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Attorneys for Intervenor, Office of the Burlington County Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CHRISTINE CONFORTI, et al.,

Plaintiffs,

Case No.: 3:20-cv-08267-ZNQ-TJB

vs.

CHRISTINE GIORDANO HANLON,

in her official capacity as Monmouth

County Clerk, et al.,

Defendants.

**REPLY BRIEF ON BEHALF OF INTERVENOR, OFFICE OF THE
BURLINGTON COUNTY CLERK, IN SUPPORT OF MOTION TO INTERVENE
PURSUANT TO FED. R. CIV. P. 24.**

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(856) 424-1808

*Attorneys for Intervenor, Office of the
Burlington County Clerk*

Preliminary Statement

By opposing the Motion to Intervene for the Office of the Burlington County Clerk (“Burlington County”), the Plaintiffs take the extraordinary position that a party they have personally identified as a party at interest in the litigation should not be permitted to intervene despite the fact this matter has only recently passed the initial pleading stage, and no discovery has taken place. Plaintiffs’ position is wholly unsupported by the relevant caselaw on point, as evidenced by the fact they do not rely on any in opposing Burlington County’s Motion, instead relying on generic complaints about the timing of the motion and the number of interested parties their statewide constitutional challenge has created. Because the litigation is in its infancy, the Plaintiffs will not be prejudiced, and it cannot be guaranteed Burlington County’s interest will be protected, it is respectfully requested that the pending motion to intervene is granted.

Burlington County’s Proposed Answer

Plaintiffs argue that Burlington County’s motion should be denied because it did not include a proposed answer. Without addressing whether a proposed answer is necessary at this time and to resolve any potential dispute over this issue, Burlington County’s proposed answer is included as an exhibit to this reply. See Exhibit A, proposed Answer of The Office of the Burlington County Clerk. Burlington County respectfully requests the Court consider this proposed pleading as part of its application for intervention.

Burlington County’s Motion is Timely

The Plaintiffs fail to apply the actual factors used by the Third Circuit for a timeliness inquiry. As cited in other portions of Plaintiffs’ brief, the Third Circuit bases the analysis of whether an intervention motion is timely on the totality of the circumstances. See Mountain Top Condo Ass’n v. Dave Stabbert Master Builder, Inc., 72 F.3d 361, 369 (3d Cir. 1995). Those

factors include the current stage of the litigation, whether the parties will be prejudiced by any delay, and the reason for any delay. Id. These factors outweigh the simple length of time, as evidenced by the Court's decision in Mountain Top, where intervention was permitted nearly two years after filing of the complaint. Id. Instead, the critical inquiry is what "proceedings of substance on the merits have occurred." Id.

Here, the factors the Plaintiffs ignore weigh heavily in favor of granting Burlington County's motion. Despite the passage of time between commencement of the suit and now, it is beyond dispute that this litigation is still in its infancy, with initial pleadings only recently completed and before any discovery has taken place. Time alone does not make the case too far along to allow intervention, and instead the Court should focus on what has occurred. From that perspective, this case is still in its earliest stages.

As such, the Plaintiffs cannot argue that the delay caused any prejudice. Intervention now will not cause any issues with the timeline of this case. Discovery will not have to be re-opened, and nothing will have to be re-done. Burlington County can intervene, file their answer, and the case can proceed without any material change to the Plaintiffs. The only difference will be Burlington County will have the ability to represent its interest – an interest Plaintiff admitted to in their very own Complaint.

Lastly, Burlington County has explained the reason for the delay. There is a stark difference between the need to protect one's interest during actual litigation and waiting to see if a motion to dismiss is granted. That line of demarcation – waiting until the case is actually viable and permitted to continue – is a natural inflection point for Burlington County to choose to intervene and protect its rights. This logical decision provides a reasonable explanation for the delay. As such, Defendant's Motion should be considered timely.

**There Is No Guarantee That Burlington County's Interest
Will be Protected Without Its Intervention**

The Plaintiffs position that Burlington County's interest will be adequately protected is both inconsistent with their prior position in this lawsuit, and unsupported by facts or law.

As the Court is aware, two other county clerks moved for intervention in this case. Neither were opposed by the Plaintiffs. While the Plaintiffs may be able to argue the timeliness element is different now than when those parties intervened, those parties intervened after there were already multiple county clerks as Defendants in this action. At no point did Plaintiff state those clerks already had adequate representation. Now, they make this argument for the first time. Even if this does not constitute a legal waiver, it showcases the lack of logic in this position. What was the magic number of county clerks that suddenly caused the interests to be protected? There is none. Every county clerk in the state is named by the Plaintiff as an interested party, and each has a unique interest that warrants protection.

The Plaintiffs barely touch on the legal standard for this element, likely because of how easy it is for intervenors to satisfy. The Supreme Court has held that this element is "satisfied if the applicant shows that the representation of his interest 'may be' inadequate, and the burden of making that showing should be treated as minimal." See Trbovich v. United Mine Workers, 404 U.S. 528, 538 (1972).

Here, there is no guarantee that Burlington County's interest will be protected. This is not a simple case determining property rights or whether one party or another has a right to funds, where it can be guaranteed that an intervenor's position in a binary choice will be represented. This is a complex constitutional challenge that presents several different options of legal positions . By just one example - the Defendants in this case could choose to settle the matter,

binding Burlington County in the process. This clears the minimal hurdle set by the Supreme Court that the representation of Burlington County's interest "may be" inadequate. Id.

Conclusion

For the reasons stated above, the reasons in Burlington County's Motion, and the reasons stated at oral argument, Burlington County respectfully requests the Court grant its motion to intervene.

Respectfully submitted,

MALAMUT & ASSOCIATES, LLC
Attorneys for Intervenor,
Office of the Burlington County Clerk

/s/ Mark R. Natale
Mark R. Natale, Esquire

Date: August 30, 2022

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EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM

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UNITED STATES DISTRICT COURT
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Plaintiffs,

Case No.: 3:20-cv-08267-ZNQ-TJB

vs.

CHRISTINE GIORDANO HANLON,
in her official capacity as Monmouth
County Clerk, et al.,

Defendants.

Intervenor, Office of the Burlington County Clerk, hereinafter referred to as
“Burlington County” by way of Answer to Plaintiffs’ First Amended Complaint,
states:

NATURE OF THE CASE

1. The Attorney General of New Jersey intervened solely to defend the constitutionality of state statutes, and has taken no position on other practices Plaintiffs allege in their Complaint. To the extent that Plaintiffs’ characterizations refer to New Jersey ballot statutes, denied. To the extent that their characterizations refer to other factors, Burlington County is without sufficient knowledge to either admit or deny the allegations and leaves Plaintiffs to their proofs.

2. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County is without sufficient knowledge to either admit or deny the remaining allegations in this paragraph and leaves Plaintiffs to their proofs.

3. Burlington County is without sufficient knowledge to either admit or deny the allegations in this paragraph and leaves Plaintiffs to their proofs.

4. Admitted to the extent that N.J.S.A. 19:49-2 and N.J.S.A. 19:23-18 set forth the procedure for joint petitions. Denied as to any other allegations regarding New Jersey ballot statutes. Burlington County is without sufficient knowledge to either admit or deny the remaining allegations in this paragraph and leaves Plaintiffs to their proofs.

5. Admitted to the extent that N.J.S.A. 19:49-2 and N.J.S.A. 19:23-18 set forth the procedure for joint petitions. Denied as to any other allegations regarding New Jersey ballot statutes. Burlington County is without sufficient knowledge to either admit or deny the remaining allegations in this paragraph and leaves Plaintiffs to their proofs.

6. To the extent that the allegations refer to New Jersey ballot statutes, denied. N.J.S.A. 19:23-24 sets forth the process for ballot draws. To the extent that the allegations refer to other factors, Burlington County is without sufficient

knowledge to either admit or deny the remaining allegations in this paragraph and leaves Plaintiffs to their proofs.

7. Burlington County is without sufficient knowledge to either admit or deny the allegations in this paragraph and leaves Plaintiffs to their proofs.

8. Burlington County is without sufficient knowledge to either admit or deny the allegations in this paragraph and leaves Plaintiffs to their proofs.

9. Burlington County denies the allegations in this paragraph.

10. To the extent that the allegations refer to New Jersey ballot statutes, denied. To the extent that the allegations refer to other factors, Burlington County is without sufficient knowledge to either admit or deny the remaining allegations in this paragraph and leaves Plaintiffs to their proofs.

11. Burlington County admits that New Jersey has annual primary elections. Denied as to the remaining allegations.

12. Denied that Plaintiffs are entitled to declaratory relief against New Jersey ballot statutes.

Denied that Plaintiffs are entitled to injunctive relief against New Jersey ballot statutes.

JURISDICTION AND VENUE

14. Admitted that Plaintiffs bring this action as stated in this paragraph. Denied that Plaintiffs state a claim upon which relief can be granted thereunder.

15. Admitted that this Court has jurisdiction over this matter.

16. Admitted that this Court has jurisdiction over the parties in this matter.

17. Admitted that venue is proper.

18. Admitted that this Court has such authority. Denied that Plaintiffs can demonstrate legal entitlement to declaratory relief against New Jersey ballot statutes.

PARTIES

Plaintiffs

19. Burlington County neither admits nor denies the allegations set forth in this paragraph as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

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56. Allegations of this paragraph are legal conclusions to which no response is required.

Defendants

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65. Admitted that the Secretary of State is New Jersey Chief Elections Official and is not a party to this suit as the Secretary of State has no role in ballot

design in the State of New Jersey. Burlington County is a party to this suit solely to defend the constitutionality of state statutes.

STATEMENT OF FACTS AND LAW

66. Burlington County admits the allegations in this paragraph.

67. Burlington County neither admits nor denies the allegations set forth in this paragraph as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

68. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

69. Admitted to the extent that N.J.S.A. 19:49-2 and N.J.S.A. 19:23-18 set forth the procedure for joint petitions. New Jersey's relevant statutes speak for themselves. As to the remainder of the allegations in this paragraph, Burlington County neither admits nor denies the allegations as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

70. Burlington County neither admits nor denies the allegations set forth in this paragraph as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

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73. Admitted to the extent that N.J.S.A. 19:49-2 and N.J.S.A. 19:23-18 set forth the procedure for joint petitions. New Jersey's relevant statutes speak for themselves. As to the remainder of the allegations in this paragraph, Burlington County neither admits nor denies the allegations as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

74. Admitted to the extent that N.J.S.A. 19:49-2 sets forth procedures for joint petitions and that N.J.S.A. 19:23-6 sets forth procedures for filing nominating petitions. New Jersey's relevant statutes speak for themselves.

75. Admitted to the extent that N.J.S.A. 19:49-2 sets forth procedures for joint petitions and that N.J.S.A. 19:23-6 sets forth procedures for filing nominating petitions. New Jersey's relevant statutes speak for themselves. As to the remainder of the allegations in this paragraph, Burlington County neither admits nor denies the allegations as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

76. Admitted to the extent that N.J.S.A 19:23-24 sets forth the requirements for ballot draw. The statute speaks for itself.

77. Admitted to the extent that N.J.S.A 19:23-24 sets forth the requirements for ballot draw and that N.J.S.A. 19:23-26.1 sets forth rules regarding the ballot for primary elections for the nominations of candidates for the offices of United States Senator and Governor. New Jersey's relevant statutes speak for themselves. As to Plaintiffs' remaining allegations, Burlington County neither admits nor denies the allegations set forth in this paragraph as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

78. Admitted to the extent that N.J.S.A 19:49-2 and 19:23-18 sets forth procedures for joint petitions. New Jersey's relevant statutes speak for themselves.

79. Admitted to the extent that N.J.S.A 19:49-2 and 19:23-18 sets forth procedures for joint petitions and N.J.S.A. 19:23-24 sets forth the procedures for ballot draws. New Jersey's relevant statutes speak for themselves.

80. To the extent that the allegations in this paragraph refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

81. To the extent that the allegations in this paragraph refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph as the allegations are not directed at Burlington County. Burlington County leaves Plaintiffs to their proofs.

82. Admitted to the extent that N.J.S.A. 19:23-26.1 sets forth rules regarding the ballot for primary elections for the nominations of candidates for the offices of United States Senator and Governor. New Jersey's relevant statutes speak for themselves.

83. Allegations of this paragraph are legal conclusions to which no response is required.

84. Admitted to the extent that N.J.S.A. 19:23-26.1 sets forth rules regarding the ballot for primary elections for the nominations of candidates for the offices of United States Senator and Governor. New Jersey's relevant statutes speak for themselves.

85. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

86. Burlington County neither admits nor denies the allegations set forth in this paragraph. To the extent that these allegations are governed by New Jersey ballot statutes, the relevant statutes speak for themselves. To the extent that these

allegations speak to actions not governed by New Jersey ballot statutes, those allegations are not directed at Burlington County and Burlington County leaves Plaintiffs to their proofs.

87. Burlington County neither admits nor denies the allegations set forth in this paragraph. To the extent that these allegations are governed by New Jersey ballot statutes, the relevant statutes speak for themselves. To the extent that these allegations speak to actions not governed by New Jersey ballot statutes, those allegations are not directed at Burlington County and Burlington County leaves Plaintiffs to their proofs.

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93. Allegations of this paragraph contain legal conclusions to which no response is required. As to the remaining allegations, Burlington County neither admits nor denies the allegations. Burlington County leaves Plaintiffs to their proofs.

94. Allegations of this paragraph are legal conclusions to which no response is required.

95. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

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97. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

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152. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

153. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

154. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

155. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

156. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

157. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

158. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

159. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

160. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

161. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

162. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

163. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

164. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

165. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

166. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

167. Burlington County denies the allegations in this paragraph.

CLAIMS FOR RELIEF

COUNT I

U.S. Const. Amend. I and XIV, 42 U.S.C. §1983

Violation of Plaintiffs' First and Fourteenth Amendment Rights Under

Federal Constitution (Right to Vote/Vote Dilution)

168. Burlington County repeats and incorporates herein each answer to every foregoing allegation of the First Amended Complaint and incorporates same as though set forth in full and at length herein.

169. Allegations of this paragraph are legal conclusions to which no response is required.

170. Allegations of this paragraph are legal conclusions to which no response is required.

171. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

172. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

173. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

174. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph. Burlington County leaves Plaintiffs to their proofs.

175. Burlington County denies the allegations in this paragraph.

176. Burlington County is without sufficient knowledge to either admit or deny the allegations in this paragraph and leaves Plaintiffs to their proofs.

177. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

178. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

179. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

180. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

181. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

182. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining

allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

COUNT II

U.S. Const. Amend. I and XIV, 42 U.S.C. §1983

Violation of Plaintiffs' First and Fourteenth Amendment Rights Under

Federal Constitution (Equal Protection)

183. Burlington County repeats and incorporates herein each answer to every foregoing allegation of the First Amended Complaint and incorporates same as though set forth in full and at length herein.

184. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

185. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

186. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining

allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

187. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

188. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

189. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

190. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

191. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

192. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining

allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

193. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

194. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

COUNT III

U.S. Const. Amend. I and XIV, 42 U.S.C. §1983

Violation of Plaintiffs' First and Fourteenth Amendment Rights Under Federal Constitution (Freedom of Association)

195. Burlington County repeats and incorporates herein each answer to every foregoing allegation of the First Amended Complaint and incorporates same as though set forth in full and at length herein.

196. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining

allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

197. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

198. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

199. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

200. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

201. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

202. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

203. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

204. Burlington County denies the allegations in this paragraph.

205. Burlington County neither admits nor denies the allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

206. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

207. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

208. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

COUNT IV

U.S. Const. Amend. I and XIV, 42 U.S.C. §1983

Violation of Elections Clause Under Federal Constitution

209. Burlington County repeats and incorporates herein each answer to every foregoing allegation of the First Amended Complaint and incorporates same as though set forth in full and at length herein.

210. To the extent this paragraph accurately quotes Article I, Section 4, Clause 1 of the United States Constitution, admitted. The provision speaks for itself.

211. Allegations of this paragraph are legal conclusions to which no response is required.

212. Allegations of this paragraph are legal conclusions to which no response is required.

213. Allegations of this paragraph are legal conclusions to which no response is required.

214. Allegations of this paragraph are legal conclusions to which no response is required.

215. Allegations of this paragraph are legal conclusions to which no response is required.

216. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

217. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

218. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

219. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

220. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

221. To the extent that Plaintiffs' characterizations refer to New Jersey ballot statutes, denied. Burlington County neither admits nor denies the remaining allegations set forth in this paragraph because the allegations are not directed to the Burlington County. Burlington County leaves Plaintiffs to their proofs.

COUNT V

42 U.S.C. §1983

Violation of Civil Rights Act

222-225. Burlington County provides no answer to the allegations set forth in paragraphs 222 through 225 of the First Amended Complaint because Count V has been dismissed with prejudice by Order of this court, dated May 31, 2022.

WHEREFORE, Burlington County denies that Plaintiffs are entitled to any relief as to the constitutionality of New Jersey ballot statutes. As to Plaintiffs' allegations regarding conduct not required by New Jersey ballot statutes, Burlington County takes no position.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The First Amended Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs have not been deprived of any right, privilege or immunity secured to them by the United States Constitution or any Act of Congress.

THIRD AFFIRMATIVE DEFENSE

Burlington County at all times acted pursuant to its lawful authority and all actions constitute exercise of appropriate authority.

FOURTH AFFIRMATIVE DEFENSE

The First Amended Complaint is barred, in whole or in part, by the doctrines of laches, unclean hands, accord and satisfaction, waiver, and/or estoppel.

FIFTH AFFIRMATIVE DEFENSE

The First Amended Complaint is barred, in whole or in part, by the doctrines of res judicata, collateral estoppel, and/or the entire controversy doctrine.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs failed to name a necessary and/or interested party to the litigation.

SEVENTH AFFIRMATIVE DEFENSE

This Court lacks jurisdiction over Plaintiff's claims.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to attorneys' fees or costs.

RESERVATION OF RIGHTS

Burlington County reserves the right, at or before trial, to move for summary judgment, on the grounds that the complaint fails to state a claim upon which relief can be granted and/or Burlington County is entitled to judgment as a matter of law. Burlington County also reserves the right to amend its answer and to assert additional defenses and/or supplement, alter or change this Answer upon the revelation of more definite facts during and/or upon the completion of further discovery and investigation.

MALAMUT & ASSOCIATES, LLC
Attorney for Intervenor,
Office of the Burlington County Clerk

/s/ Mark R. Natale

Mark R. Natale, Esq.

Dated: August 30, 2022

MALAMUT & ASSOCIATES, LLC

Mark R. Natale, Esq.

457 Haddonfield Road, Suite 500

Cherry Hill, New Jersey 08002

Attorneys for Intervenor, Office of the Burlington County Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CHRISTINE CONFORTI, et al.,

Plaintiffs,

Case No.: 3:20-cv-08267-ZNQ-TJB

vs.

CERTIFICATE OF SERVICE

CHRISTINE GIORDANO HANLON,
in her official capacity as Monmouth
County Clerk, et al.,

Defendants.

I certify that on this on this day, Intervenor Office of the Burlington County Clerk's Answer was electronically filed with the Clerk of the United States District Court, Vicinage of Trenton, and that a copy of these documents has been therefore been served by electronic notice upon all parties.

MALAMUT & ASSOCIATES, LLC
Attorney for Intervenor,
Office of the Burlington County Clerk

/s/ Mark R. Natale

Mark R. Natale, Esq.

Dated: August 30, 2022