

**JARDIM MEISNER SALMON  
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*Attorneys for Petitioners*

**In re: Village of Loch Arbour Third Ward  
Municipal Election of November 3, 2020**

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Robert Fernicola, Marcella Crisci, Catherine  
Cunniff, Teresa Cuesta, Elena Cuesta,  
Andrew Cuesta, Fred Cuesta, Barbara Gnassi,  
Charles Gnassi, Timothy Hobart, Barbara  
Gassard, Remo Maisto, Jr., Marc Maisto, James  
Lyden, Dianne Williams, Melanie Nowlin, and  
Frank Matthews,

Petitioners,

v.

Jacob Hedeya, Jason Elo, Saul Tavii,  
Monmouth County Clerk, Monmouth County  
Board of Elections, Monmouth County  
Superintendent of Elections and Commissioner  
of Registration, and Loch Arbour Village Clerk,

Respondents.

Superior Court of New Jersey  
Law Division, County of Monmouth

Docket No:

Civil Action

**Verified Petition Pursuant to  
N.J.S.A. 12:29-1, et seq.  
Contesting Election Results in  
the Village of Loch Arbour**

Petitioners, by way of this Verified Petition, allege and says:

**The Parties**

1. Petitioner, Robert Fernicola, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 106A Euclid Ave., Loch Arbour, New Jersey 07711.

2. Petitioner, Marcella Crisci, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 333 Euclid Ave., Loch Arbour, New Jersey 07711.

3. Petitioner, Catherine Cunniff, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 108 Euclid Ave., Loch Arbour, New Jersey 07711.

4. Petitioner, Teresa Cuesta, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 104 Euclid Ave., Loch Arbour, New Jersey 07711.

5. Petitioner, Elena Cuesta, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 104 Euclid Ave., Loch Arbour, New Jersey 07711.

6. Petitioner, Andrew Cuesta, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 104 Euclid Ave., Loch Arbour, New Jersey 07711.

7. Petitioner, Fred Cuesta, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 104 Euclid Ave., Loch Arbour, New Jersey 07711.

8. Petitioner, Barbara Gnassi, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 104 Euclid Ave., Loch Arbour, New Jersey 07711.

9. Petitioner, Charles Gnassi, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 104 Euclid Ave., Loch Arbour, New Jersey 07711.

10. Petitioner, Timothy Hobart, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 104 Euclid Ave., Loch Arbour, New Jersey 07711.

11. Petitioner, Barbara Gassard, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 8 Ocean Place., Loch Arbour, New Jersey 07711.

12. Petitioner, Remo Maisto, Jr., is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence 10 Elberon Ave., Loch Arbour, New Jersey 07711.

13. Petitioner, Marc Maisto, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 10 Elberon Ave., Loch Arbour, New Jersey 07711.

14. Petitioner, James Lyden, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 10 Elberon Ave., Loch Arbour, New Jersey 07711.

15. Petitioner, Dianne Williams, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 114 Euclid Ave., Loch Arbour, New Jersey 07711.

16. Petitioner, Melanie Nowlin, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 309 Edgemont Drive, Loch Arbour, New Jersey 07711.

17. Petitioner, Frank Matthews, is an individual citizen of the State of New Jersey and the Village of Loch Arbour and maintains his principal residence at 309 Edgemont Drive., Loch Arbour, New Jersey 07711.

18. Respondents, Jacob Hedeya, Jason Elo, and Saul Tawil were declared the winners of the May 14, 2024, Municipal Election.

19. Respondents, Monmouth County Clerk, Respondent Monmouth County Board of Elections, and Monmouth County Superintendent of Elections/Commissioner of Registration maintain their principal offices at 300 Halls Mill Road, Freehold, New Jersey 07728.

20. Respondent, Loch Arbor Village Clerk, maintains their principal office at 55 Main Street, Loch Arbour, New Jersey 07711.

21. Respondents Monmouth County Clerk, Monmouth County Board of Elections, Monmouth County Superintendent of Elections/Commissioner of Registration, and the Loch Arbour Municipal Clerk are included in this election contest as interested parties.

### **Factual Background**

22. The Village of Loch Arbour is a nonpartisan municipal corporation organized under the Walsh Act in accordance with N.J.S.A. 40:70-1, et seq.

23. Loch Arbour elects three at-large members of its Board of Commissioners, who serve concurrent three-year terms.

24. On May 14, 2024, the Loch Arbour conducted a nonpartisan municipal election.

25. Candidates Jacob Hedaya, Jason Elo, and Paul V. Fernicola appeared on the ballot. Fernicola withdrew from the election before it was conducted but his name appeared regardless.

26. Hedaya received 114 votes, Elo received 113 votes, and Fernicola received 69 votes.

27. Multiple write-in candidates also received votes as well. Saul Tawil received 104 votes, Jeffrey Schwartz received 62 votes, Alfred Cheswick received 61 votes, and Denis D'Angelo received 2 votes. Petitioner Robert Fernicola received 1 vote, along with two other individuals who each received 1 vote.

28. As a result, Hedaya, Elo, and Tawil received the most votes and were declared the winners of the election.

29. As of the 2020 Census, there was a total population of 224 people residing in Loch Arbour.

30. As of Election Day, Loch Arbour had 284 registered voters, or 60 more registered voters than residents according to the Census.

31. As of May 2023, one year prior, Loch Arbour had 148 registered voters. That would mean that in the span of one year, there was a 91.89% increase in registered voters in this one municipality.

32. Loch Arbour is not alone in this sudden influx of registered voters. Similar numbers have also been observed in Allenhurst and Deal, which are neighboring municipalities.

33. Due to these activities, a criminal probe has been opened by the Monmouth County Prosecutor's Office into the matter, which is currently ongoing. In fact, the Federal Bureau of Investigation is purportedly involved in the investigation.

34. On Election Day, the Superior Court of New Jersey, Law Division, rejected approximately 18 people who sought to vote because they could not demonstrate their residency in the area.

35. As a result of these actions, it is not reasonably possible to determine the actual winners of the election, and so the results of the election must be disregarded and a new election ordered, with all individuals who illegally voted excluded from being able to vote in the new election.

### **Grounds for Contest**

#### **Count I - Illegal Votes Received Under N.J.S.A. 19:29-1(e)**

36. Petitioners incorporate all prior allegations as if fully set forth herein.

37. Upon information and belief, the following violations of the provisions enumerated in N.J.S.A. 19:29-1 and the other provisions of Title 19 occurred, such that a fair, free, and full expression of the intent of the voters was not had. To the extent known, voters are identified pursuant to N.J.S.A. 19:29-2.

38. More than 80 illegal votes in the election were accepted by the Board of Elections, which were cast by voters who are not residents of Loch Arbour.

- **Michelle Azarbad**
- **Albert Barnathan**
- **Miriam Haber**
- **Monique Harari**

- **Claudia Barnathan**
- **Steven Barnathan**
- **Soloman Barnathan**
- **David Barnathan**
- **Henry Barnathan**
- **Susan Barnathan**
- **Joseph Barnathan**
- **Jack Bawabeh**
- **Nissim Bawabeh**
- **Salim Bawabeh**
- **Eileen Benun**
- **Daniel Benun**
- **Joseph Benun**
- **Sarah Benun**
- **David Betesh**
- **Nelly Botton**
- **Randa Botton**
- **Joseph Braha**
- **Frida Braha**
- **Diane Catton**
- **Michelle Catton**
- **Morris Catton**
- **Morris Dabah**
- **Elliot Dabah**
- **Sasha Dushey-**
- **Gila Dweck**
- **Eli Dweck**
- **Sandy Dweck**
- **Isaac Dweck**
- **Helena Dweck**
- **Julienne Dweck**
- **Suzi Dweck**
- **Laurie Edery**
- **Abraham Feldman**
- **Shella Franco**
- **David Franco**
- **Sophia Franco**
- **Issac Gammal**
- **Marceline Gindi**
- **Victoria Harari**
- **Raymond Harari**
- **Ely Harary**
- **Rochelle Harary**
- **Joseph Manopla**
- **Jaclyn Marcos**
- **Abraham Mosseri**
- **Doris Mosseri**
- **David Mosseri**
- **Christa Riley**
- **Michael Rosilio**
- **Julie Russo**
- **Jamie Safdiah**
- **Sam Shamie**
- **Sophie Shamie**
- **Freda Smeke**
- **Elliot Stein**
- **Steven Stein**
- **Valerie Sued**
- **Elliot Sutton**
- **Mayer Sutton**
- **Morris Sutton**
- **Alexandra Sutton**
- **Paulina Sutton**
- **Richard Sutton**
- **Ralph Tawil**
- **Milo Tawil**
- **Danielle Tawil**
- **Harry Tawil**
- **Saul Tawil**
- **Sarah Tawil**
- **Stacey Tawil**
- **Jack Terzi**
- **Lottie Terzi**
- **Sarah Waingort**
- **Rachel Zarif**
- **Morris Zarif**
- **Julia Zeitouny**
- **Raymond Zeitouny**
- **Carla Zeitouny**

39. As a result of these acts and others, illegal votes were counted sufficiently in number to change the result of the election, cast a cloud on the election, and raise sufficient factual basis to declare the election void and invalid.

**Count II - Candidate Ineligibility Under N.J.S.A. 19:29-1(b)**

40. Petitioners incorporate all prior allegations as if fully set forth herein.

41. N.J.S.A. 40:9-1.13 states that “no person shall . . . be eligible to become a candidate for any local elective office . . . unless he is registered to vote in the local unit to which the office pertains, and has been a resident of that local unit for at least 1 year immediately prior to the date upon which the election for the office is to be held . . . .”

42. Saul Tawil is one of the write-in candidates who was declared the winner of the election.

43. However, Tawil did not reside in Loch Arbour for at least one year prior to the election.

44. As such, he is ineligible to hold elected office in Loch Arbour.

45. Petitioners hereby reserve the right to supplement, amend, and plead additional claims as they arise and assert all rights under N.J.S.A. 19:29-5.

**WHEREFORE**, the Petitioner respectfully requests that this Court:

- A. Issue an Order setting a suitable time and place for a hearing to review the objections set forth herein, to commence not less than 15 days nor more than 30 days after the filing of this Verified Petition;
- B. Permit the parties, their agents, servants, or employees, prior to the date set for hearing in this matter, to review and examine all books, papers, tallies, ballots, applications, envelopes, envelope flaps, signature copy registers, voter books, voting authorizations, messenger books, rejected mail-in ballots and any other election materials, records, reports, receipts or any other documents or election paraphernalia which may be requested provided said examination occur on notice to all interested persons and in the presence of the appropriate official and representatives of Petitioner and/or Respondents;
- C. Permit the parties, their agents, servants or employees, on five (5) days' notice, to take depositions of persons who participated in the election process, served as election officials, or who may otherwise be believed to have knowledge that would lead to relevant information with regard to the matter set forth herein in this petition, and grant the attorneys' authority to issue subpoenas compelling the attendance and testimony of witnesses for depositions and trial;
- D. Consider, at the hearing, the allegations of the illegal votes accepted, the problems with the election process, the residency of Saul Tawil, and such other grounds as pleaded or may be presented at trial and issue a ruling on said allegations;

- E. Declare, after the hearing, that it cannot be determined with reasonable certainty who received a plurality of the votes cast for the positions of Village Commissioner for the Village of Loch Arbour;
- F. Enter an Order annulling Respondents' certificates of election pursuant to N.J.S.A. 19:29-9. In the event that Respondents have been sworn into office, remove Respondents from office, and enter an order pursuant to N.J.S.A. 19:3-25, declaring the offices vacant pending the holding of a special election for the position of Village Commissioner for the Village of Loch Arbour; and
- G. Grant such other relief as may be just and equitable.

### **Designation of Trial Counsel**

Pursuant to Rule 4:5-1(c) of the New Jersey Rules of Courts, Scott D. Salmon, Esq. is hereby designated as trial counsel for Petitioners.

### **Certification Pursuant to Rule 4:5-1**

The undersigned certifies that the matter in controversy is not the subject of any other action pending in any court and is likewise not the subject of any pending arbitration proceeding. I further certify that I have no knowledge of any contemplated action regarding the subject matter of this action and that I am not aware of any parties who should be joined in this action.

Dated: June 14, 2024

**JARDIM MEISNER SALMON  
SPRAGUE & SUSSER, P.C.**

/s/ Scott D. Salmon, Esq.  
Scott D. Salmon, Esq.

**Verification of Petitioners**

I, \_\_\_\_\_, of full age, do hereby certify as follows:

1. I am a Petitioner in the foregoing matter and a resident of Loch Arbour.
2. I have read the contents of the Petition, incorporate same by reference, and state that they are true to the best of my knowledge, information, and belief.
3. I hereby join the above-captioned Petition contesting the results of the May 14, 2024 election for the office of position of Village Commissioner for the Village of Loch Arbour.
4. I hereby certify that the foregoing statements made by me in this Petition are true to the best of my knowledge. I am aware that if any such statement is willfully false, I am subject to punishment.

Dated: \_\_\_\_\_

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