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via CM/ECF

Hon. Zahid N. Quraishi, U.S.D.J.
United States District Court
Clarkson S. Fisher Building
402 East State Street
Trenton, New Jersey 08608

Re: *Andy Kim, et al. v. Hanlon, et al.*
Civil Action No.: 3:24- 1098(ZNQ)(TJB)

Dear Judge Quraishi:

Kindly accept this letter on behalf of defendants¹ in lieu of a more formal motion pursuant to Fed. R. Civ. P. 62(c)(1) and L. Civ. R. 65.1(d) seeking an emergency stay of the Court's Order (Docket Entry No. 195) granting Plaintiffs' Motion for Preliminary Injunction pending appeal of that Order.²

In this case, the Defendant County Clerks contended – and continue to contend – that implementing an entirely new style of ballot in five business days presents an undue risk to the administration of this year's primary elections. *See* Opinion at 28, 43-44 (Docket Entry No. 194). Our clients have a significant concern about their ability to comply with the Court's order issued today.

While the Court concluded that these logistical burdens do not outweigh the harm Plaintiffs would suffer under the current balloting systems, *id.* at 44-46, Defendants intend to appeal that conclusion (among others) to the Third Circuit on an expedited basis.

Defendants acknowledge they face a high bar to obtain a stay pending appeal. As this Court observed in another constitutional case, "granting Defendant's motion for a stay would arguably be tantamount to a reconsideration and reversal of the Court's own . . . decision." *Nat'l Shooting Sports Found. v. Platkin*, Civ. A. No. 22-6646 (ZNQ), 2023 U.S. Dist. LEXIS 35662, *3 (D.N.J. Mar. 3, 2022). However, Defendants respectfully submit that they are likely to prevail on

¹ This letter is submitted on behalf of the Clerks of Atlantic, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Monmouth, Morris, Passaic, Somerset and Union counties.

² Fed. R. App. P. 8 provides that "[a] party just ordinarily move first in the district court for . . . a stay of the judgment or order of a district court pending appeal."



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appeal and that their failure to implement the Court's effective redesign of most of New Jersey's ballots by next week's printing deadline (thus also risking violating this Court's Order) would both cause irreparable harm and be contrary to the public interest. *See id.* at *2-3 (citing, *inter alia*, *Clean Ocean v. York*, 57 F.3d 328, 331 (3d Cir. 1995)).

Lastly, Defendants note the letter (Docket Entry No. 196) just submitted to the Court by non-party the Morris County Republican Committee ("MCRC"). The MCRC understandably expresses confusion as to whether the Order applies to the Republican primary election, and concern that if it does, how Plaintiffs (Democrats participating in the Democratic primary) could have standing in that regard. For this, among other reasons and as Defendants' witnesses stated, this Court's Order could result in electoral chaos, however unintended, if not stayed pending appeal.

Accordingly, Defendants respectfully request that the Court promptly stay its Order so that they can expeditiously pursue their appeal.

A proposed Order accompanies this submission.

Respectfully submitted,

PEM LAW LLP

s/ Rajiv D. Parikh

RAJIV D. PARIKH

Enclosure

c: Counsel of Record (via CM/ECF)