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Attorneys for: Plaintiffs Shirley Maia-Cusick in her personal capacity as a candidate for U.S. Congress; Albert Harshaw in his personal capacity as a candidate for U.S. Senate; Gregg Mele in his personal capacity as a candidate for U.S. Congress; and Hector Castillo in his personal capacity as a candidate for U.S. Congress.

Plaintiffs Shirley Maia-Cusick in her personal capacity as a candidate for U.S. Congress; Albert Harshaw in his personal capacity as a candidate for U.S. Senate; Gregg Mele in his personal capacity as a candidate for U.S. Congress; and Hector Castillo in his personal capacity as a candidate for U.S. Congress.

Plaintiff(s),

vs.

PAULA SOLLAMI-COVELLO, in her official capacity as Mercer County Clerk; JOSEPH J. GIRALO, in his official capacity as Atlantic County Clerk; JOHN S. HOGAN, in his official capacity as Bergen County Clerk; JOSEPH RIPA, in his official capacity as Camden County Clerk; RITA M. ROTHBERG, in her official capacity as Cape May County Clerk; CELESTE M. RILEY, in her

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MERCER COUNTY**

DOCKET NUMBER:

CIVIL ACTION

VERIFIED COMPLAINT

official capacity as Cumberland County Clerk; CHRISTOPHER J. DURKIN, in his official capacity as Essex County Clerk; JAMES N. HOGAN, in his official capacity as Gloucester County Clerk; E. JUNIOR MALDONADO, in his official capacity as Hudson County Clerk; MARY H. MELFI, in her official capacity as Hunterdon County Clerk; NANCY J. PINKIN, in her official capacity as Middlesex County Clerk; CHRISTINE GIORDANO HANLON, in her official capacity as Monmouth County Clerk; ANN F. GROSSI, in her official capacity as Morris County Clerk; SCOTT M. COLABELLA, in his official capacity as Ocean County Clerk; DANIELLE IRELAND-IMHOF, in her official capacity as Passaic County Clerk; STEVE PETER, in his official capacity as Somerset County Clerk; JOANNE RAJOPPI, in her official capacity as Union County Clerk; and HOLLY MACKEY, in her official capacity as Warren County Clerk; JOHN DOES (1 to 100) (fictitious and presently unknown); JANE DOES (1 to 100) (fictitious and presently unknown)

Defendant(s).

-and-

JOANNE SCHWARTZ, in her official capacity as Burlington County Clerk; DALE A. CROSS, in his official capacity as Salem County Clerk; JEFF PARROTT, in his official capacity as Sussex County Clerk; and TAHESHA WAY

ESQ., in her official capacity
as Secretary of State of the
State of New Jersey,

Interested Parties(s).

Plaintiffs by way of verified complaint against Defendants
in their official capacities as County Clerks state as follows:

PRELIMINARY STATEMENT

1. This is an election lawsuit seeking to compel Defendants
to create and arrange a fair and impartial primary ballot for the
2024 Primary Election based upon constitutional protections that
afford equal protection of the laws of the United States and this
state to Republican candidates, members of the Republican Party,
and Unaffiliated voters who may join the Republican Party in the
2024 Primary Election.

THE PARTIES

2. Plaintiff Shirley Maia-Cusick is a candidate for U.S.
Congress.

3. Plaintiff Albert Harshaw is a candidate for U.S. Senate.

4. Plaintiff Hector Castillo is as a candidate for U.S.
Congress.

5. Plaintiff Gregg Mele is a candidate for U.S. Congress.

6. Defendants and interested parties are the County Clerks of their respective counties and the Secretary of State of the State of New Jersey.

7. Interested Parties are the three county clerks using office-block style ballot design and the Secretary of State.

VENUE

8. Venue is properly laid in Mercer County because such Defendant is a public official located in Mercer County. R. 4:3-2

FACTUAL ALLEGATIONS

9. Defendants are County Clerks in charge of elections processes.

10. One of the official duties of a county clerk's office is the drawing of ballot position for the Primary Election and the arrangement of the Primary ballot. The 2024 primary is on June 4.

11. For decades, County Clerks in nearly every county have drawn for ballot position and arranged the Primary ballot according to organizational lines or columns as distinct from grouping candidates by office, usually at the direction of local political and/or party bosses. (N.J.S.A. 19:49-2 and N.J.S.A. 19:23-17 and 25.1).

12. On or about February 26, 2024, U.S. Senate candidate and Congressman Andy Kim filed a federal lawsuit, Kim et al. v. Hanlon et al alleging, in part, that these Clerks impose "preferential

ballot placement and discriminatory ballot design” and that “New Jersey fails to treat similarly situated candidates—candidates pursuing the same office in the same political party—the same.”

13. Kim et al asked the court to require Primary ballots be “organized by office sought, rather than by column or row.”

14. On or about March 29, 2024, the federal district court “found a likelihood of success on the merits for Plaintiffs as well as a showing of irreparable harm, including the likelihood of constitutional violations.”

15. On or about April 3, 2024, the Third Circuit Court of Appeals declined to stay the decision effectively agreeing with the district court that the Primary ballot scheme was likely to be found unconstitutional.

16. On or about March 29, 2024, the Morris County Republican Committee sought clarification from the federal court as to whether - ‘at that time’ -- the court’s injunction would apply to Republican elections, Republican candidates, and Republican voters.

17. On or about March 30, 2024, the federal district court said its injunction would not apply to Republican elections, Republican candidates, and Republican voters.

18. The District Court opined that Republican candidates and Republican voters could still be voluntarily given a block-office style ballot akin to what Democrat candidates and Democrat voters will enjoy, saying “nothing in this Court’s March 29, 2024 Order

prevents the Republican Party and its leadership from appreciating this Court's preliminary injunction and taking steps to amend the ballot system for its primary election similar to what this Court has ordered for the Democratic Primary."

19. By refusing to require that the several county clerks use an office-block style ballot design for Republicans, the court left Republican candidates and Republican voters with what it believes to be an unconstitutional system while relieving Democrat candidates and Democrat voters of the same harm.

20. On or about April 4, 2024, Burlington County Clerk Joanne Schwartz announced she would protect the constitutional rights of *all* voters in her County by creating an office-block style ballot design for candidates and voters in both parties.

21. Consequently, Plaintiffs are now forced to compete in a presumably unconstitutional system in the 2024 Primary election and, like Kim et al, "similarly situated candidates—candidates pursuing the same office in the same political party are not treated the same." This is a return to the historically unconstitutional logic of "separate but equal" that resulted in a system that was found to be "separate but unequal" in its treatment of citizens.

22. Plaintiffs Harshaw and Maia-Cusick, are forced to compete under both constitutional and presumably unconstitutional systems across the different counties that comprise their jurisdiction.

23. Plaintiffs Harshaw, Maia-Cusick, Mele and Castillo are

all being forced to participate in a political primary process which is presumably unconstitutional and different than their Democrat counterparts.

24. Republican voters are forced to participate in what has been deemed to likely be an unconstitutional system.

25. Unaffiliated voters who are planning to vote in the 2024 Primary election are being forced to choose between a constitutional primary election and a presumably unconstitutional primary election.

26. Plaintiffs seek to have equal application and protection of the laws for their own elections and every other election going forward by having Republican ballots arranged fairly and impartially in accord with our constitutional principles in order to prevent another historically unconstitutional violation of equal protection pursuant to a "separate but equal" type system.

COUNT ONE

(VIOLATION OF N.J.S.A. 19:14-12)

27. Plaintiffs hereby repeat and incorporate by reference paragraphs 1-26 of this Verified Complaint as if more fully set forth herein.

28. Defendants do not have the power to ignore their discretionary obligation to ensure fair, impartial, and transparent election processes that ensure the equal treatment of all parties

and candidates to strengthen public confidence in the democratic system.

WHEREFORE, Plaintiffs demand judgement as follows:

- A. An Order or Judgment ordering Defendants to immediately to be enjoined from preparing and printing ballots for the 2024 Primary Election;
- B. An Order or Judgment ordering Defendants to implement an office-block style ballot design just as Democrat candidates and Democrat voters will enjoy;
- C. An Order or Judgment ordering Defendants to conduct a new drawing for contested offices for ballot position under the same rules as were employed for the Democrats;
- D. An award of costs of this action and reasonable attorneys' fees;
- E. Such other, further and different relief as the Court may deem equitable and just.

COUNT TWO

(VIOLATION OF EQUAL PROTECTION OF THE LAWS)

29. Plaintiffs hereby repeat and incorporate by reference paragraphs 1-28 of this Verified Complaint as if more fully set forth herein.

30. According to the New Jersey State Constitution, "Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it."

31. Defendants' refusal to implement safeguards to ensure that Plaintiffs have a transparent, fair and honest opportunity to obtain favorable ballot position is a violation of their obligations as an election official.

32. Further, allowing Defendants to continue engaging in such conduct violates the voters' rights to free, open and fair elections by subjecting Republican and Independent candidates into competing in an unconstitutional "separate but equal" type election process.

33. The statutory provisions dictating the ballot drawing process are designed to protect the equal rights of each candidate to obtain the preferential ballot position of Line A.

34. Defendants' deprivation of Plaintiffs' rights and equal protection of the laws and constitution, particularly in light of the recent federal court decision in the matter of Andy Kim, et al vs. Christine Giordano Hanlon, et al bearing case number 3:24-cv-01098-ZNQ-TJB must be safeguarded immediately.

35. Plaintiffs are also entitled to damages and to reasonable attorney's fees and costs pursuant to N.J.S.A. 10:6-2(f) and N.J.S.A. 10:5-27.1.

WHEREFORE, Plaintiffs demand judgement as follows:

- A. An Order or Judgment ordering Defendants to immediately employ a statewide injunction for the election ballot drawing and cease the printing and/or preparation of all such election ballots for

2024;

B. An award of costs of this action and reasonable attorneys' fees;

C.

Such other, further and different relief as the Court may deem equitable and just.

COUNT THREE

(VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT)

36. Plaintiffs hereby repeat and incorporates by reference paragraphs 1-35 of this Verified Complaint as though fully set forth herein.

37. The New Jersey Civil Rights Act provides relief to any person who has been deprived of or interfered with in the enjoyment of any substantive due process or equal protection rights, privileges or immunities secured by the State constitution or implementing laws.

38. Defendants have engaged in a pattern of conduct for the that has deprived or interfered with Plaintiffs' exercise of a substantive right as protected by the state constitution, and the laws of New Jersey as heretofore defined.

39. Defendants have denied Plaintiffs the right to a fair, transparent and honest attempt to receive preferential ballot positioning.

WHEREFORE, Plaintiffs demand judgement as follows:

A. An Order or Judgment ordering Defendants to immediately employ a statewide injunction for the

election ballot drawing and cease the printing and/or preparation of all such election ballots for 2024;

- B. An award of costs of this action and reasonable attorneys' fees;
- C. Such other, further and different relief as the Court may deem equitable and just.

DESIGNATION OF TRIAL COUNSEL

Plaintiffs hereby designate Robert D. Kovic, Esq. as trial counsel.

CERTIFICATION PURUSANT TO R. 1:38.7(B)

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future.

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R. 4:5-1, it is hereby stated that the matter in controversy does not involve parties involved in any other lawsuits. There is a similar lawsuit captioned Burlington Regular Republican Committee v. Joanne v. Joanne Schwartz (BUR-L-684-24). There are two federal actions pending that are also related to the subject matter. Kim v. Hanlon (Case 3:24-cv-01098-ZNQ-TJB) and Conforti v. Hanlon (Case 3:20-cv-08267-ZNQ-TJB). To the best of my belief, no other action or arbitration proceeding is pending or contemplated. Further, other than the parties set forth in the pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation

of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

**The Law Office of
Robert D. Kovic, L.L.C.**

By: *Robert D. Kovic*
Attorneys for Plaintiffs

Dated: April 6, 2024

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VERIFICATION

I, Shirley Maia-Cusick, of full age and being duly sworn according to the law, upon my oath say:

1. I am the Plaintiff in the complaint to which this verification is attached. All of the facts stated in the verified complaint to which this Verification is attached are true, and as to those facts that are alleged on information and belief, I believe those facts to be true.

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

Dated: April 5, 2024



Shirley Maia-Cusick

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