

**In re: Village of Loch Arbour Municipal  
Election of May 14, 2024**

Marcella Crisci, Catherine Cunniff, Teresa Cuesta, Elena Cuesta, Andrew Cuesta, Fred Cuesta, Barbara Gnassi, Charles Gnassi, Robert Fernicola, Timothy Hobart, Barbara Gassard, Remo Maisto, Jr., Marc Maisto, James Lyden, Dianne Williams, Melanie Nowlin, Frank Matthews, Joellen Basaman, Erin Dolan, Catherine Farrar, Mary Farrar, Laurie Smith, Robert Wiener, and Stacy Wiener,

Petitioners,

v.

Jacob Hedaya, Jason Elo, Saul Tawil,  
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: MONMOUTH COUNTY**

DOCKET NO.: MON-L-002001-24

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**MEMORANDUM OF LAW IN SUPPORT OF RESPONDENTS'  
MOTION TO DISMISS**

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## I. PRELIMINARY STATEMENT

Election contests such as the present matter hold a unique place in our jurisprudence. This is because, unlike most other civil matters, the Legislature sets absolute statutory requirements and deadlines for election contests and litigants are obligated to satisfy these requirements from the outset without question. Here, Petitioners failed to meet the minimum and timely standards for filing their election-contest Petition (the “Petition”), and it must therefore be dismissed with prejudice.

As the Court is aware, N.J.S.A. 19:29-2 and 3 impose minimum obligations on those seeking to file an election contest including which individual voters are qualified to pursue such a claim, their obligations with respect to their contest petition, requirements regarding what they must allege, and the form and timing with respect to such a filing. Petitioners here fail these standards on multiple independent, but equally fatal, bases.

First, the Petition lacks the required number of qualified signatures by the statutory deadline. The Petition only has 14 qualified signatures, falling short of the statutory requirement. Without these timely signatures as required under N.J.S.A. 19:29-2, the Court lacks jurisdiction to hear this action. Second, the statutory period for filing the petition, under N.J.S.A. 19:29-3, expired on Saturday, June 15, 2024, when the 32-day period prescribed in the statute to file a petition ended. Because the Petition was filed 34 days after the May 14, 2024 election, on June 17, 2024, it must be dismissed on this independent basis. Last, there are several other infirmities that warrant dismissal of the Petition. For example, Petitioners failed to satisfy N.J.S.A. 19:29-2, neglecting to post a required bond further showcasing their blatant disregard for statutory requirements. The Petition similarly contains vague allegations that do not meet the minimum pleading standards for this type of action. While certain matters can be pleaded upon information and belief, an election contest petition must still provide sufficient specificity regarding the grounds for challenging the

will of the voters. This is highlighted by Petitioners' absurd claims against Saul Tawil ("Tawil") who has owned a home in Loch Arbour for almost 30 years and has principally lived there for at least the last three years. Despite no evidence or even clear support to the contrary, Petitioners conclusively claim that he is not qualified without any basis or reasoning. Petitioners beg the question, by assuming the very fact that it is their obligation to prove. There is not a single factual allegation from the Petitioners regarding Mr. Tawil's residency or where they claim he actually lives. This omission is likely because Petitioners cannot make such allegations, knowing that Mr. Tawil has owned a home in Loch Arbour for nearly three decades and has resided there for many years. In addition, Petitioners have provided no claim that they are voters in Loch Arbour, as required by law.

As a result of each of these independent reasons, and as set forth below in more detail, the Petition must be dismissed with prejudice, and costs and fees should be charged against Petitioners following a fee application.

## II. FACTUAL BACKGROUND

The Village of Loch Arbour ("Loch Arbour") is a nonpartisan municipal corporation organized under the Walsh Act (N.J.S.A. 40:70-1, et seq.). See Petition at ¶ 29. Loch Arbour elects three at-large members of its Board of Commissioners. Id. at ¶ 30. On May 14, 2024, Loch Arbour conducted a nonpartisan municipal election. Candidates Jacob Hedaya, Jason Elo, and Paul V. Fernicola appeared on the ballot. Id. at ¶ 31-32. Eventually, the vote count resulted with Hedaya receiving 114 votes, Elo receiving 113 votes, and Fernicola receiving 69 votes. Id. at ¶ 33.

Multiple write-in candidates received votes as well. Id. at ¶ 34. Of importance here is that Saul Tawil received 104 votes, Jeffrey Schwartz received 62 votes, and Alfred Cheswick received 61 votes. Id. As a result, Hedaya, Elo, and Tawil received the most votes and were declared the winners of the election. Id. at ¶ 35.

Petitioners filed a “Verified Petition Pursuant to N.J.S.A. 12:29-1, et seq. Contesting Election Results in the Village of Loch Arbour” captioned as “In re: Village of Loch Arbour Third Ward Municipal Election of November 3, 2020” on June 17, 2024 at 1:38 PM. See eCourts Docket Entry 1 [LCV20241515624]. The first iteration of the Petition contained the following individuals in the caption and referenced as Petitioners in the first 17 paragraphs of the pleading:

1.	Robert Fernicola
2.	Marcella Crisci
3.	Catherine Cunniff
4.	Teresa Cuesta
5.	Elena Cuesta
6.	Andrew Cuesta
7.	Fred Cuesta
8.	Barbara Gnassi
9.	Charles Gnassi
10.	Timothy Hobart
11.	Barbara Gassarò
12.	Remo Maisto, Jr.
13.	Marc Maisto
14.	James Lyden
15.	Dianne Williams
16.	Melanie Nowlin
17.	Frank Matthews

None of these individuals signed the Petition or provided a verification under oath. A blank form titled “Verification of Petitioners” was attached to the filing as the last page.

An Amended Petition captioned in the same manner was thereafter filed on June 17, 2024 at 1:40 PM. See eCourts Docket Entry No. 2 [LCV20241515774] (the “First Amended Petition”). The First Amended Petition included seventeen named petitioners, some of whom submitted dated verification forms as follows:

	Name	Date of Verification
1.	Robert Fernicola	June 14, 2024
2.	Marcella Crisci	June 14, 2024
3.	Catherine Cunniff	
4.	Teresa Cuesta	June 14, 2024
5.	Elena Cuesta	June 14, 2024
6.	Andrew Cuesta	June 14, 2024

7.	Fred Cuesta	June 14, 2024
8.	Barbara Gnassi	June 14, 2024
9.	Charles Gnassi	June 14, 2024
10.	Timothy Hobart	June 14, 2024
11.	Barbara Gassaro	June 14, 2024
12.	Remo Maisto, Jr.	June 14, 2024
13.	Marc Maisto	June 15, 2024
14.	James Lyden	June 15, 2024
15.	Dianne Williams	June 14, 2024
16.	Melanie Nowlin	
17.	Frank Matthews	

See also First Amended Petition at ¶¶ 1-17 (identifying each of the Petitioners). Thus, despite having seventeen (17) individual petitioners, the First Amended Petition only had verifications from fourteen (14) petitioners. Also included as attachments to the First Amended Petition were forms dated from June 16 and June 17, 2024 for seven individuals who were not identified as Petitioners in the First Amended Petition.

On June 21, 2024, another Amended Petition was filed at 9:45 a.m. See eCourts Docket Entry No. 5 [LCV20241569931] (the “Second Amended Petition”). The Second Amended Petition was now captioned as “In re: Village of Loch Arbour Municipal Election of May 14, 2024” with twenty-four individuals identified as petitioners in the caption and some having signed verifications forms as follows:

	Name	Date of Verification
1.	Marcella Crisci	June 14, 2024
2.	Catherine Cunniff	
3.	Teresa Cuesta	June 14, 2024
4.	Elena Cuesta	June 14, 2024
5.	Andrew Cuesta	June 14, 2024
6.	Fred Cuesta	June 14, 2024
7.	Barbara Gnassi	June 14, 2024
8.	Charles Gnassi	June 14, 2024
9.	Robert Fernicola	June 14, 2024
10.	Timothy Hobart	June 14, 2024
11.	Barbara Gassard	June 14, 2024 (Gassaro)
12.	Remo Maisto, Jr.	June 14, 2024
13.	Marc Maisto	June 15, 2024
14.	James Lyden	June 15, 2024



15.	Dianne Williams	June 14, 2024
16.	Melanie Nowlin	
17.	Frank Matthews	
18.	Joellen Basaman	June 16, 2024
19.	Erin Dolan	June 16, 2024
20.	Catherine Farrar	June 16, 2024
21.	Mary Farrar	June 16, 2024
22.	Laurie Smith	June 17, 2024
23.	Robert Wiener	June 17, 2024
24.	Stacy Wiener	June 17, 2024

In the Second Amended Petition, Petitioners allege that they are each “an individual citizen of the State of New Jersey and the Village of Loch Arbour” and that they maintain their principal residence at a specific street address within Loch Arbour. See Second Amended Petition at ¶ 1-24. Nowhere in any iteration of the Petition does it state that each of the Petitioners are registered voters in Loch Arbour.

The Second Amended Petition (hereinafter as noted earlier, referenced as the “Petition”) seeks to challenge the votes of approximately 80 individuals. See Petition at ¶ 45. The sole allegation is that these individuals are “not residents of Loch Arbour”. The Petition contains no details or information regarding why Petitioners believe any of the 80 listed individuals are not residents of Loch Arbour. Indeed, there is not a single allegation regarding Petitioners’ basis for challenging even one of these individuals beyond their generic claim. In addition, Petitioners do not have any specific allegations regarding their challenge to Mr. Tawil’s residency. Rather, the Petition simply states “Tawil did not reside in Loch Arbour for at least one year prior to the election.” There is no specific information regarding why Petitioners believe this or any factual allegations regarding Mr. Tawil’s residency.<sup>1</sup>

## LEGAL ARGUMENT

### POINT I

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<sup>1</sup> To the contrary, many of the Petitioners personally know that Mr. Tawil has had a home in Loch Arbour for almost thirty (30) years, and that he has principally resided there for several years.

**THE PETITION MUST BE DISMISSED FOR FAILING TO MEET THE MINIMUM STATUTORY REQUIREMENTS FOR FILING**

It is well-established that motions to dismiss in an election contest are weighed differently than that of a standard civil complaint filed in this Court. Indeed, an election contest petition is not a “complaint,” the purpose of which is to give one’s adversary notice of the claim. Thus, it is not, in response to a motion to dismiss, entitled to be searched in depth and with liberality to ascertain whether a cause of action may be gleaned even from an obscure statement of claim. It is, instead, a petition that takes the place of a pleading to initiate the election contest, and it is strictly required to meet all statutory requirements to overcome an application for dismissal. These strict requirements were reaffirmed by our Supreme Court almost twenty years ago:

[W]e do not adopt the Appellate Division’s view that our modern pleading rules can be engrafted onto the statute’s requirements so as to permit the petition to be equated with a complaint, and therefore to be tested against liberal notice pleading concepts. In testing the sufficiency of the petition, neither the “indulgence” afforded complaints nor the modern notice pleading approach may take the place of the statute’s demands. Rather, it is the language of the statute itself . . . which support our conclusion as to the sufficiency of this petition.

In re Contest of the November 8, 2005 Gen. Election for Office of Mayor of Tp. of Parsippany- Troy Hills, 192 N.J. 546, 569-70 (2007) (internal citations omitted) (hereinafter “In re: Luther”). In other words, election-contest pleadings are not afforded any liberality on a motion to dismiss. They must be judged strictly on their compliance with N.J.S.A. 19:29-1, et seq. alone. See id.; see also Kirk v. French, 324 N.J. Super. 548, 552 (Law Div. 1998) (“The right of [an individual] to contest the election and the procedure thereof are strictly a matter of legislative determination, which must be followed. This statutory scheme is fully set forth in Chapter 29 of Title 19 of the New Jersey Statutes.”).

Departure from the norm of the court's general liberal pleading standard is further supported by the policy rationales which condemn election contests as matters requiring significant burdens of proof for the contesting party. Indeed, because "the fundamental purpose of an election contest is to ascertain the true will of the electorate," Wene v. Meyner, 13 N.J. 185, 196 (1953), "the burden of proof lies upon the contestant to show that such will was thwarted upon one or several of the statutory grounds." Kirk, 324 N.J. Super. at 552 (citing In re Application of Moffat, 142 N.J. Super. 217 (App. Div. 1976)).

Thus, when a party does not adhere to, and in this case, completely ignores the requirements of Title 19, its petition must be dismissed as a matter of law with prejudice. Here, as set forth below, Petitioners fail to satisfy their high statutory pleading mandate for several independent, yet equally dispositive reasons. Consequently, Petitioners' misguided attempt to thwart the will of the voters who cast their ballots in the May 14, 2024 Municipal Election in the Village of Loch Arbour must be dismissed in its entirety.

**1. The Petition Fails to Satisfy the Minimum Requirements Necessary for this Court to have Jurisdiction over this Action**

As noted above, election contests are unique matters that do not follow the liberal approach to filing and response. Rather, the minimum requirements of pleading must be satisfied before the Court even has jurisdiction to consider the substance of the matters contested. Ibid. Thus, to move past this motion to dismiss and to have this Court consider the substance of the matters contested, the Petitioners were required to: (a) file an election contest petition no later than 32 days after the election, or June 15, 2024; (b) have the petition signed by at least 15 voters by that deadline; (c) have the petition verified by the oath of at least 2 of the petitioners; and (d) post a bond to the

incumbents with the petition with either two sureties or a deposit of cash security.<sup>2</sup> A failure to satisfy any of these elements will divest the Court of jurisdiction to hear and determine such a contest. Cf. N.J.S.A. 19:29-2 (outlining that the sole exception to this rule is when posting a \$500 cash bond without sureties). Here, because Petitioners failed to satisfy each and every one of these statutory requirements with their Petition (or even the First or Second Amended Petitions), this action must be dismissed.

**a. The Deadline to File an Election Contest Was June 15, 2024**

There is no dispute that election contest matters in elections such as the one at issue here must be filed within 32 days of the election pursuant to N.J.S.A. 19:23-3 (“[t]he petition contesting any election to public office . . . shall be filed not later than 32 days after such election”). This definitive deadline was changed by the Legislature in 2018 from 30 days to 32 days. Id.; see also P.L. 2018, c. 72. A failure to timely file this action is not curable and divests the Court of jurisdiction to hear and determine the contest. See N.J.S.A. 19:29-3; 19:29-2; In re: Luther, 192 N.J. at 569-70.

Here, the election occurred on May 14, 2024 and the statutory period for filing the petition, under N.J.S.A. 19:29-3, expired on Saturday, June 15, 2024. The State Division of Elections also identified this exact deadline in their published election materials. See 2024 New Jersey May Municipal Non-Partisan Election Timeline at pg. 4 (published on January 9, 2024) (available at <https://www.nj.gov/state/elections/assets/pdf/chrons/2024-chron-municipal-non-partisan.pdf>).

Any reliance on R. 1:3-1 is unavailing since the Rules of Court – by their very definition – only apply to periods of time fixed by Rule or court order. R. 1:3-1.

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<sup>2</sup> When challenging whether proper voters were cast or legal votes were reject, a challenger-petitioner must also include the names of all such voters who are being challenged. N.J.S.A. 19:29-2.

Here the 32-day limitation period is set by an express statutory mandate which, for 2024, was reaffirmed by the State Division of Elections. Indeed, Title 19 does not permit a roll-over of deadlines that fall on Saturdays. Rather, the unambiguous timeframe set forth in 19:23-3 is clear and irrefutable evidence of the Legislature’s intent for strict adherence to filing deadlines. Accord *Burkett v. Francesconi*, 127 N.J.L. 541 (1942) (election contest proceedings are strictly statutory, and the process regarding them must be rigidly followed); see also *In re Clee*, 119 N.J.L. 310 (1938) (holding that election contest provisions must be strictly followed regarding how the contest is made). In fact, it is the firmly established policy of this State that the “public interest manifestly requires that election contests be promptly tried.” *Lynch v. Acquilone*, 32 N.J. Super. 513, 518 (App. Div. 1954) (citing *In re Smock*, 5 N.J. Super. 495, 504 (Law Div. 1949)).

The Legislative intent behind N.J.S.A. 19:29-3 is more evident when considering that elections in New Jersey are typically held on Tuesdays. Hence, the 32-day filing period almost always concludes on a weekend. For example:

- May municipal elections take place on the 2<sup>nd</sup> Tuesday in each May (N.J.S.A. 40:45-7, 45-16), meaning that 32 days is always the 2<sup>nd</sup> or 3<sup>rd</sup> Saturday of June.
- June primary elections take place on the Tuesday after the first Monday in each June (N.J.S.A. 19:2-1, 23-40), meaning that 12 days is always on a Sunday.
- November general elections take place on the Tuesday after the first Monday in each November (N.J.S.A. 19:2-3, 15-2), meaning that 32 days is always on a Saturday.

If the Legislature intended for election contest petitions to be filed on the next business day, it would have either simply changed the law from 30 days to 34 days in 2018 or expressly included language allowing for an extension in cases where the deadline falls on a Saturday. It also would not have included the “***not later than***” language when that could have easily been omitted. The absence of an exception and inclusion of “not later than” language signifies the Legislature’s intent for the 32-day period to be strictly enforced without exception.

Here, Petitioners could have filed their election contest at any time up to and including June 15. Nothing prevented Petitioners from electronically filing the Petition on Saturday June 15, and Petitioners' dilatoriness is not an excuse for obviating the statute's clear mandate. Thus, since this election contest was not filed until June 17, 2024, it is untimely and must be dismissed. See Horne v. Edwards, 477 N.J. Super. 302 (App. Div. 2023) (holding that in the context of an election contest, late attempts to essentially create jurisdiction after the statute of limitations has expired are unavailing).

**b. The Petition Lacks the Required Number of Signatures pursuant to N.J.S.A. 19:29-2**

Under N.J.S.A. 19:29-2, a petition challenging an election must be timely signed by at least fifteen voters in the county or by a candidate defeated in the election. This statutory requirement is mandatory and non-negotiable for any election contest to proceed. Here, Petitioners were required to obtain the valid signatures of fifteen (15) voter petitioners "no later than" June 15, 2024. N.J.S.A. 19:29-2.

As noted above, Petitioners' first filed Petition was filed at 1:38 p.m. on Monday June 17, 2024. It was devoid of the signatures of any of the purported Petitioners whose names were in the caption and in the body of the Petition. Even if Petitioners are permitted to rely on the First Amended Petition, filed at 1:40 p.m. on Monday June 17, 2024, that document equally fails to satisfy the minimum pleading requirements of 19:29-2. The Second Amended Petition filed very late on June 21 has similar issues. Rather, both of these pleadings filed by Petitioners contained only fourteen (14) signatures of Petitioners dated on or before the statutory deadline of June 15, 2024.<sup>3</sup> While there were seven signatures dated after June 15, 2024, such late signers are untimely

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<sup>3</sup> It also appears that Petitioners simply re-used the same certifications that they obtained from Petitioners related to the First Amended Petition in their subsequent filings. There are different allegations, captions and substantive material in each of the three iterations of the Petition. It is unclear from the record whether the Petitioners actually were fully aware of the contents of the

and do not satisfy the minimal statutory requirements needed to invoke this Court's jurisdiction in this statutory proceeding.

The case of Horne v. Edwards, 477 N.J. Super. 302 (App. Div. 2023) is directly applicable and reinforces the mandatory nature of the fifteen-signature requirement by the statutory deadline. In Horne, the lower court found that the plaintiffs had only three signatures on their petition, rather than the required fifteen. The plaintiffs argued that they should be allowed to introduce evidence of additional signatures procured after the petition was filed, asserting that these signatures provided them standing to challenge the election. However, the Appellate Division rejected this argument, holding that compliance with N.J.S.A. 19:29-2 at the time of filing was essential.

In Horne the Court further affirmed that the plaintiffs' failure to meet the fifteen-signature requirement meant they lacked standing as a matter of law. The court further emphasized that adding signatures to the petition after the statutory period did not confer standing and was improper. Thus, the Horne Court concluded that the Legislature's intent was clear: the submission of a compliant petition meeting all criteria of N.J.S.A. 19:29-2 and -3 is a prerequisite to proceed with an election challenge.

Here, there can be no doubt that the fifteen-signature requirement serves a vital function, ensuring that election contest petitions have sufficient support to justify the consumption of resources and the public uncertainty they may cause. Without meeting this threshold, the petition cannot proceed, as it fails to demonstrate the necessary level of public backing for an election contest. As a result, Petitioners failed to comply with the statutory requirement of obtaining fifteen valid signatures by the deadline, and the Petition must be dismissed with prejudice.

**c. Failure to Comply with Bond Requirement under N.J.S.A. 19:29-2**

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petition they were supporting and what it said about their neighbors. This raises additional concerns regarding the veracity of the Petition at issue here and whether it passes statutory muster.

Under N.J.S.A. 19:29-2, a petition contesting an election must also be accompanied by a bond to the State in cases of approval or disapproval of any proposition, or to the incumbent in all other cases. This bond, which must include two or more sureties or a deposit of cash security, must be approved by a judge and set in the penal sum of \$500.00. Id. The purpose of this bond is to ensure payment of all costs in case the election is confirmed, the petition is dismissed, or the prosecution fails.

The statute explicitly states:

The petition shall be accompanied by a bond to the State in the case approval or disapproval of any proposition is to be contested and to the incumbent in all other cases, with 2 or more sureties, or a deposit of cash security, to be approved by such judge, in the penal sum of \$500.00, conditioned to pay all costs in case the election be confirmed, or the petition be dismissed or the prosecution fail.

Petitioners here have failed to adhere to this mandatory statutory requirement. Specifically, Petitioners did not post the required bond in connection with their election contest. This oversight is not merely a procedural defect; it is a substantive failure to comply with the clear mandates of N.J.S.A. 19:29-2. Indeed, the statute actually notes that the Court can only obtain jurisdiction to hear and determine the election contest matter provided that the petitioner had “filed with the petition a bond, without sureties” as required therein. Id. The Petitioners’ failure to file a bond with any of their three petitions here or as of today – weeks after they were required to do so, is fatal to their claims and requires immediate dismissal of this action.

## **2. The Petition Does Not State any Claim with Sufficient Specificity**

The Petition must be dismissed for the independent reason that it is vague and non-specific. As the Court is aware, while certain matters can be pleaded upon information and belief, the election contest petition is still required to have sufficient specificity regarding the bases for challenging the will of the voters. Indeed, generalized allegations of impropriety are not sufficient for an election-contest petition. Lehlbach v. Haynes, 54 N.J.L. 77, 79-80 (1891), superseded on



other grounds, In re: Luther, 192 N.J. at 555. Rather, the petitioner in an election contest must as part of the petition “demonstrate facts sufficient to support relief.” Id. In fact, our courts require that petitions have specificity, and the lack of specificity mandates dismissal of a petition. Id. at 556 (citing In re: Clee, 119 N.J.L. 310, 325-327 (1938)).

Here, the face of the Petition lacks any specificity regarding the bases for claiming that over 80 individuals who were cleared by the Superintendent and Board of Elections do not actually “reside” in Loch Arbour. Other than a single blanket conclusory statement, there is no information regarding the individual voters or what information the Petitioners purport to know about those voters. As this Court noted, the Petition is “thin.” And that in of itself is dispositive of same. Because Petitioners’ allegations against the voters are vague and lack any specificity, the Petition must be dismissed with prejudice.

## **POINT II**

### **COUNT II OF THE PETITION MUST BE DISMISSED FOR FAILURE TO STATE A CLAIM**

Count II of the petition alleging the Mr. Tawil is ineligible to hold office in Loch Arbour fails for two independent reasons. First, Petitioners’ claim fails as a matter of law. Next, this count of the Petition similarly lacks specificity and should be dismissed as vague.

#### **1. Petitioners’ Ineligibility Claims Fail as a Matter of Law**

Count II of the Petition claims that Mr. Tawil is not eligible to hold office under N.J.S.A. 40:9-1.13(b). However, that statute never existed, and Title 40:9 was repealed in 1971. See P.L. 1971, c. 199. Assuming that Petitioners are attempting to rely upon Title 40A:9, their claim similarly fails. This is for the simple reason that N.J.S.A. 40A:9-1.13 has been found to be unconstitutional in violation of the Federal Constitution. Callaway v. Samson, 193 F. Supp. 2d 783 (D.N.J. 2002). The finding of that case applies equally here to Mr. Tawil who has had a home in Loch Arbour for almost 30 years, who helped a community including his synagogue, and who

has principally resided in Loch Arbour for well over a year. Petitioners' reliance on this unconstitutional statute is frivolous.

## **2. Count II of the Petition Is Vague and Lacks the Required Specificity**

Even if the statute were to apply, as noted above, Count II of the Petition is vague and should not survive the pleading standards for an election contest. Count II contains a grand total of 6 paragraphs. Two of these paragraphs are introductory and claiming to reserve the ability to amendment. The other four paragraphs literally say nothing more than: (a) an incorrect recitation of N.J.S.A. 40:9-1.13, (b) that Mr. Tawil was a write-in candidate who was declared a winner, (c) concluding that Mr. Tawil did not reside in Loch Arbour for one year prior to the election, and (d) as such Mr. Tawil is not eligible to hold office. There is not a single other factual allegation from the Petitioners regarding Mr. Tawil's residency or where they claim he actually lives. While this omission is unsurprising because Petitioners know that Mr. Tawil has owned a home in Loch Arbour for almost 3 decades and has primarily resided in town for many years, it does not absolve Petitioners of their obligation to actually have a cognizable claim with some specificity. For this additional reason, Count II of the Petition must be dismissed.

### **POINT III**

#### **AT A MINIMUM RESPONDENTS ARE ENTITLED TO JURISDICTIONAL DISCOVERY FROM PETITIONERS**

While the arguments in this motion have focused on the Petition itself and its fatal infirmities, there is also a lack of information and required verification from the Petitioners themselves. For example, it is unclear whether any of the Petitioners are voters in Loch Arbour as required by N.J.S.A. 19:29. In order to analyze whether the Petitioners (or a sufficient number of those who executed the Petition by the statutory deadline) actually have standing to proceed in this matter, the Court should order expedited jurisdictional discovery regarding the qualifications of the Petitioners to bring this election contest. The integrity of the election process demands that

only those with a legitimate and statutory interest in the outcome are allowed to challenge the results. Without such discovery, Respondents cannot ascertain whether the Petitioners meet the essential criteria set forth by New Jersey law.

### **CONCLUSION**

In light of the aforementioned arguments, it is clear that the Petitioners have failed to comply with the mandatory statutory requirements necessary to sustain an election contest. The petition was not filed within the statutory deadline, lacked the required fifteen valid signatures, and did not include the necessary bond as mandated by N.J.S.A. 19:29-2. The failure to satisfy any one of these statutory requirements, let alone all of these statutory requirements, is grounds for dismissal. Furthermore, the Petitioners' claim regarding Saul Tawil's residency is baseless and unsupported by any evidence. The Petitioners' disregard for these essential requirements demonstrates a blatant neglect of the statutory framework governing election contests in New Jersey. Therefore, we respectfully request that this court dismiss the election contest in its entirety with prejudice, and uphold the election results, confirming Jacob Hedeaya, Jason Elo, and Saul Tawil as the duly elected members of the Board of Commissioners for the Village of Loch Arbour.

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Dated: July 2, 2024