMAN

Dated: April 8, 2020

I am an independent consultant in charge of Parano & Associates, which was engaged on behalf of each of the Plaintiffs to conduct nominating petition circulation and submission activity on behalf of the Plaintiffs. I have read the aforesaid complaint and certify that the factual statements made in Paragraphs 2-7 and 12-41 therein are true and are based on my personal knowledge and/or admissible records of regularly conducted business activity.

I am aware that if any of the foregoing statements made by me are willfully false, that I am subject to punishment.

Dave Parano

DAVID PARANO

Dated: April 8, 2020

RULE 4:5-1 CERTIFICATION

Pursuant to Rule 4:5-1, I certify that the within matter in controversy is subject to no other action pending in any Court or arbitration proceeding and that the names of all parties who should be joined in this action are set forth in the Complaint and joined in the action.

/s/ Flavio L. Komuves

Flavio L. Komuves

Dated: April 8, 2020