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Attorneys for Plaintiffs,

New Jersey Democratic State Committee

New Jersey Democratic State Committee,

Plaintiff,

v.

BOARD OF ELECTIONS OF BERGEN
COUNTY, COMMISSIONER OF
REGISTRATIONS/SUPERINTENDENT OF
ELECTIONS, DEBRA M. FRANCICA OF
BERGEN COUNTY, NEW JERSEY and
JOHN DOES 1-5, *in his/her capacity as an
election official in Bergen County, New Jersey,*

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION,

BERGEN COUNTY

DOCKET NO.: BER-L-_____-25

CIVIL ACTION

**COMPLAINT FOR ACTION IN LIEU OF
PREROGATIVE WRIT UNDER R. 4:69**

Plaintiff is the New Jersey Democratic State Committee (“Plaintiff” or “NJDSC”), by and through their undersigned counsel, hereby submit this Complaint against Defendants, Board of Elections of Bergen County (the “Board”), Commissioner of Registrations/Superintendent of

Elections, Debra Francica, Bergen County, New Jersey And John Does 1-5, *in his/her capacity as an election official in Bergen County, New Jersey*, (Collectively “Defendants”) and states as follows:

INTRODUCTION

1. This case presents an emergency application to safeguard the right to vote in Bergen County.

2. Following the publication of an article on November 2, 2025, on the news site Newjerseyglobe.com¹, the NJDSC became aware of an issue in Bergen County involving approximately three hundred (300) vote-by-mail ballots (“VBMs”). It appears that without providing any notice nor opportunity to cure, the Defendant Bergen County Board of Elections (the “Board”) has decided that these 300 VBMs shall not be counted due to the absence of an inner envelope despite the Board actually receiving these VBMs. These Affected Voters’ identities are unknown to everyone except the Board.

3. Accordingly, there is an immediate and irreparable harm insofar as the Board has decided on a course of action that will undoubtedly result in the disenfranchisement of approximately 300 voters in Bergen County (the “Affected Voters”).

4. To avoid a grievous violation of the Affected Voters’ right to vote, in violation of N.J.S.A. 10:6-2(c), the NJDSC files the enclosed letter brief in support of an emergent petition asking the Court to exercise its authority and discretion to order equitable relief in the form of:

- a. An order from this court directing the Bergen County Board of Elections to notify the Affected Voters of the deficiencies in their VBMs with written notice and opportunity to cure pursuant to N.J.S.A § 19:63-17; and/or

¹ <https://newjerseyglobe.com/local/300-naked-ballots-in-bergen-county-leads-to-dispute/>

- b. An order from this court directing the Bergen County Board of Elections to release the identities of the Affected Voters on the Statewide Voter Registration System (SVRS) so that those individuals, parties and others can work to ensure that the voters understand their rights and have a meaningful opportunity to participate in the November 4, 2025 General Election.

PARTIES

5. Plaintiff is a registered political party within the State of New Jersey with candidates on the ballot in Bergen County this upcoming election, November 4, 2025, and whose party members include individuals in the qualified voting public in Bergen County

6. Defendant Board of Elections, of Bergen County is charged with administering elections in Bergen County.

7. Defendant Commissioner of Registrations/Superintendent of Elections, Debra Francica, of Bergen County, is charged with administering elections in Bergen County and sued in their official capacity (“Commissioner Francica”).

8. Upon information and belief, Defendants JOHN DOES 1-5, *in his/her capacity as an election official in Bergen County, New Jersey*, are charged with administering elections in Bergen County and sued in their official capacity.

9. The Affected Voters are approximately three hundred (300) or more unidentified members of the public who cast VBMs in Bergen County, whose votes have been rejected, and whose identities are only known to the Defendants, but likely include members of the NJDSC.

JURISDICTION AND VENUE

10. The Affected Voters' VBM were all received in Bergen County and the Affected Voters were denied the right to vote in Bergen County by rejection of there Ballot.

11. Upon information and belief, the Affected Voters include members of the NJDSC.

12. Defendants' acts and omissions in Bergen County have disenfranchised the Affected Voters and in Bergen County.

13. Accordingly, venue is proper in Bergen County pursuant to *R. 4:3-2(a)*.

FACTS COMMON TO ALL COUNTS

14. Today, November 3, 2025, is the day before Election Day for the New Jersey General Election.

15. Upon information and belief, Defendant Board of Elections, of Bergen County has decided to reject approximately three hundred VBMs belonging to the Affected Voters.

16. By way of background, VBMs contain two envelopes. An inner envelope which should contain the voter's completed ballot (the "Inner Envelope") and an outer envelope which should contain the sealed Inner Envelope (the "Outer Envelope").

17. The Inner Envelope sometimes bears a bar code, includes the mail-in voters name and address, and instructions on how to complete their mail-in ballot. The Inner Envelope also includes blank lines for signature of anyone who assisted with preparing the VBM for the mail-in voter, the mail-in voter's contact information, and a "Certificate of Mail-In Voter." The certificate is a certification wherein the mail-in voter prints their name, address and provides their signature to indicate that the signatory is the same person as the mail-in voter or their authorized assistant. Once a mail-in voter's ballot is completed, the ballot is inserted into the mail-in envelope and

sealed with an adhesive by the mail-in voter. The mail-in voter then certifies that the VBM belongs to that voter. The Inner Envelope is then placed inside of the Outer Envelope.

18. In many counties, the Outer Envelope contains an open window so that the Inner Envelope's barcode can be seen when the Inner Envelope is placed in the Outer Envelope. The visibility of the Inner Envelope's barcode should not affect the ability of the Outer Envelope to return to the Board since the Outer Envelope should have postage paid by the Board. However, upon information and belief, this is not the case in Bergen County.

19. Instead, in Bergen County, the barcode identifying the voter is on the Outer Envelope.

20. Sometimes, a mail-in voter will neglect to put their ballot in the Inner Envelope and instead place their ballot only in the Outer Envelope. This is commonly referred to as a "Naked Ballot," since the VBM does not contain the Inner Envelope or voter certification. Nonetheless, the Board here has the means to identify such mail-in voter's VBM, despite its status as a Naked Ballot because the Outer Envelope in Bergen County has information identifying the voter that ballot belongs to.

21. Upon information and belief, the process for counting VBM's in Bergen County begins with VBMs being received by the Board via the postal service and retrieval from ballot drop boxes. Ballots come in every single day.

22. At some point these VBMs are prepared for counting by opening the Outer Envelope and confirming that the Inner Envelope has a properly executed certification. If there is an issue with the signature and certification then, there should be a ballot cure letter sent out by the Board to notify the voter that there needs to be some action to correct and cure. See N.J.S.A. § 19:63-17.

23. As VBM's come into the Board, they are sorted by staff as compliant and non-compliant or as initially accepted, rejected or for further review. This categorization is initially made solely based on checking SVRS and the Inner Envelope or a lack thereof in the case of a Naked Ballot.

24. If an Inner Envelope is deemed compliant then it is eventually stripped of the certification flap, and opened and then counted. If the envelopes or ballot contain any irregularities, then it should be hand-counted or separated for further review.

25. If an Inner Envelope is deemed non-compliant due to a signature or certification error, then the Board is required by law to send out a notice to the mail-in voter to cure the deficiency (the "Cure Letter"), subject to the requirements of N.J.S.A § 19:63-17. This information should be entered into SVRS.

26. If a VBM lacks an Inner Envelope and contains only a ballot, then it is considered a Naked Ballot. Unlike a VBM with signature or certification error, the Board has taken the position that it has no obligation to inform mail-in voters of this deficiency and will not issue a Cure Letter. This is allegedly because the Board is short staffed. Accordingly, if a mail-in voter's VBM is considered a Naked Ballot, they will not be informed until after November 4th, Election Day, when the Board rejects the ballot, thus robbing the voter of any opportunity to cure the deficiency or cast a provisional ballot.

27. If a voter returns a sample ballot in their Inner Envelope, then it is believed that the Board notifies those voters of that deficiency.

28. With respect to Naked Ballots and the lack of any notification, the Affected Voters will be disenfranchised without any opportunity to vote provisionally or obtain judicial relief until after Election Day is over. This constitutes irreparably injury where the Board is robbing voters

who have sought to participate in the election without any opportunity to even know that their votes will not be counted

29. While the NJDSC heard reports of these issues last week, we believed that the Board would take action to ensure that mass-disenfranchisement did not occur. Now, through both independent reporting and calls to the Board for additional information, the NJDSC has learned that the Board is deadlocked and does not intend on notifying the Affected Voters until it is too late.

COUNT ONE

(Right to vote

brought directly under the New Jersey Constitution

and pursuant to N.J.S.A. 10:6-2(c))

30. The allegations of the Complaint set forth above are incorporated herein as if set forth at length.

31. The New Jersey Constitution safeguards the fundamental right to vote.

32. By failing to provide a meaningful process by rejecting the Affected Voters' VBMs and by choosing to not notify them or to input information into SVRS at all despite the remaining time for those Affected Voters to cast provisional ballots, the Defendants have denied hundreds of New Jerseyans their right to vote.

33. Unless the Court enjoins Defendants and requires Defendants to notify the Affected Voters of their rejected ballots, the voters will suffer irreparable harm.

COUNT TWO

(Violation of N.J.S.A. § 19:63-17,

brought pursuant to N.J.S.A. 10:6-2(a))

34. The allegations of the Complaint set forth above are incorporated herein as if set forth at length.

35. By failing to provide a meaningful process to allow the Affected Voters with an opportunity to cure their ballots via N.J.S.A. § 19:63-17 and by choosing to not notify them at all, the Defendants have denied hundreds of New Jerseyans their right to vote.

36. Unless the Court enjoins Defendants and requires Defendants to provide the Affected Voters with an opportunity to cure their VBMs those voters will suffer irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that Judgment be entered against Defendants as follows:

A. Immediate, preliminary and permanent injunctive relief:

- a. Ordering the Defendants to notify the Affected Voters of the deficiencies in their VBMs with written notice and opportunity to cure pursuant to N.J.S.A § 19:63-17; and
- b. Order the Defendants to immediately enter the rejections of said ballots into SVRS so the Affected Voters themselves can learn of this issue, or so political parties and others can conduct outreach to the Affected Voters to inform them of their rights.

B. Any further relief as this Court deems just and proper to ensure the Affected Voters have every opportunity to participate in the November 4, 2025, General Election.

Respectfully Submitted,

PEM LAW LLP

Dated: November 3, 2025

By: /s/Rajiv D. Parikh

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*Attorneys for Plaintiffs,
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CERTIFICATION PURSUANT TO RULE 4:5-1

Pursuant to R. 4:5-1, it is hereby stated that the matter in controversy between the parties hereto is not the subject of any other action pending in any other Court or of a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief, no other action or arbitration proceeding between the parties hereto is contemplated. Further, other than the parties set forth in this pleading and the previous pleadings, if any, at the present time we know of no other parties that should be joined in the within action.

Dated: 11/03/25

By: /s/Rajiv D. Parikh

CERTIFICATION PURSUANT TO RULE 1:38-7(b)

Pursuant to Rule 1:38-7(b), it is hereby stated that all confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future.

Dated: 11/03/25

By: /s/ Rajiv D. Parikh

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