

PREPARED BY THE COURT

BURLINGTON COUNTY REGULAR
REPUBLICAN ORGANIZATION, and
SEAN EARLEN, in his capacity as Chair,
and SAM FOSTER, a candidate in the
Republican Primary for Moorestown
Township Council,

Plaintiffs,

vs.

JOANNE SCHWARTZ, Burlington
County Clerk

Defendant.

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 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

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
BURLINGTON COUNTY

DOCKET NO. BUR-L-684-24

&

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MERCER COUNTY

DOCKET NO. MER-L-677-24

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).

CONSOLIDATION ORDER

THIS MATTER being brought to the Superior Court of Burlington County by Plaintiffs, BURLINGTON COUNTY REGULAR REPUBLICAN ORGANIZATION, and SEAN EARLEN, in his capacity as Chair, and SAM FOSTER, a candidate in the Republican Primary for Moorestown Township Council, by Order to Show Cause seeking temporary restraints against Joann

Schwartz, County Clerk for the County of Burlington, to prevent the clerk from implementing an office-block style ballot design against them, pursuant to Kim et. al. v. Hanlon et al., (3:24-cv-01088) (D.N.J. 2024), on Friday, April 5, 2024, and with the matter being set down for a hearing on the merits on Wednesday, April 10, 2024, at 1:30 in the afternoon, under docket number BUR-L-684-24, and requiring judicial interpretation of Title 19, and;

WHEREAS, a separate action requiring judicial interpretation of Title 19 and seeking temporary restraints was filed in the Superior Court of Mercer County under docket number MER-L-677-24, by 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 against 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 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) and naming as interested parties 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 SQ., in her official capacity as Secretary of State of the State of New Jersey; seeking, *inter alia*, an order to implement an office-block style ballot design, pursuant to the March 29, 2024, Order by Judge Zahid Quraishi in Kim et. al. v. Hanlon et al., (3:24-cv-01088) (D.N.J. 2024), along with additional arguments and evidence, and similarly requiring interpretations of Title 19, and;

WHEREAS consolidation of actions in Superior Court is governed by R. 4:38-1. “When actions involving a common question of law or fact arising out of the same transaction or series of transactions are pending in the Superior Court, the court on a party's or its own motion may order the actions consolidated.” R. 4:38-1(a).

WHEREAS both matters arise out of a common question of law; whether a County Clerk has statutory discretion under Title 19 to enforce an office-block style ballot for the June 2024 primary, and based upon the March 29, 2024, Order by Judge Zahid Quraishi in Kim et. al. v. Hanlon et al., (3:24-cv-01088) (D.N.J. 2024), along with additional arguments and evidence presented, and;

WHEREAS “The plain purpose of the [consolidation] rule was to eliminate multiplicity of litigation and to enable the courts so to arrange pending causes that the same facts and transactions would not undergo the inconvenience of double litigation.” Judson v. Peoples Bank & Trust Co. of Westfield, 17 N.J. Super. 143, 144 (Ch. Div. 1951). It has long been recognized that “[t]he object of consolidating two or more actions is, among other things, the attainment of justice with the least expense and vexation to the parties litigant.” Id. at 145-146. “R. 4:38-1 has not been made subject to R. 4:3-3 [governing change of venue] by any express language of the Rules, but the reasons the latter Rule sets forth for a change of venue should be considered when consolidating two cases arising in different counties. R.4:3-3 itself, however, does not apply.” Robert T. Winzinger, Inc. v. Brennan Bros., Inc., 191 N.J. Super. 114, 199 (Super. Ct. 1983). R. 4:38-1(e) invites the exercise of discretion by the Assignment Judge who may select venue on the basis of fairness after a consideration of all facts. Ibid. (“[w]here actions in different venues or courts are consolidated, the order of consolidation shall state the venue in which the consolidated action or actions ought to be tried” R. 4:38-1(e)).

IT IS, on this 8th Day of April, 2024:

ORDERED that the matters above are hereby consolidated under docket No.: BUR-L-684-24, and shall proceed in the venue of Burlington County Superior Court, before Judge John Harrington; and it is

FURTHER ORDERED that all papers filed hereafter shall comply with the terms of R. 4:38-1(c); and it is

FURTHER ORDERED that a copy of the within Order be served on all counsel within 7 days of the date hereof.



JEANNE T. COVERT A.J.S.C.

DATED: APRIL 8, 2024

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