

Robert F. Renaud, Esq.
RR 1351
RENAUD DEAPPOLONIO LLC
190 North Avenue East
Cranford, New Jersey 07016
(908) 418-4088
Attorneys for Intervenor Regular Democratic Organization of Union County, Inc.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CHRISTINE CONFORTI, ARATI
KREIBICH, MICO LUCIDE, JOSPEH
MARCHICA, KEVIN MCMILLAN,
ZINOVIA SPEZAKIS, and NEW JERSEY
WORKING FAMILIES ALLIANCE, INC.,
Plaintiff,

v.

CHRISTINE GIORDANO HANLON, in
her official capacity as Monmouth County
Clerk, SCOTT M. COLABELLA, in his
official capacity as Ocean County Clerk,
PAULA SOLLAMI COVELLO, in her
official capacity as Mercer County Clerk,
JOHN S. HOGAN, in his official capacity
as Bergen County Clerk, EDWARD P.
MCGETTIGAN, in his official capacity as
Atlantic County Clerk, and E. JUNIOR
MALDONADO, in his official capacity as
Hudson County Clerk,
Defendants.

Civil Action No.: 3:20-08267-ZNQ-TJB

**NOTICE OF MOTION TO INTERVENE
PURSUANT TO FED.R.CIV.P. 24
(ORAL ARGUMENT REQUESTED)**

To:

Flavio L. Komuves
Weissman & Mintz LLC
1 Executive Drive, Suite 200
Somerset, NJ 08873
Attorney for Plaintiffs Christine Conforti,
Arati Kreibich, Kevin McMillan, Zinovia Spezakis,
Mico Lucide, Jospeh Marchica & New Jersey

Working Families Alliance, LLC

Yael Bromberg
Bromberg Law LLC
73 Glen Avenue
P.O. Box 1131
Glen Rock, NJ 07452
Attorney for Plaintiffs Christine Conforti,
Arati Kreibich, Kevin McMillan, Zinovia Spezakis,
Mico Lucide, Josphe Marchica & New Jersey
Working Families Alliance, LLC

Bret M. Pugach
Bromberg Law LLC
43 West 43rd Street, Suite 32
New York, NY 10036-7424
Attorney for Plaintiffs Christine Conforti,
Arati Kreibich, Kevin McMillan, Zinovia Spezakis,
Mico Lucide, Josphe Marchica & New Jersey
Working Families Alliance, LLC

Erik Anderson
Reardon Anderson LLC
55 Gilbert Street North, Suite 2204
Tinton Falls, NJ 07701
Attorney for Defendant Christine Giordano Hanlon

John C. Sahradek
Berry, Sahradek, Kotzas & Benson
212 Hooper Avenue
P.O. Box 757
Toms River, NJ 08754-0757
Attorney for Defendant Scott M. Colabella

Mathew Brandy Thompson
Berry, Sahradek, Kotzas & Benson
212 Hooper Avenue
P.O. Box 757
Toms River, NJ 08754-0757
Attorney for Defendant Scott. M Colabella

Angelo Josphe Genova
Genova Burns LLC
494 Broad Street
Newark, NJ 07102

Attorney for Defendant Paula Sollami Covello

Christopher Zamlout
Chiesa Shahinian & Giantomasi PC
1 Boland Drive
West Orange, NJ 07052
Attorney for Defendant Paul Sollami Covello

Jennifer Borek
Genova Burns LLC
494 Broad Street
Newark, NJ 07102
Attorney for Defendant Paul Sollami Covello

Alan J. Cohen
Atlantic County Department of Law
1333 Atlantic Avenue
Atlantic City, NJ 08401
Attorney for Defendant Edward P Mcgettigan

Edward J. Florio
Florio Kenny Raval LLP
125 Chubb Avenue, Suite 310N
Lyndhurst, NJ 07071
Attorney for Defendant E. Junior Maldonado

Henal Patel
New Jersey Institute for Social Justice
60 Park Place, Suite 511
Newark, NJ 07102
Attorney for Defendants League of Women Voters
of New Jersey & Salvation an Social Justice

Ryan Paul Haygood
New Jersey Institute for Social Justice
60 Park Place, Suite 511
Newark, NJ 07102
Attorney for Defendants League of Women Voters
of New Jersey & Salvation an Social Justice

Jaime Richard Placek
Decotiis, Fitzpatrick, Cole & Giblin, LLP
61 South Paramus Road, Suite 250
Paramus, NJ 07652
Attorney for Intervenor office of the Bergen County Clerk

George N. Cohen
Office of the NJ Attorney General
R.J. Hughes Justice Complex
P.O. Box 112
Trenton, NJ 08625
Attorney for Intervenor Gurbin S. Grewal

John M. Carbone
Carbone and Faasse
401 Goffle Road
Ridgewood, New Jersey 07450
Attorney for Intervenor Hon. John S. Hogan

PLEASE TAKE NOTICE that on September 6, 2022, attorneys for the Regular Democratic Organization of Union County, Inc. shall move before the above-named Court at the United States District Court, for an Order for permitting the Regular Democratic Organization of Union County, Inc. to intervene in the above-referenced matter pursuant to Fed.R.Civ.P. 24.

PLEASE TAKE FURTHER NOTICE that the Regular Democratic Organization of Union County, Inc. shall rely on the annexed Brief and Certification of Robert F. Renaud, Esq.

PLEASE TAKE FURTHER NOTICE that the Regular Democratic Organization of Union County, Inc. requests oral argument. A form of Order granting the relief sought is attached.

RENAUD DEAPPOLONIO LLC
*Attorneys for the Regular Democratic
Organization of Union County, Inc.*

By: /s/ Robert F. Renaud
Robert F. Renaud, Esq.

Dated: July 25, 2022

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CHRISTINE CONFORTI, ARATI
KREIBICH, MICO LUCIDE, JOSPEH
MARCHICA, KEVIN MCMILLAN,
ZINOVIA SPEZAKIS, and NEW JERSEY
WORKING FAMILIES ALLIANCE, INC.,
Plaintiff,

Civil Action No.: 3:20-08267-ZNQ-TJB

v.

CHRISTINE GIORDANO HANLON, in
her official capacity as Monmouth County
Clerk, SCOTT M. COLABELLA, in his
official capacity as Ocean County Clerk,
PAULA SOLLAMI COVELLO, in her
official capacity as Mercer County Clerk,
JOHN S. HOGAN, in his official capacity
as Bergen County Clerk, EDWARD P.
MCGETTIGAN, in his official capacity as
Atlantic County Clerk, and E. JUNIOR
MALDONADO, in his official capacity as
Hudson County Clerk,
Defendants.

BRIEF IN SUPPORT OF INTERVENOR REGULAR DEMOCRATIC ORGANIZATION OF
UNION COUNTY, INC.'S MOTION TO INTERVENE

Robert F. Renaud, Esq.
RR1351
RENAUD DEAPPOLONIO LLC
190 North Avenue East
Cranford, New Jersey 07016
(908) 418-4088
Attorneys for Intervenor Regular
Democratic Organization of
Union County, Inc.

On the Brief:
Robert. F. Renaud, Esq.
Nicholas V. Rinaldi, Esq.

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....ii

STATEMENT OF FACTS AND PROCEDURAL HISTORY.....1

LEGAL STANDARD.....3

ARGUMENT.....4

RETRIEVED FROM DEMOCRACYDOCKET.COM

TABLE OF AUTHORITIES

Federal Cases	Page(s)
<u>Benjamin v. Dep't of Pub. Welfare of Commonwealth</u> , 432 Fed. Appx. (3d Cir. 2011).....	3
<u>Commonwealth of Pennsylvania v. President United, States of Am.</u> , 888 F.3d 52 (3d Cir. 2018).....	3
<u>Worthington v. Bayer Healthcare, LLC</u> , No. 11-2793, 2011 WL 6303999 (D.N.J. Dec. 15, 2011).....	3
State Statutes	
<u>N.J.S.A. 19:23-17</u>	2
Rules	
<u>Fed.R.Civ.P. 24</u>	<u>passim</u>

RETRIEVED FROM DEMOCRACYDOCKET.COM

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Pertinent to this motion, the following sets out the procedural history.

Plaintiffs filed their complaint on July 6, 2020 (ECF 1). An amended complaint was filed on January 25, 2021 (ECF 33). All named defendants and Intervenor State of New Hersey filed motions to dismiss. On May 31, 2022, the Court issued an opinion denying the motions to dismiss (ECF 111). Regular Democratic Organization of Union County, Inc. (“the RDO”), now moves for leave to intervene in this case.

Plaintiffs’ Complaint seek to invalidate the manner in which the named defendants, County Clerks of various counties, administer ballot design and ballot placement laws within the State of New Jersey. See Plaintiffs’ Amended Complaint, ECF Doc. 33. Plaintiffs’ Amended Complaint seeks a declaration that New Jersey’s primary election bracketing and ballot placement system is unconstitutional, and seeks injunctive relief to “ensure that the primacy effect/positional bias does not continue to advantage bracketed candidates over other candidates running for the same office.” See Amended Complaint ¶¶ 8 and 9.

The RDO is a not-for-profit corporation of the State of New Jersey, dedicated to democratic principles and the highest ideals, supporting candidates for the nomination of the Democratic Party in primary elections for public offices,

including United States Senate and Congress, State Senate and Assembly, Constitutional County offices, members of the Board of Commissioners, and municipal offices. Qualified members of the Democratic Party may, pursuant to N.J.S.A. 19:23-17, be permitted to use the designation “Regular Democratic Organization of Union County,” as their designation or slogan in primary elections. The RDO, by doing so, “endorses” those candidates who adopt and share the principles and ideals of the RDO. The RDO claims an interest, protected by the First Amendment, to associate itself with primary election candidates who share its principles and ideals, and to associate those candidates with each other, and to inform the primary election voters of the Democratic Party. The RDO further claims an interest, protected by the First Amendment, to speak freely as to those candidates that it has endorsed so as to inform the electorate that the RDO has chosen to associate itself with certain candidates, and that those candidates have chosen to associate themselves with each other.

The RDO seeks to intervene in order to assert its interest in this litigation in maintaining its right to associate itself with candidates it chooses who share its principles and ideals, to have those candidates associate themselves with other candidates who share the same principles and ideals, and to express, through the balloting process, its support for those candidates who have met the standards of the RDO with respect to those principles and ideals.

LEGAL STANDARD

Motions to intervene are governed by FED.R.CIV.P.24. Motions for intervention as of right are governed by FED.R.CIV.P. 24(a).

A petitioner seeking to intervene of right "must establish that: (1) the application for intervention is timely; (2) the applicant has a sufficient interest in the litigation; (3) the interest may be affected or impaired, as a practical matter, by the disposition of the action; and (4) the interest is not adequately represented by an existing party in the litigation." *In re Cmty. Bank of N. Va.*, 418 F.3d 277, 314 (3d Cir. 2005) (quoting *Harris v. Pernsley*, 820 F.2d 592, 596 (3d Cir. 1987)). The claimed interest in the litigation must be one that "is specific [to those seeking to intervene], is capable of definition, and will be directly affected in a substantially concrete fashion by the relief sought." *Kleissler v. U.S. Forest Service*, 157 F.3d 964, 972 (3d Cir. 1998). "[T]he polestar for evaluating a claim for intervention is always whether the proposed intervenor's interest is direct or remote." *Id.*

An intervenor's interest in the litigation need not be a legal one so long as the party "will be practically disadvantaged by the disposition of the action." *Id.* at 970 (quoting 7C CHARLES ALLAN WRIGHT, ARTHUR MILLER & MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE: CIVIL 2D § 1908, at 301 (1986)

Benjamin v. Dep't of Pub. Welfare of Commonwealth, 432 Fed. Appx. 94, 97-98 (3d Cir. 2011).

Standards for motions for permissive intervention are set forth in FED.R.CIV.P. 24(b). See *Commonwealth of Pennsylvania v. President United, States of Am.*, 888 F.3d 52, 57 (3d Cir. 2018). "Whether to allow a party to permissively intervene is left to the sound discretion of the Court." *Worthington v. Bayer Healthcare, LLC*,

No. 11– 2793, 2011 WL 6303999, at 8 (D.N.J. Dec. 15, 2011). On timely motion, the court may permit anyone to intervene who (a) is given a conditional right to intervene by federal statute; or (b) has a claim or defense that shares with the main action a common question of law or fact. USCS Fed Rules Civ Proc R. 24.

ARGUMENT

Here, (1) the application for intervention on behalf of the Regular Democratic Organization of Union County, Inc. (“the RDO”) is timely, being filed post-disposition of the motions to dismiss, (2) the RDO has a sufficient interest in the litigation, as set forth in the Certification accompanying this motion; (3) the RDO’s interest in endorsing candidates, having that endorsement appear on the ballot, and in grouping endorsed candidates on the ballot so as to demonstrate their association, may be affected or impaired, as a practical matter, by the disposition of the action; and (4) the interest of the RDO in endorsing candidates and in the grouping of endorsed candidates together, is not adequately represented by an existing party in the litigation. The named defendants, County Clerks, being administrators of the election process rather than advocates in the primary process, certainly do not adequately represent the interest of the RDO.

Given the nature of the organization and questions at issue in this litigation, RDO is an interested party and has a defense “that shares with the main action a

common question of law or fact.” That the RDO has a defense germane to the main action in this Litigation is demonstrated by Plaintiffs’ Amended Complaint, which seeks to invalidate the process by which the RDO’s endorsement of candidates, and the grouping of RDO-endorsed candidates, is manifest.

Intervention by the RDO will not delay or prejudice the adjudication of the original parties’ rights. Accordingly, in order to defend the challenged statutes, the RDO seeks leave to participate in this matter. Accordingly, pursuant to FED.R.CIV.P. 24, the Regular Democratic Organization of Union County, Inc. requests that the Court grant its motion to intervene in this litigation as an interested party.

Respectfully Submitted,
RENAUD DEAPPOLONIO LLC
Attorneys for Intervenor Regular
Democratic Organization of
Union County, Inc.

/s/ Robert F. Renaud
Robert F. Renaud

Dated: July 25, 2022