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CENTRAL JERSEY PROGRESSIVE
DEMOCRATS, EM PHIPPS, DOREEN
BAILEY, MARGARET D. BALL, STACI
BERGER, QUIYANA BUTLER, REMI
CHRISTOFFERSON, LAURA JILL
LEIBOWITZ, ROSHANNA MALONE,
KAMUELA N. TILLMAN

Plaintiffs,

v.

ELAINE M. FLYNN, in her capacity as Clerk of
the County of Middlesex, MIDDLESEX
COUNTY BOARD OF ELECTIONS, and
TAHESHA WAY as an interested party in her
capacity as Secretary of State.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:
MERCER COUNTY

Docket No.:

VERIFIED COMPLAINT
ACCOMPANYING ORDER TO SHOW
CAUSE SEEKING TEMPORARY
RESTRAINTS

Plaintiffs Central Jersey Progressive Democrats (“CJPD”), Em Phipps, Doreen Bailey, Margaret D. Ball, Staci Berger, Quiyana Butler, Remi Christofferson, Laura Jill Leibowitz, Roshanna Malone, and Kamuela N. Tillman (collectively “Plaintiffs”), bring this suit challenging sex and gender discrimination, a violation of the fundamental right to vote, and a violation of associational rights, against the Clerk of the County of Middlesex, in her official capacity (“County Clerk”), and the Middlesex County Board of Elections (“Board of Elections”), and the Secretary

of State as an interested party in her capacity as chief election official for the State of New Jersey (collectively “Defendants”).

This lawsuit is not complicated. A portion of the New Jersey Statute, N.J.S.A. 19:5-3, dates back to the middle of the last Century, and prescribes that party committee members for each election district must be comprised of one man and one woman. What was once a floor is now a ceiling for women, and an outright bar for nonbinary individuals. As a result, in reliance on the state constitution, several county clerks in the state (including Mercer County), no longer implement this outdated statute, allowing candidates to seek office independent of sex or gender. Yet, Defendants will hold committee races this June, and will continue to apply the sex quota absent further directive by the state or the judiciary. Notably, this type of sex quota is an outlier, and does not exist in the election administration of races across Middlesex County and across the state. The simple argument advanced here is perhaps further evidenced by the fact that all individual plaintiffs and defendants – candidates for office and election administrators now implementing the law – are no longer men, but are either women or nonbinary.

PARTIES

1. While the Plaintiff-candidates seeking office are uniquely qualified, their stories are not unique. In the New Jersey counties that choose to implement the gender quota prescribed by N.J.S.A. § 19:5-3, women are barred from sharing a slate in the same election district, women are barred from being elected together into office in the same election district, and nonbinary candidates are barred from running altogether. The binary gender quota prevents women and nonbinary candidates across New Jersey from seeking office, and prevents political organizations across the state from recruiting candidates that best represent the interests of the voters. The quota pits women against each other in their political aspirations, and assigns unequal weight to votes on the basis of sex. For example, when the top vote getter is a woman, the statute requires a second-ranked woman’s votes to be set aside in favor of a man who received fewer votes. Such a result

would have been the case in Mercer County in 2018, however like clerks in several other counties, the Mercer County Clerk believes that the statute is unconstitutional and therefore does not implement it. (See **Exhibit A**, March 29, 2019 Letter to Central Jersey County Clerks, Exhibit 1, 2018 Mercer County Democratic Party Ballot.) See also Colleen O’Dea, Middlesex County Democrats Try to Overturn ‘Outdated’ Gender Rule, NJ SPOTLIGHT (Apr. 8, 2019), *available at*: <https://www.njspotlight.com/stories/19/04/07/middlesex-county-democrats-try-to-overturn-outdated-gender-rule/> (last accessed Apr. 4, 2019) (The Mercer County Clerk explaining, “[i]t is unconstitutional to require the seats be filled by gender. There is still a statute that says it should be one male and one female. But there is case law . . . Most of us [clerks] are relying on that. But all counties are not the same. Some do still use the statute.”).

2. Plaintiff Em Phipps is a CJPD candidate for Middlesex County Democratic Committee Member in New Brunswick’s Ward 1, District 6 in the Democratic Primary Election to be held on June 4, 2019. Em identifies as nonbinary, and seeks to run for office, but is effectively barred from doing so due to the binary gender quota at issue in this matter. Em is a sophomore on advanced track to graduation, studying Environmental Policy, Institutions, & Behavior (“EPIB”). Em is running for this position to advance an environmental agenda within the Democratic Party, and to advance environmental justice in New Brunswick specifically. Em believes that it is important for young people, including Rutgers students, to be actively engaged in politics in order to protect a robust democracy and to ensure a future for climate justice.

3. Plaintiff Doreen Bailey is a CJPD candidate for Middlesex County Democratic Committee Member in Piscataway’s Ward 3, District 4 in the Democratic Primary Election to be held on June 4, 2019. She seeks to run and share a slate with another woman from her election district. Doreen has been a resident and homeowner in Piscataway’s Ward 3 District 4 for thirty-three (33) years. Having raised 3 children and 3 grandchildren in the community, she is committed to preserving the fiber of the community which includes diversity, tolerance and accountability.

Doreen believes the residents of Piscataway deserve to have their voices heard and they should be entitled to complete transparency from their local government. Her professional background is in finance and process development. She retired in 2015 after working for 30 years for a global chemical company with pharmaceutical experience. Her role as director included people and process management, development and migration, and she maintained responsibility for the USA, Europe and South America. Her educational background includes East Orange High School, Upsala College and specialty courses at Cedep University in Fountainbleau, France. Doreen has no higher political aspirations, and simply wishes to tirelessly serve the district as a concerned citizen, homeowner, and neighbor.

4. Plaintiff Margaret D. Ball is a CJPD candidate for Middlesex County Democratic Committee Member in Piscataway's Ward 3, District 10 in the Democratic Primary Election to be held on June 4, 2019. She seeks to run and share a slate with another woman from her election district. Margaret has lived in Piscataway for thirty-five (35) years, after graduating from Rutgers College. Her most recent career is as hospice case manager, for the past fourteen (14) years. She and her husband have four adult children who have gone through the Piscataway public schools. She was a Girl Scout & Cub Scout leader; CCD teacher; and swim instructor and coach in Piscataway. Margaret is running for County Committee to offer a fresh perspective and to work to ensure a representative government supporting all residents of Piscataway.

5. Plaintiff Staci Berger is a CJPD candidate for Middlesex County Democratic Committee Member in Piscataway's Ward 3, District 2 in the Democratic Primary Election to be held on June 4, 2019. She seeks to run and share a slate with another woman from her election district. Staci has spent most of her life and entire professional career working to advance social, political and economic justice for working families and seniors. After the election of Donald Trump, she helped start CJPD and the Piscataway Progressive Democratic Organization. She has been a homeowner in Ward 3 since 1999, where she lives with her husband and their two sons,

who attend Piscataway public schools. Staci has been an active volunteer in the schools, through the PTOs, Wrestling Parents Auxiliary and the Board of Education's Community Relations Committee. She worked to improve the school environment, including securing policies for smaller class sizes, food justice and protections for transgender and immigrant students. A Rutgers graduate, she worked at NJ Citizen Action, fashioning NJ's Paid Family Leave laws, reforming NJ's campaign finance system, updating NJ's open public meetings/ records laws, preventing the privatization of Social Security, increasing the minimum wage, and adopting NJ's first Millionaire's Tax. She continues to serve on NJCA's Board of Directors. A former labor organizer, she was honored by the NJ General Assembly during Women's History Month in 2016. Since 2013, she has been the president & CEO of the Housing and Community Development Network of NJ, the state association of non-profit community developers. With the help of ACLU-NJ, Staci affirmed the public's right to videotape and broadcast Piscataway Township Council meetings in 2018, and subsequently ran for Council on a progressive platform. She is running for County Committee to continue her advocacy on behalf of her community.

6. Plaintiff Quiyana Butler is a CJPD candidate for Middlesex County Democratic Committee Member in Piscataway's Ward 3, District 4 in the Democratic Primary Election to be held on June 4, 2019. She seeks to run and share a slate with another woman from her election district. Quiyana grew up in Piscataway and is now raising her family there. She is a Rutgers graduate and currently works for the University. She is married to Brian Butler, who is also a prominent member of the community, and they have two children. After the 2016 election, Quiyana knew that change was definitely needed in this country and she wanted to be the change she wanted to see. Running for County Committee will afford her the opportunity to be part of making positive changes in Piscataway. She ran in 2017 in her former neighborhood, but recently moved to Ward 3, District 4 and wants to stay involved.

7. Plaintiff Remi Christofferson is a CJPD candidate for Middlesex County Democratic Committee Member in Piscataway's Ward 1, District 1 in the Democratic Primary Election to be held on June 4, 2019. She seeks to run and share a slate with another woman from her election district.

8. Plaintiff Laura Jill Leibowitz is a CJPD candidate for Middlesex County Democratic Committee Member in Piscataway's Ward 3, District 10 in the Democratic Primary Election to be held on June 4, 2019. She seeks to run and share a slate with another woman from her election district.

9. Plaintiff Roshanna Malone is a CJPD candidate for Middlesex County Democratic Committee Member in Piscataway's Ward 1, District 1 in the Democratic Primary Election to be held on June 4, 2019. She seeks to run and share a slate with another woman from her election district.

10. Plaintiff Kamuela N. Tillman is a CJPD candidate for Middlesex County Democratic Committee Member in Piscataway's Ward 3, District 2 in the Democratic Primary Election to be held on June 4, 2019. She seeks to run and share a slate with another woman from her election district. Kamuela is a 26-year Piscataway resident, "transplanted" From the East Orange/Newark area. A single mother and a Special Education English teacher, Kamuela's involvement with grassroots policy and approach has empowered her to take back her voice in the democratic process and to encourage accountability and political transparency among local and federal elected officials. The election of Donald Trump and her ideology of being "sick and tired of being sick and tired" of the lack of regard for the voices and concerns of constituents, both locally and statewide, has prompted her to take action and join with like-minded residents to become actively, passionately, and politically involved. Kamuela is an accomplished singer and mother of three.

11. At all times relevant herein, Plaintiff CJPDP was and is the primary independent Democratic Party organization in Central New Jersey, organized as a short term Political Committee. CJPDP is comprised of progressive Democratic party voters, candidates and representatives across Central Jersey. CJPDP believes in social, political and economic justice, and supports candidates for local, county and state offices to ensure that party and elected officials reflect the values of fairness, equality, and justice for all.

12. Defendant Elaine M. Flynn is the Clerk of the County of Middlesex, who is vested with certain statutory duties and obligations including the designing and printing of sample ballots, machine ballots, and mail-in ballot materials, the issuance of mail-in ballots, and conducting a drawing for ballot positions for county elections held in Middlesex County.

13. Defendant Middlesex County Board of Elections is vested with certain statutory duties and obligations including overseeing the conduct of elections, processing vote-by-mail and other ballots, and making the final determinations and serving as the final authority as to the number of votes cast for each candidate for election.

14. Defendant Secretary of State Tahesha Way is designated the “chief State election official” pursuant to N.J.S.A. § 19:31-6a, and is listed here as an interested party.

JURISDICTION AND VENUE

15. The Superior Court has jurisdiction over this election matter pertaining to ballots with respect to the Democratic Primary Election to be held on June 4, 2019.

16. Venue is proper in Mercer County under R. 4:3-2(a)(2) because the law at issue was adopted in Mercer County and is overseen statewide by the Secretary of State as chief election official pursuant to N.J.S.A. § 19:31-6a, from offices in Mercer County.

BACKGROUND

17. Primary elections for the Democratic and Republican parties are scheduled to take place throughout the State on June 4, 2019 to determine, among other things, the composition of county party committee membership.

18. County clerks, in carrying out their duties, are subject to certain restrictions and obligations, as set forth in N.J.S.A. 19:49-2, for the ballot placement of candidates.

19. For example, N.J.S.A. 19:49-2 sets forth that “all candidates who shall file a joint petition with the county clerk of their respective county and who shall choose the same designation or slogan shall be drawn for position on the ballot as a unit and shall have their names placed on the same line of the voting machine.”

20. N.J.S.A. 19:49-2 further provides that for other candidates, such as those for municipal and statewide office, that file a petition

bearing the same designation or slogan as that of the candidates filing a joint petition with the county clerk as aforesaid, [such candidates] may request that his or her name be placed on the same line of the voting machine with the candidates who have filed a joint petition with the county clerk as aforesaid by so notifying the county clerk of said county in writing within two days after the last day for filing nominating petitions and thereupon the county clerk shall forthwith notify the campaign manager of such candidates filing a joint petition as aforesaid of said request, and if the said campaign manager shall file his consent in writing that the said county clerk within two days after the receipt of said notification from said county clerk, the clerk of said county shall place the name of such candidate on the same line of the voting machine on which appears the name of the candidates who have filed the joint petition as aforesaid. . . .

21. In February 2019, CJPD invited nominations for party committee candidates from its membership, allied organizations, and the public. CJPD encouraged individuals who support a progressive agenda for social, economic and political justice to run for County Committee in a variety of ways, including: inviting candidates who had previously run for office to run again, posting registration on Facebook pages and groups that share a commitment to a progressive agenda, one-on-one outreach among neighbors, families and friends, and attendance at other like-

mindful organizations. CJPDP candidates in Piscataway were able to choose from seven candidate information sessions to attend, and candidates in New Brunswick had multiple sessions to choose from.

22. CJPDP-supported petitions for County Committee were individually and jointly collected and filed from March 20 through April 2, 2019 pursuant to N.J.S.A. 19:23-14, and in accordance with the direction of the County Clerk.

23. The form for nomination by petition for the Primary Election county committee offices pursuant to N.J.S.A. 19:23-5, 19:23-17, does not request that candidates self-designate their gender or sex. (See **Exhibit B**.)

24. On March 29, 2019, counsel for CJPDP, Yael Bromberg Esq., requested an immediate response from the Middlesex County Clerk regarding the Clerk's intended application of unconstitutional County Committee gender requirements. (See **Exhibit C**.)

25. On April 3, 2019, within two days after the last day for filing nominating petitions, pursuant to N.J.S.A. 19:49-2, CJPDP sent a Bracketing Request Letter to the Middlesex County Clerk's Office. (See **Exhibit D**.) The Bracketing Request Letter proposed the listing of Democratic Party candidates for County Committee, independent of sex and gender.

26. The CJPDP Bracketing Request Letter further reserves the "right to preview a copy of the printer's proof of the ballot in accordance with the established timeline." (Id.)

27. The same day, on April 3, 2019, the Middlesex County Clerk's office confirmed receipt of the CJPDP Bracketing Request Letter.

28. One week after receiving counsel's March 29, 2019 letter, Middlesex County counsel first corresponded with CJPDP, through counsel by telephone, on April 5, representing that absent further instruction by the judiciary or the State, the County Clerk is bound to the one-man and one-woman rule outlined by N.J.S.A. 19:5-3, and therefore cannot comply with the relief requested. (Certification of Yael Bromberg, Esq.)

29. As N.J.S.A. 19:49-2 provides that candidates bracketed together should be drawn as a unit and featured on the same line of the ballot with the same slogan, the ballot should feature all of the committee-member candidates in the same column or row of the ballot.

30. However, on information and belief, the County Clerk’s anticipated ballot draw and arrangement will not feature CPJD candidates in the same column or row of the ballot.

31. If the ballot features the candidates in keeping with their request to be bracketed together independent of sex and gender discrimination, and their request for the ballot to be drawn independent of sex and gender discrimination, with the applicable slogan next to each candidate’s name in compliance with N.J.S.A. 19:49-2, the ballot will resemble something akin to the following:

OFFICE TITLE	Column A Democratic	Column B Democratic	Column C Democratic
Members of County Committee (Vote for Two)	Name <i>Middlesex County Party Organization</i>	Name <i>Central Jersey Progressive Democrats</i>	[Non-bracketed candidates]
	Name <i>Middlesex County Party Organization</i>	Name <i>Central Jersey Progressive Democrats</i>	

32. The above example resembles the ballot as bracketed, drawn, and designed by Mercer County in the 2018 Democratic Party race. (See **Exhibit C.**)

33. In the above example, all candidates that request and received permission to be featured on the same line of the ballot and with the same slogan, are in fact featured on the same line of the ballot and with the same slogan as provided for by the statute.

34. In the above example, candidates are not excluded from running for and obtaining office on the basis of sex or gender, in keeping with the federal and state constitution and applicable laws.

35. In the above example, the votes for the candidates are provided equal weight, as women and men are not forced to compete against each other for the same position on the basis of sex.

36. In the above example, voters can vote for the candidates of their choosing independent of sex or gender, free of voter confusion, and their votes will be assigned equal weight independent of sex or gender.

37. Notwithstanding this permissible, non-confusing manner by which to arrange the ballot in compliance with the clear constitutional precepts and directives of N.J.S.A. 19:49-2, on information and belief, the County Clerk intends to bracket and draw the ballots in manner akin to the following:

OFFICE TITLE	Column A Democratic	Column B Democratic	Column C Democratic
Member for County Committeeman (Vote for One)	Name <i>Middlesex County Party Organization</i>	Name <i>Central Jersey Progressive Democrats</i>	[Non-bracketed candidates]
Member for County Committeewoman (Vote for One)	Name <i>Middlesex County Party Organization</i>	Name <i>Central Jersey Progressive Democrats</i>	

38. In the above example, nonbinary candidates such as Plaintiff Em Phipps are outright barred from seeking a county committee-member office on the basis of sex and gender.

39. In the above example, candidates who seek to run together in the same election district and share a slogan and line, such as Plaintiffs Doreen Bailey, Margaret D. Ball, Staci Berger, Quiyana Butler, Remi Christofferson, Laura Jill Leibowitz, Roshanna Malone, and Kamuela N. Tillman, are barred from doing so on the basis of sex and gender.

40. In the above example, candidates are forced to compete with each other on the basis of sex and gender. Specifically, candidates for committeewoman run against each other on the basis of sex and gender, and do not run against committeemen on the basis of sex and gender.

41. In the above example, where the two highest vote-getters are one sex, the votes for the lesser-ranked committee-person of the opposite sex will be given increased weight and priority, on the basis of sex, in violation of fundamental constitutional precepts and N.J.S.A. 19:3-4 regarding the election of the highest vote-getters.

42. Should the County Clerk attempt to maintain the general format of the above example, but add extraneous persons to some impossible third rail because candidates do not meet the one-man-and-one-woman requirement in N.J.S.A. 19:5-3, this will present a clear violation of N.J.S.A. 19:49-2 and constitutional precepts, would foster voter confusion as to the association of the candidates and how the ballots will ultimately be counted, and cause the ballots to be assigned unequal weight on the basis of sex and gender.

43. On April 5, 2019, Middlesex County Clerk represented, through counsel, that further guidance has been requested from the State of New Jersey. (Certification of Yael Bromberg, Esq.)

44. On information and belief, no guidance as to the constitutionality of N.J.S.A. 19:5-3 has been provided by the State.

45. The solution to this problem is already in practice in at least Mercer, Hunterdon, Cumberland, Livingston, and Passaic Counties. (See **Exhibit C**, Mercer County 2018 Primary Ballot; **Exhibit F**, Passaic County 2016 Primary Ballot; **Exhibit G**, Cumberland County 2018

Republican Primary Ballot.) See also Hunterdon County, Official 2018 Primary Election Sample Ballot, *available at*: <http://www.co.hunterdon.nj.us/election/2018/Primary/Ballots/lambertville.pdf> (last accessed Apr. 10, 2019); Livingston County 2018-2020 Democratic County Committee List, *available at*: <https://www.livingstondems.org/> (last accessed Apr. 10, 2019); Colleen O’Dea, Middlesex County Democrats Try to Overturn ‘Outdated’ Gender Rule, NJ SPOTLIGHT (Apr. 8, 2019), *available at*: <https://www.njspotlight.com/stories/19/04/07/middlesex-county-democrats-try-to-overturn-outdated-gender-rule/> (last accessed Apr. 4, 2019) (The Mercer County Clerk explaining, “[i]t is unconstitutional to require the seats be filled by gender. There is still a statute that says it should be one male and one female. But there is case law . . . Most of us [clerks] are relying on that. But all counties are not the same. Some do still use the statute.”).

46. On information and believe, no claim has been made that this change has harmed voters or the parties in these places.

47. Indeed, the lists of electeds resulting from these committee-member races show multiple sets of same-sex district representative serving in their communities. See e.g., Hunterdon County Committee Member 2019 List, *available at*: <http://www.co.hunterdon.nj.us/pdf/countyclerk/DEPCC.pdf> (last accessed Apr. 4, 2019); Cumberland County Committee Member List, *available at*: <https://ccclerknj.com/wp-content/uploads/2018/03/County-Committee-DEM-3.20.2018.pdf> (last accessed Apr. 10, 2019); Livingston County 2018-2020 Democratic County Committee List, *available at*: <https://www.livingstondems.org/> (last accessed Apr. 10, 2019).

48. The proposal is that which is already in effect across the state, and in Middlesex County, where the candidacy, run, ballot position, ballot draw, and ballot design of bracketed candidates is accomplished – independent of sex or gender identity – such as in the elections of City Council, Sheriff, County Freeholders, State Assembly, among others, and such as in County

Committee Members in the aforementioned counties. The sex and gender classification assigned to county committee members in N.J.S.A. 19:5-3 is therefore an outlier.

49. The New Jersey Law Against Discrimination (LAD) has been expanded to prohibit, in addition to sex-based discrimination, discrimination based on gender identity or expression. See N.J.S.A. 10:5-12. Moreover, a new state law recently went into effect on February 1, 2019 to allow transgender persons to amend their birth certificate with a corrected name and sex without undergoing surgery or any medical procedures. N.J.S.A. 26:8-40.12; N.J.A.C. Exec. Order No. 54 (2019).

50. On April 12, 2019, the Municipal and County Clerk will draw for ballot positions for the primary election candidates, pursuant to N.J.S.A. 19:23-24.

51. April 15, 2019 is the deadline for filing in Superior Court to protect a primary election candidate's rights. N.J.S.A. 19:13-12.

52. April 15, 2019 also coincides with the deadline for preparation of the official primary election ballot for printing, pursuant to N.J.S.A. 19:14-1.

53. April 20, 2019 marks the commencement of the mailing of mail-in ballots for the Primary Election, pursuant to N.J.S.A. 19:63-5, 19:63-9.

54. June 4, 2019 is the Primary Election Day, pursuant to N.J.S.A. 19:2-1, 19:23-40.

55. June 12, 2019 is the deadline for Municipal Clerks to certify to the County Clerk and the County Board of Elections the names of duly elected county committee members, pursuant to N.J.S.A. 19:23-54.

56. June 24, 2019 is the deadline for the County Clerk to transmit official primary election results to the Secretary of State, pursuant to N.J.S.A. 19:19-13.

FIRST COUNT

(Violation of Equal Protection of the Laws)

57. Plaintiffs repeat and reassert all the allegations set forth in the foregoing paragraphs as if set forth herein at length.

58. The binary gender quota established in N.J.S.A. 19:5-3, and the Defendants' insistence on following this statute so as to preclude the equal right of nonbinary candidates to run for committee member office, and so as to preclude the rights of candidates to run for office independent of sex or gender, and so as to preclude the rights of candidates to be elected for office independent of sex or gender, is a violation of the right to equal protection of the laws as enshrined in the New Jersey Constitution art. I, ¶ 1 and the Fourteenth Amendment of the U.S. Constitution, and as implemented by N.J.S.A. 10:6-2(c) of the New Jersey Civil Rights Act, and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

59. These constitutional and statutory provisions are intended to protect Plaintiffs' rights and place clear obligations on the part of Defendants with respect to the ability of eligible candidates to run for and obtain office independent of sex or gender, and the ability for the electors to select the candidates of their choosing independent of the candidate's sex or gender.

60. The constitutional and statutory provisions set forth above are intended to protect Plaintiffs' equal rights and place clear obligations on the part of Defendants with respect to the design of the ballot and the ability to bracket with other candidates as prescribed by N.J.S.A. 19:49-2.

61. The constitutional and statutory provisions set forth above are intended to protect Plaintiffs' equal rights and place clear obligations on the part of Defendants to assign equal weight to all votes independent of sex or gender within the county, and intrastate among the counties.

62. Defendants deprived Plaintiffs of their substantive rights.

63. Defendants' deprivation of Plaintiffs' rights occurred "under color of law," as they were acting in their official capacities.

64. Plaintiffs are 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 judgment as follows:

A. On a temporary, preliminary, and permanent basis, compelling the County Clerk of Middlesex County to prepare ballots with respect to the June 4, 2019 Primary Election that permits bracketing and otherwise complies with the right of equal protection under the Federal and State Constitutions, the NJ Law Against Discrimination and the NJ Civil Rights Act, and with Title 19's mandates for ballot design and bracketing, such that all candidates who properly requested and received permission to use the same slogan and to be featured on the same line (column or row) shall be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

B. Compelling the County Clerk to prepare ballots with respect to all primary elections in Middlesex moving forward that feature on the same line (column or row) of the ballot all such candidates who properly requested and received permission to use the same slogan and to be featured on the same line of the ballot, to be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

C. On a temporary, preliminary, and permanent basis, compelling the Board of Elections for Middlesex County to assign equal weight to the votes for committee members independent of sex and gender with respect to the June 4, 2019 Primary Election, in keeping with the right of equal protection under the Federal and State Constitutions and applicable laws.

D. Compelling the Board of Elections for Middlesex County to assign equal weight to the votes for committee members independent of sex and gender moving forward, in keeping with the right of equal protection under the Federal and State Constitutions and applicable laws.

E. Awarding Plaintiffs damages and all reasonable attorney's fees and costs in connection with this matter, pursuant to N.J.S.A. 10:6-2(f) and N.J.S.A. 10:5-27.1.

F. Granting such other relief as it may deem right and just upon the determination of this matter.

SECOND COUNT

(Violation of the Fundamental Right to Vote)

65. Plaintiffs repeat and reassert all of the allegations set forth in the foregoing paragraphs as if set forth herein at length.

66. The binary gender quota established in N.J.S.A. 19:5-3, and the Defendants' insistence on following this statute so as to preclude the right of nonbinary candidates to run for committee member office, and so as to preclude the rights of candidates to run for office independent of sex or gender, and so as to preclude the rights of candidates to be elected for office independent of sex or gender, imposes severe burdens on the fundamental right to vote for a candidate for elective office of one's choosing as guaranteed by the New Jersey Constitution art. 2, § 1, ¶ 3 and the Fourteenth Amendment, and as implemented by N.J.S.A.10:6-2(c) of the New Jersey Civil Rights Act and the New Jersey Law Against Discrimination (NJLAD), N.J.S.A. 10:5-1 et seq.

67. Specifically, the binary gender quota assigns unequal treatment to votes by ranking votes on the basis of sex, therefore abridging the fundamental right to vote secured by the state and federal constitutions.

68. By way of illustration, where the top two vote-getters in a district are of the same sex, the votes of the lesser-ranked opposite-sex candidate are prioritized over the votes of the

second-ranked candidate, on the basis of sex and gender. (See **Exhibit C**, March 29, 2019 Letter to Central Jersey County Clerks, containing therein as Exhibit 1, 2018 Mercer County Democratic Party Ballot with Description.) This is a clear violation of N.J.S.A. 19:3-4, which states in relevant part, that qualified office-seekers “for whom the greatest number of votes shall be given . . . shall be deemed and taken to be elected for such office.”

69. Moreover, the gender quota pits candidates to compete for office on the basis of sex alone, and is an outright exclusion on the right of nonbinary candidates to run for and obtain office.

70. In addition to treating ballots unequally within the same county, the current electoral scheme treats ballots unequally intrastate by allowing voters in some counties such as Mercer County to vote for candidates of their choosing independent of sex or gender, and by disallowing voters in Middlesex County from doing so.

71. The constitutional and statutory provisions set forth above are intended to protect the fundamental right to vote and place clear obligations on the part of Defendants with respect to the design of the ballot and the ability to bracket with other candidates as prescribed by N.J.S.A. 19:49-2, so as to avoid the likelihood of voter confusion.

72. The State does not prescribe this type of gender quota in any other portion of the election code.

73. The State has no legitimate interest in maintaining a binary gender quota. What was once progressive in the 1950s and the 1960s is regressive today. The quota is no longer a cap, but a ceiling to representation and an outright bar to the right of nonbinary candidates to run.

74. For the foregoing reasons, Defendants cannot show any legitimate state interest in continuing to implement the binary gender quota that unduly burdens the right to vote for an elector of one’s choosing, independent of sex or gender.

75. Plaintiffs are 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 judgment as follows:

A. On a temporary, preliminary, and permanent basis, compelling the County Clerk of Middlesex to prepare ballots with respect to the June 4, 2019 Primary Election that permits bracketing and otherwise complies with the fundamental right to vote under the Federal and State Constitutions, the NJ Law Against Discrimination and the NJ Civil Rights Act, and with Title 19's mandates for ballot design and bracketing, such that all candidates who properly requested and received permission to use the same slogan and to be featured on the same line (column or row) shall be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

B. Compelling the County Clerk to prepare ballots with respect to all primary elections in Middlesex moving forward that feature on the same line (column or row) of the ballot all such candidates who properly requested and received permission to use the same slogan and to be featured on the same line of the ballot, to be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

C. On a temporary, preliminary, and permanent basis, compelling the Board of Elections for Middlesex County to assign equal weight to the votes for committee members independent of sex and gender with respect to the June 4, 2019 Primary Election, in keeping with the fundamental right to vote under the Federal and State Constitutions and applicable laws.

D. Compelling the Board of Elections for Middlesex to assign equal weight to the votes for committee members independent of sex and gender moving forward, in keeping with the fundamental right to vote under the Federal and State Constitutions and applicable laws.

E. Awarding Plaintiffs damages and all reasonable attorney's fees and costs in connection with this matter, pursuant to N.J.S.A. 10:6-2(f) and N.J.S.A. 10:5-27.1.

F. Granting such other relief as it may deem right and just upon the determination of this matter.

THIRD COUNT

(Violation of the Right of Association)

76. Plaintiffs repeat and reassert all of the allegations set forth in the foregoing paragraphs as if set forth herein at length.

77. Article I, Section 6 of the New Jersey Constitution and the First Amendment to the United States Constitution protect the right of free speech and association, and the state constitutional right has been found to be even more broad in its protections.

78. Courts, at both the federal and state level, have recognized the right to "bracket," or run as a "slate," under both freedom of speech and freedom of expression frameworks.

79. Courts, at both the federal and state level, have recognized that the state should not be dictating the composition of the membership of the parties.

80. This constitutional right encompasses both the right to associate, and the right not to associate with other candidates.

81. The constitutional rights of free speech and association are afforded particular importance in the context of political speech and association.

82. Each of the Plaintiffs invoked their constitutional rights through requesting not only that they be featured under the same Slogan, but also that they be drawn as a unit and appear on the same line of the ballot as one another.

83. The CJPDP invoked its constitutional rights through first nominating each of the candidates, and then granting permission to each such candidate to be featured under its Slogan, and be drawn as a unit and appear on the same line of the ballot as one another.

84. Based on information and belief, the County Clerks' ballot arrangement will not honor these associational rights as it will fail to feature all of the candidates on the CJPDP Line in the same column or row of the ballot.

85. Plaintiffs are 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 judgment as follows:

A. On a temporary, preliminary, and permanent basis, compelling the County Clerk to prepare ballots with respect to the June 4, 2019 Primary Election that permits bracketing and otherwise complies with the right of association under the federal and state constitutions and with Title 19's mandates for ballot design and bracketing, such that all candidates who properly requested and received permission to use the same slogan and to be featured on the same line (column or row) shall be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

B. Compelling the County Clerk to prepare ballots with respect to all primary elections in Middlesex County moving forward that feature on the same line (column or row) of the ballot all such candidates who properly requested and received permission to use the same slogan and to be featured on the same line of the ballot, to be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

C. Awarding Plaintiffs damages and all reasonable attorney's fees and costs in connection with this matter, pursuant to N.J.S.A. 10:6-2(f) and N.J.S.A. 10:5-27.1.

D. Granting such other relief as it may deem right and just upon the determination of this matter.

FOURTH COUNT

(Violation of N.J.S.A. 19:49-2, Position of Candidates' Names on Ballot)

86. Plaintiffs repeat and reassert all of the allegations set forth in the foregoing paragraphs as if set forth herein at length.

87. N.J.S.A. 19:49-2 requires that candidates choosing the same slogan and properly requesting and receiving permission to bracket with a county slate of candidates "shall be placed on the same line of the voting machine with the candidates who have filed a joint petition"

88. The above language of the statute is clear and unambiguous, and speaks in the imperative as to the obligations of the County Clerk.

89. The Plaintiff candidates did appropriately request and receive from the CJPD, permission to use the Slogan and to be featured on the same line of the ballot.

90. The County Clerk therefore does not have discretion to feature such candidates on separate lines of the ballot.

91. Based on information and belief, the County Clerk's ballot arrangement will not feature all of the CJPD candidates in the same column or row of the ballot, in violation of the statute.

WHEREFORE, Plaintiffs demand judgment as follows:

A. On a temporary, preliminary, and permanent basis, compelling the County Clerk to prepare ballots with respect to the June 4, 2019 Primary Election in Middlesex County that permits bracketing and otherwise complies with the right of association, the right of equal protection of the laws, and the fundamental right to vote under the Federal and State Constitutions, the NJ Civil

Rights Act and the NJ Law Against Discrimination, and Title 19's mandates for ballot design and bracketing, such that all candidates who properly requested and received permission to use the same slogan and to be featured on the same line (column or row) shall be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

B. Compelling the County Clerk to prepare ballots with respect to all primary elections in Middlesex County moving forward that feature on the same line (column or row) of the ballot all such candidates who properly requested and received permission to use the same slogan and to be featured on the same line of the ballot, to be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender.

C. Awarding Plaintiffs damages and all reasonable attorney's fees and costs in connection with this matter, pursuant to N.J.S.A. 10:6-2(f) and N.J.S.A. 10:5-27.1.

D. Granting such other relief as it may deem right and just upon the determination of this matter.

FIFTH COUNT
(Violation of the New Jersey Law Against Discrimination)

92. Plaintiffs repeat and reassert all of the allegations set forth in the foregoing paragraphs as if set forth herein at length.

93. The New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 to -42 prohibits discrimination on account of sex, and discrimination on account of gender identity or expression.

94. Plaintiffs seek unfettered access to the ballot, to run and support candidates for office, independent of sex or gender.

95. However, Plaintiffs are directly impacted by the Defendants' application one-woman-and-one-man rule which limits access to the ballot on account of sex and gender identity.

96. Specifically, Plaintiff Emm Phipps is barred from running for this office altogether based on their nonbinary gender identity.

97. Specifically, Plaintiffs Doreen Bailey, Maggie Doyle Ball, Staci Berger, Quiyana Butler, Remi Christofferson, Laura Jill Leibowitz, Roshanna Malone, and Kamuela N. Tillman are being barred from running on the same slogan and line on the basis of their sex.

98. Defendant County Clerk deprived or interfered with Plaintiffs' right not to be discriminated against on account of sex or gender, as protected by the state and federal constitution, and the laws of New Jersey as herebefore defined, in refusing Plaintiffs' ability to run for and obtain office, and to be bracketed together in such a manner that permits a fair ballot draw and design.

99. Defendant Board of Elections deprived or interfered with Plaintiffs' right not to be discriminated against on account of sex or gender, as protected by the state and federal constitution, and the laws of New Jersey as herebefore defined, in refusing to assign equal weight to the votes as they are casted.

WHEREFORE, Plaintiffs demand judgment as follows:

A. On a temporary, preliminary, and permanent basis, compelling the County Clerk to prepare ballots with respect to the June 4, 2019 Primary Election in Middlesex County that permits bracketing and otherwise complies with the right of association, the right of equal protection of the laws, and the fundamental right to vote under the Federal and State Constitutions, the NJ Civil Rights Act and the NJ Law Against Discrimination, and Title 19's mandates for ballot design and bracketing, such that all candidates who properly requested and received permission to use the same slogan and to be featured on the same line (column or row) shall be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election

for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

B. Compelling the County Clerk to prepare ballots with respect to all primary elections in Middlesex County moving forward that feature on the same line (column or row) of the ballot all such candidates who properly requested and received permission to use the same slogan and to be featured on the same line of the ballot, to be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

C. On a temporary, preliminary, and permanent basis, compelling the Board of Elections for Middlesex County to assign equal weight to the votes for committee members independent of sex and gender with respect to the June 4, 2019 Primary Election, in keeping with the right of equal protection under the Federal and State Constitutions and applicable laws.

D. Compelling the Board of Elections for Middlesex County to assign equal weight to the votes for committee members independent of sex and gender moving forward, in keeping with the right of equal protection under the Federal and State Constitutions and applicable laws.

E. Awarding Plaintiffs damages and all reasonable attorney's fees and costs in connection with this matter, pursuant to N.J.S.A. 10:6-2(f) and N.J.S.A. 10:5-27.1.

F. Granting such other relief as it may deem right and just upon the determination of this matter.

SIXTH COUNT
(Violation of the New Jersey Civil Rights Act)

100. Plaintiffs repeat and reassert all of the allegations set forth in the foregoing paragraphs as if set forth herein at length.

101. The New Jersey Civil Rights Act provides relief to any person who has been deprived or interfered with the enjoyment of any substantive due process or equal protection rights, privileges or immunities secured by the federal and state constitutions or implementing laws.

102. Defendants deprived or interfered Plaintiffs with the exercise of a substantive right as protected by the state and federal constitution, and the laws of New Jersey as herebefore defined.

103. Defendant County Clerk acted under the color of state law when she denied Plaintiffs access to the ballot on account of their sex and gender.

104. Defendant County Board of Elections will act under the color of state law in counting said ballots in a manner that assigns unequal weight to the votes on account of sex and gender.

WHEREFORE, Plaintiffs demand judgment as follows:

A. On a temporary, preliminary, and permanent basis, compelling the County Clerk to prepare ballots with respect to the June 4, 2019 Primary Election in Middlesex County that permits bracketing and otherwise complies with the right of association, the right of equal protection of the laws, and the fundamental right to vote under the Federal and State Constitutions, the NJ Civil Rights Act and the NJ Law Against Discrimination, and Title 19's mandates for ballot design and bracketing, such that all candidates who properly requested and received permission to use the same slogan and to be featured on the same line (column or row) shall be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

B. Compelling the County Clerk to prepare ballots with respect to all primary elections in Middlesex County moving forward that feature on the same line (column or row) of the ballot

all such candidates who properly requested and received permission to use the same slogan and to be featured on the same line of the ballot, to be listed irrespective of sex or gender, and such that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

C. On a temporary, preliminary, and permanent basis, compelling the Board of Elections for Middlesex County to assign equal weight to the votes for committee members independent of sex and gender with respect to the June 4, 2019 Primary Election, in keeping with the right of equal protection under the Federal and State Constitutions and applicable laws.

D. Compelling the Board of Elections for Middlesex County to assign equal weight to the votes for committee members independent of sex and gender moving forward, in keeping with the right of equal protection under the Federal and State Constitutions and applicable laws.

C. Awarding Plaintiffs damages and all reasonable attorney's fees and costs in connection with this matter, pursuant to N.J.S.A. 10:6-2(f) and N.J.S.A. 10:5-27.1.

D. Granting such other relief as it may deem right and just upon the determination of this matter.

Respectfully submitted,

BROMBERG LAW LLC
Attorney for Plaintiffs

By: /s/ Yael Bromberg
Yael Bromberg, Esq.

Date: April 11, 2019

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of R. 4:25-4 and R. 4:4-1(c), Yael Bromberg, Esq. is hereby designated as trial counsel on behalf of Plaintiffs in the within matter.

BROMBERG LAW LLC
Attorney for Plaintiffs

By: /s/ Yael Bromberg
Yael Bromberg, Esq.

Date: April 11, 2019

RULE 4:5-1 CERTIFICATION

Pursuant to Rule 4:5-1, I certify that the within matter in controversy is subject to no other action pending in any Court or arbitration proceeding and that the names of all parties who should be joined in this action are set forth in the Complaint and joined in the action. I am aware that if any of the foregoing statements are willfully false, I may be subject to punishment.

BROMBERG LAW LLC
Attorney for Plaintiffs

By: /s/ Yael Bromberg
Yael Bromberg, Esq.

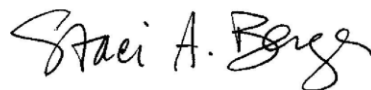
Date: April 11, 2019

VERIFICATION

I, Staci Berger, hereby certify as follows:

1. I am the Chair of the Central Jersey Progressive Democrats, an entity plaintiff in the foregoing Verified Complaint accompanying an Order to Show Cause for Temporary Restraints.
2. I am additionally an individually listed plaintiff herein.
3. I have read the foregoing Verified Complaint and state the facts contained therein are true to my own knowledge, and the allegations set forth on information and believe, I believe to be true.

I am aware that should any of the foregoing be willfully false, I am subject to punishment



Staci Berger

Dated: April 10, 2019

CERTIFICATION OF FACSIMILE SIGNATURE
PURSUANT TO RULE 1:4-4(c)

I hereby certify that the electronic scan/facsimile signature of Staci Berger contained within this Verified Complaint is a genuine signature, that the affiant acknowledged the genuineness of the signature, and that the document or a copy thereof, with the original signature affixed, will be filed with the Court if requested by the Court or a party.

BROMBERG LAW LLC
Attorney for Plaintiffs

By: /s/ Yael Bromberg
Yael Bromberg, Esq.

Date: April 10, 2019

OTSC AS ORIGINAL PROCESS -
SUBMITTED WITH NEW
COMPLAINT PRELIMINARY
INJUNCTIVE RELIEF PURSUANT
TO RULE 4:52-1

CENTRAL JERSEY PROGRESSIVE
DEMOCRATS, EM PHIPPS, DOREEN
BAILEY, MARGARET D. BALL, STACI
BERGER, QUIYANA BUTLER, REMI
CHRISTOFFERSON, LAURA JILL
LEIBOWITZ, ROSHANNA MALONE,
KAMUELA N. TILLMAN

Plaintiffs,

v.

ELAINE M. FLYNN, in her capacity as Clerk of
the County of Middlesex, MIDDLESEX
COUNTY BOARD OF ELECTIONS, and
TAHESHA WAY as an interested party in her
capacity as Secretary of State.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:
MERCER COUNTY

Docket No.:

**ORDER TO SHOW CAUSE WITH
TEMPORARY RESTRAINTS
PURSUANT TO RULE 4:52**

THIS MATTER being brought before the Court seeking relief by way of Order to Show Cause, based upon the facts set forth in the Verified Complaint filed herewith; and notice of this application having been provided to defendant Elaine M. Flynn, in her capacity as Clerk of the County of Middlesex County, the Middlesex Board of Elections, and Tahesha Way as an interested party in her capacity as Secretary of State by electronic mail to Senior Deputy Attorney General George N. Cohen, of the Community Affairs, State and Elections Section (George.Cohen@law.njoag.gov) and Robert Giles, Director of the New Jersey Division of Elections (Robert.Giles@sos.nj.gov). Formal paper service is forthcoming to the Office of the

Attorney General. The First Deputy Middlesex County Counsel Niki Athanasopoulos, Esq. provided consent to serve electronically in lieu of paper service due to the expedited nature of this matter.

IT IS on this _____ day of _____ 2019,

ORDERED THAT Defendants appear and show cause before the undersigned Judge of Superior Court of New Jersey, Law Division, in Trenton, New Jersey, at _____ am/pm or soon thereafter as counsel can be heard, on the _____ day of April 2019, why an Order should not be issued temporarily and preliminarily enjoining and restraining Defendants from:

A. Drawing, preparing, printing, or disseminating any provisional, emergency, sample, vote-by-mail, overseas, military, machine, paper, electronic, and/or any other form of ballot in connection with the June 4, 2019 Primary Elections in Middlesex County until the issues raised in the Verified Complaint in this matter are fully adjudicated;

B. Enjoining Defendants from counting the ballots and returning the election results in such a manner as described in the Verified Complaint, or similar to the same;

Plaintiffs further seek an order:

A. For an expedited briefing schedule to ensure that the issues raised in the Verified Complaint in this matter are resolved prior to important election deadlines set forth in Title 19;

B. Compelling the County Clerk to prepare ballots with respect to the June 4, 2019 Primary Elections in Middlesex County that feature on the same line (column or row) of the ballot all such candidates who properly requested and received permission to use the same slogan and to be featured on the same line of the ballot, independent of sex or

gender, and that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

C. Compelling the County Clerk to prepare ballots with respect to all primary elections in Middlesex County moving forward that feature on the same line (column or two) of the ballot all such candidates who properly requested and received permission to use the same slogan and to be featured on the same line or the ballot, independent of sex or gender, and that the ballot draw be conducted so as not to distinguish between the election for one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

D. Compelling the Board of Elections for Middlesex County to assign equal weight to the votes for committee members independent of sex and gender with respect to the June 4, 2019 Primary Election, in keeping with the right of equal protection under the Federal and State Constitutions and applicable laws.

E. Compelling the Board of Elections for Middlesex County to assign equal weight to the votes for committee members independent of sex and gender moving forward, in keeping with the right of equal protection under the Federal and State Constitutions and applicable laws.

F. Granting such other relief as the court deems equitable and just.

IT IS FURTHER ORDERED THAT:

1. The Defendant may move to dissolve or modify the temporary restraints herein contained on two (2) days-notice to Plaintiff's counsel.

2. A copy of this Order to Show Cause, Verified Complaint, Brief in Support of Order to Show Cause, and any supporting affidavits or certifications submitted in support of this application be served upon Defendants via electronic mail and UPS Overnight, within ___ days of the date hereof, in accordance with R. 4:4-3 and R. 4:404, this being original process.
3. Plaintiffs must file with the Court this proof of service of the pleadings referenced in paragraph 2 above on Defendant no later than one (1) day before the return date.
4. Defendants shall file and serve a written response to this order to show cause and request for entry of injunctive relief and proof of service by ___ am/pm on April ___, 2019. The original documents must be filed with the Clerk of the Superior Court in Mercer County. You must send a copy of your opposition papers directly to Judge _____, whose address is _____, New Jersey. You must also send a copy of your opposition papers to the plaintiff's attorney whose name and address appears above, and to plaintiff's attorney electronically via yaelbromberglaw@gmail.com. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$ _____ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.
5. Plaintiffs must file and serve any written reply to the defendant's order to show cause opposition by _____, 2019. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____.

6. If the defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least one (1) day prior to the return date.
7. If Plaintiff has not already done so, a proposed form of Order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court on the return date.
8. Defendant take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The Verified Complaint attached to this Order to Show Cause states the basis of the lawsuit. If you dispute this Verified Complaint, you, or your attorney, must file a written answer to the Verified Complaint and proof of service within 35 days from the date of service of this Order to Show Cause; not counting the day you received it. These documents must be filed with the Clerk of the Superior Court in the county listed above. A directory of these offices is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf. Include a \$_____ filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer to the Plaintiff's attorney whose name and address appear above, or electronically via yaelbromberglaw@gmail.com. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an

Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJLAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.
10. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than ___ days before the return date.

HON.

CENTRAL JERSEY PROGRESSIVE
DEMOCRATS, EM PHIPPS, DOREEN
BAILEY, MARGARET D. BALL, STACI
BERGER, QUIYANA BUTLER, REMI
CHRISTOFFERSON, LAURA JILL
LEIBOWITZ, ROSHANNA MALONE,
KAMUELA N. TILLMAN

Plaintiffs,

v.

ELAINE M. FLYNN, in her capacity as Clerk of
the County of Middlesex, MIDDLESEX
COUNTY BOARD OF ELECTIONS, and
TAHESHA WAY as an interested party in her
capacity as Secretary of State.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:
MERCER COUNTY

Docket No.:

**PROPOSED ORDER ISSUING
TEMPORARY RESTRAINTS**

THIS MATTER being brought before the Court seeking relief by Order to Show Cause based upon the facts set forth in the Verified Complaint filed herewith, and this matter being considered upon expedited review in light of the deadlines set forth in Title 19;

IT IS on this _____ day of _____ 2019,

ORDERED THAT Defendants are compelled to prepare ballots with respect to the June 4, 2019 Primary Elections in Middlesex County that feature on the same line (column or row) of the ballot all such candidates who properly requested and received permission to use the same slogan and to be featured on the same line of the ballot, independent of sex or gender, and that the ballot draw be conducted so as not to distinguish between the election of one committeeman and one committeewoman, but rather for the election of two committeepersons, independent of sex or gender;

FURTHER ORDERED THAT Defendants are compelled to assign equal weight to the votes for committee-members, independent of sex and gender with respect to the June 4, 2019 Primary Election, in keeping with the right of equal protection under the Federal and State Constitutions and applicable laws.

HON.

Dates: April ___, 2019

CENTRAL JERSEY PROGRESSIVE
DEMOCRATS, EM PHIPPS, DOREEN
BAILEY, MARGARET D. BALL, STACI
BERGER, QUIYANA BUTLER, REMI
CHRISTOFFERSON, LAURA JILL
LEIBOWITZ, ROSHANNA MALONE,
KAMUELA N. TILLMAN

Plaintiffs,

v.

ELAINE M. FLYNN, in her capacity as Clerk of
the County of Middlesex, MIDDLESEX
COUNTY BOARD OF ELECTIONS, and
TAHESHA WAY as an interested party in her
capacity as Secretary of State.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:
MERCER COUNTY

Docket No.:

**PLAINTIFFS' BRIEF IN SUPPORT OF ORDER TO SHOW CAUSE
WITH TEMPORARY RESTRAINTS**

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Jill Leibowitz, Roshanna Malone, Kamuela
N. Tillman*

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Other

Colleen O’Dea, Middlesex County Democrats Try to Overturn ‘Outdated’ Gender Rule, NJ SPOTLIGHT (Apr. 8, 2019), *available at*:
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PRELIMINARY STATEMENT

Plaintiff Central Jersey Progressive Democrats (“CJPD”) and nine directly impacted individual CJPD candidates for Middlesex County Democratic Committee – Em Phipps, Doreen Bailey, Margaret D. Ball, Staci Berger, Quiyana Butler, Remi Christofferson, Laura Jill Leibowitz, Roshanna Malone, and Kamuela N. Tillman (collectively “Plaintiffs”) – bring this action seeking to temporarily restrain and permanently enjoin Defendant Elaine M. Flynn, the Clerk of the County of Middlesex (the “County Clerk”), from drawing, designing, printing and mailing ballots for the June 4, 2019 Democratic Primary Election (the “Primary Election”) that violate not only various express statutory provisions regarding candidate placement and the equal protection of the laws free of discrimination, but also, Plaintiffs’ constitutional rights to equal protection of the laws as enshrined in the New Jersey Constitution art. I, ¶ 1 and the Fourteenth Amendment, Plaintiffs’ fundamental right to vote as enshrined in the New Jersey Constitution art. 2, § 1, ¶ 3 and the Fourteenth Amendment, and Plaintiffs’ First Amendment rights of association and speech, as clearly identified under both United States Supreme Court and New Jersey State Court jurisprudence.

At issue is an outdated statute that extends to the middle of the last Century, which sets forth that committee-members for each district must be comprised of one man and one woman. This is classic sex and gender discrimination. As a result of the County Clerk’s failure to uphold basic constitutional protections, Plaintiff Em Phipps is outright barred from running for or obtaining office based on their nonbinary status. Moreover, the eight other individual Plaintiffs listed wish to run for office on a slate with another woman within the shared election district, but are barred from doing so.

In addition to seeking injunctive relief as to the County Clerk, Plaintiffs seek to temporarily restrain and permanently enjoin Defendant Middlesex County Board of Elections (“Board of Elections”) from counting committee-member ballots in such a manner that assigns unequal weight to the votes on the basis of sex and gender, in keeping with the fundamental right to vote under the federal and state constitutions and applicable law.

The County Clerk is scheduled to draw the ballots on April 12, 2019 so as to meet her statutorily mandated April 20, 2017 deadline for the mailing of mail-in ballots, in preparation of the June 4, 2019 Primary Election.

Absent the relief requested, the ballots that will be drawn by the County Clerk on April 12, 2019 in a discriminatory manner, will fail to provide candidates endorsed by the CJPD their right to be bracketed on a singular line, will foster voter confusion, and will ultimately cause votes in the Primary Election to be assigned unequal weight.

Absent the temporary and preliminary restraints outlined herein, as well as expedited summary proceedings on the final relief requested by Plaintiffs in the Verified Complaint, the public will be forced to bear the potential expense of a duplicate printing and mailing. Plaintiffs will be forced to bear a violation of their constitutional right in such a manner that threatens election integrity, thereby affecting Middlesex County voters at-large. The County Clerk will be permitted to violate the boundaries of her statutorily prescribed duties, and the voting public will be deprived of a ballot that clearly identifies and sets forth candidates in a manner mandated by statute and required under constitutional law – i.e., in a manner that does not discriminate on the basis of sex or gender, and that does not foster voter confusion.

STATEMENT OF FACTS

As and for their Statement of Facts, Plaintiffs rely on the contents of the Verified Complaint.

LEGAL ARGUMENT

POINT 1

PLAINTIFFS ARE ENTITLED TO IMMEDIATE AFFIRMATIVE INJUNCTIVE RELIEF AS SET FORTH IN THE ORDER TO SHOW CAUSE

Plaintiffs are entitled to immediate temporary, preliminary, and permanent injunctive relief enjoining the County Clerk from drawing the ballot in a manner inconsistent with constitutional and statutory precepts; transmitting, printing, and/or mailing the vote by mail ballots for the Primary Election; or in any way taking any additional affirmative steps towards providing any public ballot information as to the machine, provisional, vote-by mail, and any other ballot to be issued by the County Clerk for the Primary Election. Plaintiffs are further entitled to immediate temporary, preliminary, and permanent injunctive relief enjoining the Board of Elections from counting the ballots in a manner inconsistent with constitutional and statutory precepts.

Expedited review of this matter is necessary given the deadlines imposed under Title 19 for the preparation of ballots in election, including, as most relevant herein, the April 12, 2019 ballot lay deadline, the April 20, 2019 deadline for the County Clerk to mail the mail-in ballots for the Primary Election, and the June 4, 2019 date of the Primary Election itself. As this Court is well-aware, election disputes such as this are customarily handled as an expedited summary proceeding. See R. 4:67; Murray v. Murray, 7 N.J. Super, 549 (Law Div. 1950); McCann v. Clerk of City of Jersey City, 167 N.J. 311, 318-19 (2001); R. 4:52-1(a) (requirements for applications for immediate injunctive relief).

As demonstrated below, Plaintiffs meet the standards for temporary restraints in order to enjoin the County Clerk and the Board of Elections from acting in a manner that is discriminatory on the basis of sex and gender in connection with the approaching June 4, 2019 election.

The legal standard for the issuance of interim relief is well-settled. To obtain interim relief, the moving party must demonstrate that it has a substantial likelihood of prevailing on the merits; that irreparable harm will occur if the requested interim relief is not granted; that the public interest will not be injured by an interim relief order; and the relative hardship to the parties favors the grant of relief. Crowe v. De Gioia, 90 N.J. 126, 132-134 (1983).

A. The Court Should Grant the Temporary Restraining Order

Plaintiffs will suffer immediate and irreparable harm if the temporary restraints they seek are denied. Harm is generally considered irreparable “[i]f it cannot be redressed adequately by monetary damages.” Crowe, 90 N.J. at 133; see also Subcarrier Communications Inc. v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997). In such a case, “[p]ecuniary damages may be inadequate because of the nature of the injury, or the right affected.” Id. at 133. In addition, violations of constitutional rights are presumptively irreparable. See Forum for Academic & Inst. Rights v. Rumsfeld, 390 F.3d 219, 246 (3d Cir. 2004). No monetary award can adequately redress Plaintiffs’ rights in this matter or protect the public’s interest in election nintegrity, and as such temporary restraints should issue.

Here, the challenge to N.J.S.A. 19:5-3 is based on its deprivation of substantive constitutional rights to equal protection, the right to vote, and freedom of association, and the implementation of these protections via substantive statutory rights through the NJ Civil Rights Act, N.J.S.A. 19:6-2(c), the NJ Law Against Discrimination, N.J.S.A.10:5-1 et seq., and the NJ

law governing the position of candidates' names on the ballot, N.J.S.A.19:49-2, and N.J.S.A.19:3-4, governing that the highest vote-getter "shall be deemed and taken to be elected to such office or offices."

N.J.S.A. 19:5-3 establishes the election of county committee officers on the basis of sex, providing in pertinent party:

The county committee shall consist of one male and one female member from each unit of representation in the county. The male receiving the highest number of votes among the male candidates and the female receiving the highest number of votes among the female candidates shall be declared elected.

(N.J.S.A. 19:5-3, emphasis added.)

As a result, candidates of the same sex – be it male/male or female/female – cannot run on the same slate and/or obtain office within the same election district, and non-binary candidates such as Plaintiff Emm Phipps are outright barred from seeking office. The statute is impermissible *prima facie* discrimination.

The United States Supreme Court struck as constitutionally impermissible a state's attempt to place certain restrictions on the composition of individuals representing the party. Eu v. San Francisco County Democratic Cent. Comm., 489 U.S. 214 (1989), In light of the Eu decision and the subsequent pronouncements of both federal and state law striking down gender-based discrimination, New Jersey courts have ruled unconstitutional the gender requirements of N.J.S.A. 19:5-3 insofar as it applies to county committee chair and vice-chair positions. See Hartman v. Covert, 303 N.J. Super. 326, 334-35 (Law Div. 1997) (citing Frank v. Ivy Club, et als., 120 N.J. 73, 110 (1990) ("The eradication of 'the cancer of discrimination' has long been one of our State's

highest priorities”); Fuchilla v. Layman, 109 N.J. 319, 334 (1988); Roberts v. U.S. Jaycees, 468 U.S. 609 (1984); New Jersey Law Against Discrimination (LAD), N.J.S.A. §§ 10:5-1 to -42).¹

Specifically, the Honorable Harold Wells III, A.J.S.C. (Burlington County), held in Hartman that N.J.S.A. §19:5-3 is “unconstitutional insofar as it mandates the election of officers of a county committee based on gender.” 303 N.J. Super. at 330. In doing so, Hartman rejected arguments claiming a compelling state interest in “assuring equal representation.” Id. at 334. The court acknowledged that while the 1955 and 1964 amendments to N.J.S.A. 19:5-3 may have originally been intended to benefit women, by 1997 the quota served to limit women’s access:

In fact, while N.J.S.A. 19:5-3 was once enacted to protect women, it can now be argued that it serves to bar them from at least 50 percent of the seats available for top leadership. So while at one time the law may have been viewed as salutary to equalize opportunity between the genders in the political forum and to encourage women’s involvement in politics, such a law now has an effect opposite to its original design.

Id. at 334 - 35.

Hartman thus held that (1) the state statute, N.J.S.A. 19:5-3, restricting positions of political party committee chair and vice-chair to persons of opposite genders burdens association rights of parties and their members, and (2) the state interest in assuring equal protection of two genders in political party leadership was not a compelling interest sufficient to sustain constitutional burdens. Id.

This is all the more true today, twenty years after Hartman, with the sweep of women running for and being elected to office across the country and the state, and the public’s growing

¹ Pursuant to N.J. R. 1:36-3, a copy of the unpublished Hartman opinion is attached as **Exhibit E**. (Cert. of Yael Bromberg, Esq., Ex. E.) No contrary unpublished opinions are known to counsel.

acceptance of gender fluidity. Indeed, the New Jersey Law Against Discrimination (LAD) has since been expanded to prohibit, in addition to sex-based discrimination, discrimination based on gender identity or expression. See N.J.S.A. 10:5-12, L. 2006, c. 100 § 9, eff. June 17, 2007. Just last month, on February 1, 2019, a new state law went into effect which allows transgender persons to amend their birth certificate with a corrected name and sex without undergoing surgery or any medical procedures.

What is good for Hartman's goose – the chair and vice-chair positions pursuant to N.J.S.A. 19:5-3 – is good for the gander – committee membership positions under the same statute. Several counties in New Jersey recognize the flagrant unconstitutionality of N.J.S.A. 19:5-3 and have already removed the sex-based requirements for county committee-member elections, including neighboring Mercer County, as well as at least Passaic, Essex, Cumberland, and Hunterdon Counties. (See Verified Compl., Paras 45-48 and accompanying exhibits.) In these counties, the ballot is simply drawn in a common-sense, clear manner that directs voters to choose two “Members for County Committee” rather than “Member for County Committeeman” or “Member for County Committeewoman.” (See Verified Compl., Paras 31, 27.) As a result, several of those districts are already represented by county committee members of the same gender, be it female/female or male/male, no outright bar applies to non-binary candidates within these districts, and ballots are assigned an equal weight in keeping with the principle of “One Person, One Vote,” and N.J.S.A. 19:3-4 governing the election of the highest vote-getter. Moreover, no litigation or disruption has been raised in those counties with regard to their conduct of elections.

These counties demonstrate the availability of a common-sense solution to the ballot draw and the election contest – simply halt the statute's reach in so far as it *prima facie* discriminates on the basis of sex and gender. Specifically, the ballot may alternately be drawn so as not to direct

the voter to elect one committeeman and one committeewoman, but rather for the selection of two candidates for committeepersons, regardless of sex or gender.

The Mercer County Clerk recently explained her reasoning for no longer following N.J.S.A. 19:5-3, on the premise that “it is unconstitutional to require the seats to be filled by gender. There is still a statute that says it should be one male and one female. But there is case law . . . Most of us [clerks] are relying on that. But all counties are not the same. Some do still use the statute ” Colleen O’Dea, Middlesex County Democrats Try to Overturn ‘Outdated’ Gender Rule, NJ SPOTLIGHT (Apr. 8, 2019), *available at*: <https://www.njspotlight.com/stories/19/04/07/middlesex-county-democrats-try-to-overturn-outdated-gender-rule/> (last accessed Apr. 4, 2019).

The relative hardship to the parties favors relief where there is no administrative burden in implementing a policy that is already in effect in counties across the state, and where the ballot has yet to be drawn, printed, mailed, or voted upon. A balancing of the equities and the relative hardships here militate in favor of interim relief. In general, “the public interest clearly favors the protection of constitutional rights.” Tenafly Eruv Ass’n, Inc. v. Borough of Tenafly, 309 F.3d 144, 178 (3d Cir. 2002) (citing Council of Alternative Political Parties v. Hooks, 121 F.3d 876, 884 (3d Cir. 1997)). In the absence of an injunction, Plaintiffs’ constitutional rights will continue to suffer – nonbinary candidates such as Plaintiff Em Phillips are outright barred from seeking and obtaining office; same-sex candidates running on the same slate in the same election district will not be bracketed together on the ballot; same sex candidates running in the same election district but across party designations – will be pitted against each other on the basis of sex and disallowed to be elected to the two open seats; and the votes cast will similarly be subject to unequal weight on the basis of sex. The Defendants, in contrast, who have at their command adequate means to solve

this unconstitutional impasse, would not be harmed if enjoined from drawing the ballot, printing the ballot, and counting the votes in a manner outside of guiding statutory and constitutional precepts. In addition, the public will not be harmed by the granting of interim relief. By granting the relief sought, the public will benefit from being protected from voting discrimination on the basis of sex, and will benefit from a resolution that ensures election administration that is more reasoned and sober than what will happen if Defendants' actions continue unabated.

Moreover, by refusing to treat candidates' access to the ballot equally and independent of sex, the County Clerk is violating the clear mandate of N.J.S.A. 19:49-2, regarding the position of candidates' names on the ballot. Candidates' right of association, and freedoms to profess that association through protected speech, has been clearly established under both federal and state precedent. While "courts normally defer to the expertise of the county clerks regarding ballot design . . . [t]his does not, however, preclude our intervention when county clerks fail to apply that expertise in a manner that accords with" prevailing law. Andrews v. Rajoppi, 2008 WL 18699869, *3 (App. Div. 2008) (rejecting several county clerks' listing of senate candidates in two columns, as opposed to one, in violation of N.J.S.A. 19:23-26.1). Courts have found that under N.J.S.A. 19:49-2 "[j]oint petitions with the same slogan" can request the same "'line' on the voting machine or ballot." Schundler v. Donovan, 377 N.J. Super. 339, 343 (App. Div. 2005). Such joint petitions, and the rights of candidates to request to be joined on the same "line" on a ballot, is referred to as "bracketing," and is recognized as a fundamental First Amendment right.

The United States Supreme Court has recognized that the right of a candidate, or of a party, to associate with other candidates, or parties, represents a protectable First Amendment right. See Eu, supra, 489 U.S. at 214. In Eu, the Supreme Court recognized that freedom of association guaranteed under the First Amendment "means not only that individual voter has the

right to associate with the political party of her choice, but also that a political party has a right to identify the people who constitute the association and to select a standard bearer who represents the party's ideologies and preferences.” Id. at 224. The Eu Court struck down a California statute that deprived a political party of the power to endorse candidates as unconstitutional, finding that the “endorsement ban prevented parties from promoting candidates at the crucial juncture at which the appeal to common principles may be translated into concerted action and hence to political power in community.” Id. at 225.

Our courts have followed the First Amendment principles identified in Eu, supra, finding that it is controlling in the context of election bracketing under Title 19. See Schundler v. Donovan, 377 N.J. Super. 339 (App. Div. 2005) (“The First Amendment protects the free speech and associational rights of every candidate in a primary election to declare a ballot affiliation with any other candidate or cause, or to designate his or her choice not to affiliate.”); see also Batko v. Sayreville Democratic Organization, 373 N.J. Super. 93 (App. Div. 2004) (holding that statute banning state county, or municipal committees of a political party from endorsing the candidacy of any candidate violated the First Amendment); Lautenberg v. Kelly, 280 N.J. Super. 76 (Law Div. 2005).

Moreover, Courts in this state have recognized the right to “bracket” with other candidates represents the “ultimate form of endorsement,” and as such, constitutes a protectable right of the candidates that may only be limited by a compelling public need. Lautenberg, supra, 280 N.J. Super. at 82. For instance, in Lautenberg, the court ruled that a statute prohibiting candidates for United States Senate or Governor from being grouped or bracketed with other candidates endorsed by a political party violated the free speech and association rights of both the candidates and the county political party committees. Id.

Where such fundamental First Amendment rights are at stake, any attempted government limitation on that right must stem from a county clerk's lawful exercise of discretion in protecting a compelling public interest, i.e., that the "regulation is necessary to the integrity of the election process." See Schundler, *supra*, 377 N.J. Super. at 339. Courts in this state have made clear that "[n]o express right should be subject to restriction on anything but a directly implicated, profoundly important public interest." *Id.* at 347. As a result, courts have struck down efforts by the state to suppress candidates' rights based upon purported justifications of "protect[ing] primary voters from confusion and undue influence," Eu, *supra*, 489 U.S. at 228, or for a greater "simplicity" in the voting process. See Lautenberg, *supra*, 280 N.J. Super. at 514. Moreover, courts have warned that a "State's claim that it is enhancing the ability of its citizenry to make wise decisions by restricting the flow of information to them must be viewed with some skepticism." Eu, *supra*, 489 U.S. at 228.

Courts have noted that any curtailment of First Amendment rights, in the context of the order of a ballot draw, are limited to "special situations," and thus, may only constitute exceptions justified by special circumstances, rather than a general rule employed by a county clerk. See Schundler, *supra*, 377 N.J. Super. at 348-349. However, even in Schundler, the Appellate Division was quick to note that "[i]n a more typical election, with a small number of candidates for the top position on the ballot, the idea of bracketing imposes no disadvantage on any except for the consequences of the 'luck of the draw.'" *Id.* at 349. Thus, any state action that otherwise limits a candidate's fundamental rights must be met with suspicion in all circumstances not otherwise demonstrating a compelling public interest.

Here, the Court is presented with "a more typical election," as well as a clearly controlling statutory provision mandating that all candidates who so petitioned must be bracketed

with the candidates of their choosing. In this instance, the County Clerk's authority is necessarily circumscribed by N.J.S.A. 19:49-2, which mandates as follows:

For the primary election for the general election in all counties where voting machines are or shall be used, all candidates who shall file a joint petition with the county clerk of their respective county and who shall choose the same designation or slogan shall be drawn for position on the ballot as a unit and **shall** have their names placed on the same line of the voting machine.

Here, where such joint petitions were filed by the candidates to be bracketed, not only must the County Clerk apply the "same designation or slogan," but the candidates must also be configured on the ballot "as a unit," and moreso, "on the same line."

What the statute implicitly recognizes, and what the case-law expressly recognizes, is not only that certain candidates be viewed as "democrats" or "progressives," but moreso, that certain candidates be viewed as standing with others. Our courts have long-recognized that "[g]roups of candidates having some party faction label or designation and desiring to have such fact brought to the attention of voters in primary election with additional effectiveness produced by alignment of their names on the machine ballot should have the right to do so." Harrison v. Jones, 44 N.J. Super, 456 (App.Div. 1957).

As the preceding makes clear, the effectiveness in bracketing and the ballot draw is not based solely upon the naming convention, but moreso, the visual alignment of the candidates in a row that captures the attention of the individual voter to clearly identify to them the association and/or similarities between the candidates. The bracketing and ballot draw contemplated by the Clerk – one which does not allow candidates to be bracketed together on the basis of sex or gender, and one which directs the voter to elect one committeeman and one committeewoman, rather than simply two committeepersons with no sex designation – causes the voter to do more

work, causes voter confusion, prevents candidates from running for and obtaining office on the basis of sex or gender, and causes the very confusion and derogation of rights that N.J.S.A. 19:49-2 was ready to remedy, and no “discretion” can be afforded to the County Clerk to remedy issues caused by her own underlying constitutional violations.

Here, Plaintiffs are likely to succeed on the merits of this matter. The New Jersey Civil Rights Act, N.J.S.A. 10:6-2 (“NJ CRA”), was modeled off of the Federal Civil Rights Act, 42 U.S.C. 1983 (“FCRA”), and was intended to provide a remedy for violation of substantive rights found in New Jersey’s State Constitution and laws. See Trumpson v. Farina, 218 N.J. 450, 474 (2014). Specifically, as related to this matter, the NJ CRA provides, in relevant part, as follows:

Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, or whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law, may bring a civil action for damages and for injunctive or other appropriate relief.

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

In order to establish a violation of this section of the New Jersey Civil Rights Act, a plaintiff must demonstrate that (1) the Constitution or state law conferred on them a substantive right; (2) the defendant deprived them of that right; and (3) the defendant was acting under color of law when he/she did so. See Trumpson, 218 N.J. at 473.

The Court in Trumpson set forth the various standards to be applied in a NJ CRA claim, and particularly involved the application of N.J.S.A. 10:6-2(c) to a deprivation of substantive rights that arose in the voting rights/election law context, finding that the plaintiffs successfully proved

such a claim. As such, it warrants extended discussion due to its similarities and bearing on this case.

In Trumpson, the plaintiffs wanted to challenge an ordinance in a referendum, which needed to be accomplished by filing a petition with the city clerk containing signatures of voters in the amount of at least 15% of the total votes cast in the last election for members of the General Assembly, pursuant to N.J.S.A. 40:69A-185 of the Faulkner Act. Id. at 458. When the plaintiffs called the Hudson County Clerk's Office to find out how many signatures were required, the County Clerk gave incorrect information, due to the fact that the City Clerk had provided conflicting information. Id. Plaintiffs and their Committee of Petitioners relied on this incorrect information, and thus submitted a petition that lacked the minimum number of signatures necessary, which the Clerk refused to file on that grounds. Id. A supplemental petition with the correct number of signatures was also rejected as out of time. Id. at 459. After filing an action in court, the referendum question was determined to be allowed to be submitted to the voters. Id. at 460.

There, the Court found that the applicable provisions of the Faulkner Act gave the power of referendum, and provided for a petition to be filed with the municipal clerk, without any right of the municipal clerk to refuse to accept the petition for filing. Id. at 468-69. It also provides a mechanism to file a supplemental petition in case the petition has a deficient number of signatures. See id. at 470. Thus, the Court found that the city clerk violated the Faulkner Act when it prevented filing of the petition. Id. at 472. Having found a violation, the Court had to determine whether such refusal to file or certify the referendum petition constituted a deprivation of a substantive right which would entitle plaintiffs to relief under N.J.S.A. 10:6-2(c). Id. at 472.

The standards applied by the Court in Trumpson led to a conclusion that the plaintiffs had satisfied each of the elements of a NJCRA claim. Here, as in Trumpson, the facts and evidence in the record demonstrate that each of these elements has been clearly established, and Plaintiffs are therefore likely to succeed on the merits. See Trumpson, 218 N.J. at 473. The constitutional guarantees of equal protection, the fundamental right to vote, and freedom of association, coupled with state laws implementing those constitutional rights – NJLAD, N.J.S.A. 19:49-2 governing the position of candidates' names on the ballot, and N.J.S.A. 19:3-4 governing the election of the highest vote-getter, conferred on Plaintiffs a substantive right pursuant to the NJCRA. Those rights are being deprived by the County Clerk and the Board Elections due to unequal treatment of the candidates running for and obtaining office on account of sex and gender, and by extension, the votes resulting from the specious ballots will be afforded unequal weight on account of sex and gender. Last, Defendants are acting under color of law when depriving Plaintiffs of their substantive rights.

Absent temporary restraints, the County Clerk will draw the ballots on April 12, 2019, and will have the improper mail-in ballots printed a few days prior to the April 20, 2019 deadline when the ballots must start to be issued to voters in advance of the June 4, 2019 election. If this occurs, nonbinary and woman candidates will be foreclosed from their right to run for and obtain office and their right to associate with other candidates and/or platforms endorsed by the CJP, and the CJP, the individual candidates and potential voters will be impacted and/or harmed. Moreover, if these mail-in ballots are printed and mailed to potential voters, and this Court subsequently rules in Plaintiffs' favor, then the County Clerk, and more importantly, the public at large, will be forced to bear the cost of any reprint and re mailing, and as such, will too be harmed. Coextensively, should the counting of the votes ultimately be conducted by the Board of

Elections on the basis of sex in a method resulting in unequal treatment of the ballots, then the integrity of the election process will be called into question.

For these reasons, the County Clerk should be temporarily restrained from drawing, printing, and mailing the vote by mail ballots during the pendency of this expedited action, and the Board of Elections should be temporarily restrained from returning the election results in such a manner as to assign unequal weight to the counting of the ballots.

B. Plaintiffs are Entitled to Preliminary and Permanent Injunctive Relief.

Here, Plaintiffs merely ask this Court to enjoin the County Clerk from deviating from her statutory mandate as set forth by N.J.S.A. 19:49-2, thereby ensuring each candidates' lawful right to run for and obtain office, and each candidates' lawful requests to be associated, and/or not be associated, with any other candidates of their choosing. Furthermore, ballots have not yet been drawn or printed. Therefore, an injunction should issue directing the County Clerk to delay the drawing, printing, and/or issuance of any ballots, and directing the Board of Elections from returning the election results, until such time as a full review can be conducted by this Court as to any compelling public interest purportedly advanced by the County Clerk in this scenario.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Court should enter the Order to Show Cause tendered herewith.

Respectfully Submitted,

/s/ Yael Bromberg
Yael Bromberg, Esq.
BROMBERG LAW LLC

Attorney for Plaintiffs

Dated: April 11, 2019

CENTRAL JERSEY PROGRESSIVE
DEMOCRATS, EM PHIPPS, DOREEN
BAILEY, MARGARET D. BALL, STACI
BERGER, QUIYANA BUTLER, REMI
CHRISTOFFERSON, LAURA JILL
LEIBOWITZ, ROSHANNA MALONE,
KAMUELA N. TILLMAN

Plaintiffs,

v.

ELAINE M. FLYNN, in her capacity as Clerk of
the County of Middlesex, MIDDLESEX
COUNTY BOARD OF ELECTIONS, and
TAHESHA WAY as an interested party in her
capacity as Secretary of State.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:
MERCER COUNTY

Docket No.:

**CERTIFICATION OF YAEL
BROMBERG, ESQ., IN SUPPORT OF
PLAINTIFFS' BRIEF IN SUPPORT OF
ORDER TO SHOW CAUSE WITH
TEMPORARY RESTRAINTS**

Yael Bromberg, Esq., of full age, hereby certifies as follows:

1. I am an attorney at law in the State of New Jersey with the firm Bromberg Law LLC, attorney for plaintiffs Central Jersey Progressive Democrats ("CJPD"), Em Phipps, Doreen Bailey, Maggie Doyle Ball, Staci Berger, Quiyana Butler, Remi Christofferson, Laura Jill Leibowitz, Roshanna Malone, and Kamuela N. Tillman (collectively "Plaintiffs"), as such I am fully familiar with the facts set forth herein. I submit this certification in support of Plaintiffs' brief in support of an Order to Show Cause with Temporary Restraints.

2. A true and accurate copy of Plaintiff's Verified Complaint filed on April 11, 2019 is attached hereto as **Exhibit A**.

3. A true and accurate copy of the form for nomination by petition for the Middlesex County Primary Election is attached hereto as **Exhibit B**.

4. A true and accurate copy of a March 29, 2019 counsel correspondence on behalf of CJPDP with the Middlesex County Clerk regarding the intended application of unconstitutional County Committee gender requirements is attached here as **Exhibit C**. Exhibit C therein contains a true and accurate partial copy of a photograph of the Mercer County 2018 Democratic Party Primary Ballot.

5. A true and correct copy of CJPDP's Bracketing Request Letter to the Middlesex County Clerk's Office is attached here as **Exhibit D**.

6. On April 5, 2019 I corresponded with Middlesex County Counsel for the first time since sending the March 29, 2019 counsel correspondence, at which time County Counsel Thomas F. Kelso represented that he requested guidance from the State but did not receive any, and therefore will continue to comply with the rule outlined by N.J.S.A. 19:5-3 absent instruction otherwise.

7. A true and accurate copy of the unpublished decision entitled Hartman v. Covert, 303 N.J. Super. 326 (Law Div. 1997) is attached hereto as **Exhibit E**.

8. A true and correct copy of the Official Primary Election 2016 Passaic County Ballot is attached hereto as **Exhibit F**.

9. A true and correct copy of the Official Primary Republican Election 2018 Cumberland County Ballot is attached hereto as **Exhibit G**.

10. 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.

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Bailey, Margaret D. Ball, Staci Berger,
Quiyana Butler, Remi Christofferson, Laura
Jill Leibowitz, Roshanna Malone, Kamuela
N. Tillman*

By: /s/ Yael Bromberg
Yael Bromberg, Esq.

Date: April 11, 2019

Exhibit A
(Verified Complaint)

Exhibit B

**NOMINATION BY PETITION FOR PRIMARY ELECTION
FOR COUNTY, MUNICIPAL, AND COUNTY COMMITTEE OFFICES
19:23-5 – PRIMARY ELECTION
19:23-17 - DESIGNATION**

OFFICE: _____

(IF APPLICABLE) **WARD** _____ **DISTRICT** _____

PARTY

(Candidate Name)

(Candidate Name)

(Candidate Name)

CANDIDATE’S REQUEST FOR DESIGNATION ON THE OFFICIAL PRIMARY BALLOT

The above candidate(s), having been endorsed for the office in this petition, does hereby request that there be printed opposite his/her name on the said primary ticket the following designation:

Must not exceed six words (R.S. 19:23-17) (19:49-2)

No person may be a **candidate** for or **appointed** to any local elective office unless he/she is a **registered voter** in the ward or municipality depending upon the office involved and has been a **resident** of the ward or municipality involved for at least **one year prior to the date of election** or the date of appointment. **40A:9-1.13**

- For **Local and County Committee offices** this petition shall be filed with your **Municipal Clerk**.
- For **County offices** this petition shall be filed with your **County Clerk**.

CONTACT YOUR MUNICIPAL OR COUNTY CLERK FOR NUMBER OF SIGNATURES REQUIRED (19:23-8)

NOTICE TO ALL CANDIDATES

ALL CANDIDATES ARE REQUIRED BY LAW TO COMPLY WITH THE PROVISIONS OF THE NEW JERSEY CAMPAIGN CONTRIBUTION AND EXPENDITURE REPORTING ACT 19:44A-1 THRU 44. FOR FURTHER INFORMATION, PLEASE CALL (609) 292-8700 OR TOLL-FREE WITHIN NJ AT 1-888-313-ELEC (3532).

TO: Municipal Clerk () County Clerk () of the County of Middlesex, Municipality of _____
 Of the State of New Jersey.

We, the undersigned, hereby certify that we are qualified voters and that we reside in the above County and Municipality, (For Ward and County Committee Candidates fill in Ward/District →) _____, and that we are members of the _____ Party and intend to affiliate with the political party at the ensuing election.

We endorse the candidate(s) nomination to the office of _____ and we request that you print upon the official primary ballot for this party the name(s) of the candidate(s) for such nomination.

We further certify that the said person(s) so endorsed is legally qualified under the laws of this State to be nominated for said office (N.J.S.A. 19:23-7)

CANDIDATE NAME	RESIDENCE & POST OFFICE ADDRESS IF DIFFERENT & E-MAIL
1. _____ (Print Name)	_____ Street Number, Street Name / Municipality, and Zip Code _____ Post Office if different from Residence address E-mail Address
2. _____ (Print Name)	_____ Street Number, Street Name / Municipality, and Zip Code _____ Post Office if different from Residence address E-mail Address
3. _____ (Print Name)	_____ Street Number, Street Name / Municipality, and Zip Code _____ Post Office if different from Residence address E-mail Address

ALL SIGNERS **MUST** SIGN AND PRINT THEIR NAME ON THE LINES PROVIDED IN COMPLIANCE WITH N.J.S.A (19:23-7)

NAME	ADDRESS
1. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office
2. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office
3. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office
4. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office
5. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office

NAME	ADDRESS
6. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office
7. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office
8. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office
9. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office
10. _____ (Signature) _____ (Print Name)	_____ _____ Residence Address including Post Office

WITNESS SECTION:

The witness taking the affidavit below must be the person who obtains the names on this set of signatures or several sheets of signatures. The witness must take the affidavit for each set he/she solicits & sign it in the presence of the Notary public, or Attorney. The witness may sign one set of signatures **endorsing** the candidate. Note that if the witness/circulator is not a qualified voter of the political subdivision for which the candidate stands for office, then he/she is permitted to circulate said petition, but is not permitted to sign as petitioner. Although signature sheets are solicited separately, the entire petition must be bound together before submitting.

STATE OF NEW JERSEY }
 COUNTY OF MIDDLESEX } SS

I, _____, being duly sworn or affirmed upon his/her oath, depose and say that
Name of the Witness / Circulator
 he/she is the one who gathered the signatures of the petition; that said petition is signed by each of the signers thereof in his/her own proper handwriting; that each of the signers is, to the best knowledge and belief of deponent, a legal voter of the Municipality of _____ in the County of Middlesex of the State of New Jersey, as stated in said petition, and belongs to the political party named in said petition, and that such a petition is prepared and filed in absolute good faith for the sole purpose of endorsing the person(s) therein named in order to secure their nomination or selection as stated in this petition; and further affirms that he/she is a registered voter in the State of New Jersey, whose party affiliation is of the same political party named in the petition.

Sworn to before me this _____ day
 of _____, 2_____

 Notary, Attorney, Clerk

 Witness Signature

Each Candidate must complete a separate Oath of Allegiance and Certificate of Acceptance form.

CANDIDATE OATH OF ALLEGIANCE

STATE OF NEW JERSEY }
 COUNTY OF MIDDLESEX } SS

I, _____, do solemnly swear (or affirm) that I will support the
(Print Candidate's Name)
 Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith
 and allegiance to the same and to the governments established in the United States and in this State, under
 the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of
 _____, according to the best of my ability (So help me God)*.

Sworn and subscribed to before me

This _____ day
 of _____ A.D. 2_____

 Clerk, Notary or Attorney

(Signature of Candidate)
 Address _____
 Post Office _____

*Person taking oath has the option of including "So help me God" if he/she so desires.

CERTIFICATE OF ACCEPTANCE

I hereby certify that I am a member of the _____ Party and that I am legally qualified for the
 office for which I have been endorsed in the foregoing petition; that I consent to stand as a candidate for
 nomination at the ensuing primary election, and that if nominated I agree to accept the nomination, and that I am
 a resident and legal voter in

(Municipality- Ward and District)

 Candidate's Signature.

FOR COUNTY OFFICES

We do further certify that the names and Post Office addresses of the three members named as a committee on Vacancies
 are as follows (19:23-12).

PRINT NAME	ADDRESS	POST OFFICE
1. _____ <small>(Print Name)</small>	_____	_____
2. _____ <small>(Print Name)</small>	_____	_____
3. _____ <small>(Print Name)</small>	_____	_____

The signers to petitions for County office may name three persons in their petition as a committee on vacancies.

Exhibit C

BROMBERG LAW LLC
Yael Bromberg, Esq.
PO Box 1131, Glen Rock, NJ 07452
(201) 280-1969

The Honorable Elaine M. Flynn
Middlesex County Clerk
Middlesex County Administration Building
75 Bayard Street, 4th Fl.
New Brunswick, New Jersey 08901
Email: elaine.flynn@co.middlesex.nj.us
Via certified mail and email

The Honorable Joanne Rajoppi
Union County Clerk
Union County Courthouse
2 Broad Street
Elizabeth, NJ 07207
jrajoppi@ucnj.org

The Honorable Holley Mackey
Warren County Clerk
413 Second Ave
Belvidere, NJ 07823
hmackey@co.warren.nj.us

March 29, 2019

Re: Request for immediate response, regarding intended application of unconstitutional County Committee gender requirements

Dear Honorable County Clerks Elaine M. Flynn, Joanne Rajoppi, and Holley Mackey,

My firm represents the Central Jersey Progressive Democrats (“CJPD”), which is comprised of progressive Democratic party voters, candidates, and/or representatives across Central Jersey. In advance of the filing deadline for committee member candidates in Middlesex, Union, and Warren counties on April 1, 2019, the CJPD requests your immediate response regarding your office’s intended interpretation of the provision of N.J.S.A. § 19:5-3 regarding the sex-based treatment of candidates. The CJPD may file committee candidate petitions and/or support candidates in Middlesex, Union, and Warren counties who are non-binary and/or who are not unduly restricted by the 50% gender cap set out by statute.

As you may be aware, N.J.S.A. § 19:5-3 established the election of county committee officers based on sex, providing in pertinent part:

The county committee shall consist of one male and one female member from each unit of representation in the county. The male receiving the highest number of votes among the male candidates and the female receiving the highest number of votes among the female candidates shall be declared elected.

BROMBERG LAW LLC
 YAEL BROMBERG, ESQ.
 PO Box 1131, Glen Rock, NJ 07452
 (201) 280-1969

(N.J.S.A. § 19:5-3, emphasis added.)

As a result, candidates of the same sex – be it male/male or female/female – cannot run on the same slate within the same election district, and non-binary candidates are outright barred from seeking office.

Notwithstanding the language in the statute, and subsequent to its passage, the Supreme Court of the United States decided Eu v. San Francisco County Democratic Cent. Comm., 489 U.S. 214 (1989), which invalidated as unconstitutional a state’s attempt to place certain restrictions on the composition of individuals representing the party. In light of the Eu decision and the subsequent pronouncements of both federal and state law striking down gender-based discrimination, New Jersey courts have ruled unconstitutional the gender requirements of N.J.S.A. § 19:5-3. See Hartman v. Covert, 303 N.J. Super. at 334-35 (citing Frank v. Ivy Club, et als., 120 N.J. 73, 110 (1990) (“The eradication of ‘the cancer of discrimination’ has long been one of our State’s highest priorities”); Fuchilla v. Layman, 109 N.J. 319, 334 (1988); Roberts v. U.S. Jaycees, 468 U.S. 609 (1984); New Jersey Law Against Discrimination (LAD), N.J.S.A. §§ 10:5-1 to -42).

Specifically, the Honorable Harold Wells III, A.J.S.C. (Burlington County), a highly regarded jurist, held in Hartman that N.J.S.A. §19:5-3 is “unconstitutional insofar as it mandates the election of officers of a county committee based on gender.” 303 N.J. Super. at 330. In doing so, Hartman rejected arguments claiming a compelling state interest in “assuring equal representation.” Id. at 334. The court acknowledged that while the 1955 and 1964 amendments to N.J.S.A. §19:5-3 may have originally been intended to benefit women, by 1997 the quota served to limit women’s access:

In fact, while N.J.S.A. 19:5-3 was once enacted to protect women, it can now be argued that it serves to bar them from at least 50 percent of the seats available for top leadership. So while at one time the law may have been viewed as salutary to equalize opportunity between the genders in the political forum and to encourage women’s involvement in politics, such a law now has an effect opposite to its original design.

Id. at 334 - 35.

This is all the more true today, twenty years after Hartman, with the sweep of women running for and being elected to office across the country and the state, and the public’s growing acceptance of gender fluidity. Indeed, the New Jersey Law Against Discrimination (LAD) has since been expanded to prohibit, in addition to sex-based discrimination, discrimination based on gender identity or expression. See N.J.S.A. § 10:5-12, L. 2006, c. 100 § 9, eff. June 17, 2007. Just last month, on February 1, 2019, a new state law went into effect which allows transgender persons to amend their birth certificate with a corrected name and sex without undergoing surgery or any medical procedures.

Moreover, several counties in New Jersey recognize the flagrant unconstitutionality of N.J.S.A. § 19:5-3 and have already removed the sex-based requirements for county committee, including neighboring Mercer County, as well as at least Passaic, Essex, Cumberland, and Hunterdon Counties. In these counties, voters simply choose two “Members for County Committee” without regard for sex or gender identity. (See Exhibit 1, Mercer County 2008 Ballot with description). As a result, several of those districts are already represented by county committee members of the same gender, be it female/female or male/male, and no outright bar applies to non-binary candidates within these districts.

BROMBERG LAW LLC
Yael Bromberg, Esq.
PO Box 1131, Glen Rock, NJ 07452
(201) 280-1969

The CJPB implores the County Clerks to uphold the fundamental right of candidates to run and of voters to vote for the two candidates of their choosing for County Committee, regardless of their gender identity or sex. The binary gender quota excludes non-binary individuals from seeking political office, and precludes candidates of the same sex from running together on the same slate in a shared election district. Moreover, the statute assigns unequal weight to votes based on sex by discarding votes for the second-highest vote-getter when the top two candidates in an election district are of the same sex. (See Exhibit 1.)

The CJPB implores the County Clerks to refrain from discriminating against candidates based on sex, discriminating against candidates of the LGBTQIA community, and disenfranchising voters, in violation of the federal and state constitutions and voting rights and antidiscrimination laws, as interpreted by the courts of this State.

Should the County Clerks nonetheless opt to apply the quota to the upcoming June election, such a determination not only threatens the civil rights, voting rights, and associational rights within Central Jersey, but of voters and elected officials across the state, particularly where the affirmative right has already been applied in practice but where it might otherwise be clawed back.

CJPB respectfully requests an immediate response as to the County Clerk's intentions with respect to the treatment of county committee candidates by **Monday April 1, 2019 at 10AM**.

Please feel free to reach out to me to discuss these important issues. You may reach me by phone at (201) 280-1969 or via email: yaelbromberglaw@gmail.com.

Respectfully Submitted,



Yael Bromberg, Esq.

cc: The Honorable Gurbir S. Grewal
Attorney General of the State of New Jersey
Richard J. Hughes Justice Complex (HJC)
8th Floor, West Wing
25 Market Street
Trenton, NJ 08625-0080
Fax: (609) 292-3508
Via certified mail and fax

Exhibit 1 with Description

2018 Mercer County Democratic Party Ballot

DEMOCRATIC			
OFFICE TITLE	Column A Democratic	Column B Democratic	Column C Democratic
U.S. Senate 6 Year Term - Vote for One	Democrats for Change Lisa A. McCORMICK (1A)	Regular Democratic Organization Robert MENENDEZ (1B)	
U.S. House of Representatives 2 Year Term - Vote for One		Regular Democratic Organization Joshua WELLE (2B)	Democrats for Mercer Jim KEADY (2C)
Board of Chosen Freeholders 3 Year Term - Vote for Three		Regular Democratic Organization Ann M. CANNON (3B)	
		Regular Democratic Organization Pasquale "Pat" COLAVITA, Jr. (4B)	
		Regular Democratic Organization Samuel T. FRISBY, Sr. (5B)	
Members of County Committee 2 Year Term - Vote for Two		Regular Democratic Organization John R. SEALS, Jr. (6B)	Democrats for Mercer Frances CARROLL (6C)
		Regular Democratic Organization Catherine GARRUBA (7B)	

Mercer County allows for the election of party committee members independent of sex and gender, and for common-sense bracketing based on slate. As is evident above, Frances Carroll of Democrats for Mercer ran against two candidates on the Regular Democratic Party Organization ticket (John R. Seals, Jr. and Catherine Garruba). However, Frances and Catherine were not relegated to compete against each other due to the happenstance of their gender.

Whatsmore, both Frances and Catherine ultimately garnered the most votes – 43.26% (61 votes) and 36.88% (52 votes) respectively, as compared to John’s 19.86% (28 votes). Were Mercer County to apply the binary gender quota, then the votes for Catherine – 36.88% of the total voters – would effectively be discarded and subject to unequal treatment.

Exhibit D

April 3, 2019

The Honorable Elaine M. Flynn
Middlesex County Clerk
Office of the County Clerk
75 Bayard Street, 4th Floor
New Brunswick, NJ, 08901

Via Email

Dear Ms. Flynn,

This email is to affirm that the following list of Democratic Primary candidates for County Committee who requested the ballot designation "Central Jersey Progressive Democrats" wish to be bracketed together, and appear in the same column, on the ballot in the June 4, 2019 Democratic Primary Election.

The candidates, for your convenience, are as follows:

New Brunswick:

W1-D6 Emily Phipps
W2-D1 Charles "Charlie" Kratovil
W5-D2 Priyanki Dahr
W5-D4 Christopher Roberts and Frances O'Toole
W6-D1 Jennifer O'Neill and Alejandro Pieroni
W6-D2 Sean Monahan and Lauren Magnusson

Piscataway:

W1-D1 Roshanna Malone and Remi Christofferson
W1-D4 Mindy Walsh
W1-D5 Laura Tarbous and Herbert Tarbous
W1-D7 Vermell Robinson and Abdul-Basit Haqq
W1-D8 Sharyn Garden
W1-D9 Carmen Salavarrieta and Peter Cipparulo
W2-D1 Jonathan Powers
W2-D2 Mediha Sandu and Tom Connors
W2-D3 Atif Javaid and Koonj Javaid
W2-D7 Deborah Fusco
W2-D8 Gina Louis-Ferdinand and Rohit Bajaj
W2-D9 Fatima Ali and Syed Rubeel Zaidi
W3-D1 Virginia Caputo and Rodney Vaz
W3-D2 Staci Berger and Kamuelah N. Tillman
W3-D2 Catherine Sucher Greeley and Hassan Mahmoud
W3-D4 Quiyana Butler and Doreen Bailey
W3-D5 Lola Stewart and Ahmed Mackey
W3-D6 Aamer Baig
W3-D7 Jessica Walker and Mohammad Enver
W3-D8 Fareen Memon and Mahamed Khan
W3-D9 Charisse Burdette and Sohial "Shawn" Butt

-continued-

W3-D10 Laura Jill Leibowitz and Maggie Doyle Ball
W4-D5 Shahid I. Butt and Fauzia S. Butt
W4-D6 Jabryl Guy
W4-D7 Farhat Malik and Zaka Malik
W4-D8 Rachana Nigam and Muhammad A. Rafiq
W4-D10 Wendy Miller

Monroe Township:

W1-D4 Catherine Hunt
W2-D7 Marlene Kane and Larry Kane

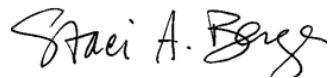
Jamesburg:

District 3 Bertin Lefkovic

Kindly acknowledge receipt of this letter, and let me know if there are any questions or concerns.

Please note that we reserve our right to preview a copy of the printer's proof of the ballot in accordance with the established timeline.

Thank you very much,

A handwritten signature in black ink that reads "Staci A. Berger". The signature is written in a cursive, flowing style.

Staci Berger
732-406-7604; staciberger1@gmail.com

Exhibit E

Vigilante, 257 N.J.Super. 296, 301-06, 608 A.2d 425 (App.Div.1992); *but see State v. McClain*, 248 N.J.Super. 409, 417-19, 591 A.2d 652 (App.Div.), *certif. denied*, 126 N.J. 341, 598 A.2d 897 (1991).

We emphasize that this is not a case in which evidence of PTSD was the only evidence defendant relied upon to establish self-defense or passion/provocation manslaughter. As the trial court correctly recognized, even if all evidence relating to PTSD were excluded, defendant's account of the victim's alleged assault upon §326her was sufficient to require submission to the jury of the issue of self-defense and the lesser included offense of passion/provocation manslaughter. However, Dr. Hall's proposed testimony would have lent additional credibility to defendant's allegations regarding the victim's past sexual abuse and would have been probative of the honesty and reasonableness of her belief that she had to resort to deadly force to prevent him from raping her again. Therefore, we are unable to conclude that the erroneous exclusion of evidence of PTSD was harmless.

Accordingly, defendant's conviction is reversed and the case is remanded for a new trial.



303 N.J.Super. 326

§326 Francis J. HARTMAN, Plaintiff,

Jeffrey A. MINTZ and Charles H.
Ryan, Plaintiff Intervenors,

v.

Kevin M. COVERT, Chairman of the Burlington Democratic Committee, R. Lee Pfiste O'Toole and Alice Furia, Defendants.

Superior Court of New Jersey,
Law Division,
Burlington County.

Jan. 17, 1997.

Candidate for political party committee chair position challenged election of chair and

vice-chair that resulted in two women filling those positions. The Superior Court, Law Division, Burlington County, Wells, III, A.J.S.C., held that: (1) state statute restricting positions of political party committee chair and vice-chair to persons of opposite genders burdened associational rights §327of parties and their members, and (2) state interest in assuring equal representation of two genders in political party leadership was not a compelling interest sufficient to sustain constitutional burdens.

State statute rendered unconstitutional and invalid.

1. Constitutional Law ⇄215.3

Elections ⇄120

Elections statute concerning committee party organizations was unconstitutional insofar as it mandated election of officers of county committee based on gender; state did not have compelling interest in internal affairs of county committees of political parties sufficient to warrant legislating gender of candidates for leadership positions of those parties. N.J.S.A. 19:5-3.

2. Constitutional Law ⇄91, 215.3

In determining constitutionality of state election law, first examination is whether or not law burdens rights protected by First and Fourteenth Amendments to the Constitution, and if challenged law burdens rights of political parties and their members, state must prove law advances a compelling state interest for law to withstand constitutional scrutiny; further, law must be narrowly tailored to serve that state interest. U.S.C.A. Const.Amends. 1, 14.

3. Constitutional Law ⇄91

Elections ⇄120

State statute that restricts positions of political party committee chair and vice-chair to persons of opposite genders limits political parties' discretion in how to organize themselves and select their leaders, and thus burdens associational rights of parties and their

HARTMAN v. COVERT

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Cite as 696 A.2d 788 (N.J.Super.L. 1997)

members; associational rights at stake are particularly strong as they implicate right of entire voluntary group of persons who are seeking to associate with one another ¹³²⁸for specific political goals and objectives central to democratic process. U.S.C.A. Const. Amend. 1; N.J.S.A. 19:5-3.

4. Constitutional Law ⁹¹, 215.3 Elections ¹²⁰

State statute that restricts positions of political party committee chair and vice-chair to persons of opposite genders does not serve compelling state interest sufficient to sustain constitutional burdens, even though statute's interest appeared to be assurance and protection of equal representation of two genders in terms of political party leadership and at time of passage intended to assure equal representation, that purpose was largely subsumed by laws striking gender-based discrimination, and requirement of one man and one woman in positions did not serve to ensure "orderly and fair" election process. U.S.C.A. Const. Amend. 1; N.J.S.A. 19:5-3.

Francis J. Hartman, pro se.

Jeffrey A. Mintz, pro se, and for plaintiff intervenor Gray Hamans.

Charles H. Ryn, pro se.

John Harrington, for defendant Kevin Covert.

William John Kearns, Jr., (Kearns, Vassallo, Guest & Kearns), Willingboro, for defendant R. Lee Pfister O'Toole.

R. Louis Gallagher, (Kessler, Tutek, Gladfelter, Sattin & Gallagher), Bordentown, for defendant Alice Furia.

Gregory Romano, Deputy Attorney General, Peter G. Verniero, Attorney General, for the State of New Jersey amicus curiae.

WELLS, A.J.S.C.

This action began on verified complaint and order to show cause on June 11, 1996, by

1. Plaintiff was later joined by intervenors Jeffrey Mintz, then-candidate for the position of Committeeman, Gary Haman, as candidate for the position of Vice-Chair of the Committee, and Charles Ryan, as candidate for the Chair posi-

Francis Hartman as a candidate for the Chair ¹³²⁹position of the Burlington County Democratic Committee (Committee) against Kevin Covert, the incumbent Chairman of the Committee.¹ Plaintiff asserted various causes of action in connection with what was, at the time it was filed, the upcoming election of Chair and Vice-Chair of the Committee, alleging violations of Title 19, the bylaws of the Committee and its traditional practices and procedures in connection with election of officers. The court briefly stayed the election and briefs were ordered.

On the return day, June 21, 1996, I ordered the election to proceed subject to a final ruling on the merits. Ultimately, two women, Lee O'Toole and Alice Furia, won election as Chair and Vice-Chair by a small margin of votes. Plaintiff submitted the issues on the briefs previously filed and the arguments heard on the return day. This opinion expands upon a letter opinion dated August 2, 1996 which I affirmed the results of the election.

The issues fell into two main categories: (1) those critical of the Chairman, who was not, himself, a candidate for re-election, and the election process itself; and, (2) those questioning whether plaintiffs announced rival for the position of Chair, a woman, could be elected with a candidate for Vice-Chair, also a woman, in derogation of the apparent dictate of N.J.S.A. 19:5-3.

The first category of issues has been abandoned. But, what remained was a decision whether or not two women can serve as the Chair and Vice-Chair of the Burlington County Democratic Committee, since, indeed, it was that result which obtained as the result of the election. The Court approached this ruling with considerable circumspection and an absolute regard for longstanding legislative enactments such as the challenged passage from Title 19. In this respect, the issue, I recognize, is more far¹³³⁰reaching than the issue of ballot position for the primary election of Governors and U.S. Sena-

tion. Defendant was also joined by intervenors R. Lee Pfister O'Toole and Alice Furia, the persons ultimately elected to the positions of Chair and Vice-Chair, respectively.

tors under N.J.S.A. 19:23-26.1 as was decided in *Lautenberg v. Kelly*, 280 N.J.Super. 76, 654 A.2d 510 (Law Div.1994) wherein *Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214, 109 S.Ct. 1013, 103 L.Ed.2d 271 (1989). also played such a compelling role. Doubtless, as a result of the statute, the practice of requiring the leadership of the various county political party committees to be filled by persons of opposite genders has become thoroughly imbedded in the daily warp and woof of the political process in New Jersey. Indeed, one can easily speculate that but for a provision such as this, the place of women in the political process would not be as well established as it is now. For these reasons alone, as well as the respect due the vintage enactment under scrutiny here, it should not be lightly set aside. In addition, one is called upon to look at the court's August decision as a glass half full: i.e., as opening up 100% of the positions in top party leadership to both genders, rather than as abolishing women's guarantee to at least 50% of those positions.

[1] Nevertheless, whether the glass is viewed as half full or half empty, the Court confirms its prior ruling that the July 1996 election for Chair and Vice Chair of the Burlington County Democratic Party was valid by holding N.J.S.A. 19:5-3 unconstitutional insofar as it mandates the election of officers of a county committee based on gender. This holding is predicated on the United States Supreme Court's holding in *Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214, 109 S.Ct. 1013, 103 L.Ed.2d 271 (1989). In my opinion, the State simply does not now have, if it ever did, such a compelling interest in the internal affairs of the County Committees of the political parties as to warrant legislating the gender of candidates for leadership positions of those parties.

N.J.S.A. 19:5-3 requires that the county committees of political parties consist of one male and one female member from each unit of representation in the county. The male receiving the most votes among the male candidates and the female receiving the ³³¹most votes among the female candidates are to be declared elected at the primary for

the general election. *Id.*, N.J.S.A. 19:5-3 not only provides that the Chair and Vice-Chair be of the opposite sex, but that each pair of County Committee people be of the opposite sex. *Id.*

This statute is in conflict with the mandates of the United States Supreme Court based on its holding in the *Eu* case. Therefore, it is worthwhile to delve into the rationale of the United States Supreme Court in the *Eu* opinion in a bit of detail. The plaintiffs in *Eu* challenged certain sections of the California Elections Code, specifically those which forbade the official governing bodies of political parties to endorse or oppose candidates in primary elections and in non-partisan school, county, and municipal elections, dictated the organization and composition of parties' governing bodies, limited the term of office for a party's state central committee chair and required that the chair rotate between residents of northern and southern California. *Eu, supra*, 489 U.S. at 219, 109 S.Ct. at 1018.

The Court of Appeals for the Ninth Circuit held the challenged provisions of the California Code to be unconstitutional, as California's regulation of internal party affairs "burdens the parties' rights to govern themselves as they think best." *Eu, supra*, 489 U.S. at 222, 109 S.Ct. at 1019 (citing *San Francisco Cty. Democratic Cent. Com. v. Eu*, 826 F.2d 814, 827 (1987)). The Court of Appeals found that California's interference with the parties and their members' First Amendment rights was not justified by a compelling state interest, for a state has a legitimate interest "in orderly elections, not orderly parties." *Id.*

[2] The Supreme Court stated that in determining the constitutionality of a state election law, first one must examine whether or not the law burdens rights protected by the First and Fourteenth Amendments to the Constitution. *Id.* at 1019 (citing *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208, 214, 107 S.Ct. 544, 548, 93 L.Ed.2d 514 (1986). *Anderson v. Celebrezze*, 460 U.S. 780, 789, 103 S.Ct. 1564, 75 L.Ed.2d 547 (1983). If it is ³³²established that the challenged law burdens the rights of political parties and their members, then in order for

HARTMAN v. COVERT

N. J. 791

Cite as 696 A.2d 788 (N.J.Super.L. 1997)

the law to withstand constitutional scrutiny, the State must prove that the law advances a compelling state interest. *Id.* (citing *Tashjian*, 479 U.S. at 217, 222, 107 S.Ct. at 550, 552); *Illinois Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 184, 99 S.Ct. 983, 990, 59 L.Ed.2d 230 (1979)) Further, the law must be narrowly tailored to serve that interest. *Id.* (citing *Illinois Bd. of Elections*, 440 U.S. at 185, 99 S.Ct. at 990-91).

The Supreme Court ultimately upheld the decision and reasoning of the Court of Appeals, rendering the challenged provisions of the California Election Code invalid. *Eu*, *supra*, 489 U.S. at 233, 109 S.Ct. at 1025. Proceeding through a constitutional analysis of the laws at issue, the Court first found the challenged portions of the laws to directly implicate the associational rights of political parties and their members. *Id.* at 230, 109 S.Ct. at 1024. In support of that assessment, the Court stated that “(a) political party’s ‘determination . . . of the structure which best allows it to pursue its political goals, is protected by the Constitution,’” *Id.* at 229, 109 S.Ct. at 1023 (citing *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208, 217, 107 S.Ct. 544, 550, 93 L.Ed.2d 514 (1986)) and that freedom of association “encompasses a political party’s decisions out the identity of, and the process for, electing its leaders.” *Eu*, *supra*, 489 U.S. at 229, 109 S.Ct. at 1023. Regarding the California laws’ restrictions on the organization and composition of local governing bodies, specifically the limits on the term of office for state central committee chair and the requirement that the chair rotate between the residents of northern and southern California, the Court found that through these laws the State of California prevents the political parties from governing themselves with the structure that they think is best. *Id.* at 230, 109 S.Ct. at 1024. The restrictions enumerated under the California Code were found by the Court to limit a political party’s discretion in “how to organize itself, conduct its affairs, and select its leaders.” *Id.* In *Eu* the Court found the associational rights ¹³³³at stake to be even stronger than those it previously credited ² since the rights involved party members

2. In the *Tashjian* case, the Court found that a party’s right to free association embraces a right

seeking to associate with one another in freely choosing their party leaders. *Id.*

As it was determined that the challenged portions of the law did burden the rights protected by the First and Fourteenth Amendments, the Court next moved to an inquiry as to whether the challenged laws served a compelling state interest. *Id.* The Court acknowledged that states have a legitimate interest in preserving the integrity of the election process. *Id.* (citing *Rosario v. Rockefeller*, 410 U.S. 752, 761, 93 S.Ct. 1245, 1251-52, 36 L.Ed.2d 1 (1973)) and that states may enact laws that interfere with a party’s internal affairs when necessary to ensure the fairness of the election process. *Id.* (citing *Storer v. Brown*, 415 U.S. 724, 730, 94 S.Ct. 1274, 1279, 39 L.Ed.2d 714 (1974)). Specifically, the Court recognized that states may impose restrictions that promote the integrity of primary elections, but in those situations the infringement on the associational rights of the parties and their members was the indirect consequence of laws necessary to the successful completion of a party’s external responsibilities in ensuring the order and fairness of elections. *Id.* at 231-32, 109 S.Ct. at 1024-25. However, the restrictions imposed by the California laws involved direct regulation of a party’s leaders. *Id.* The Court stated that “a State cannot justify regulating a party’s internal affairs without showing that such regulation is necessary to ensure an election that is orderly and fair.” *Id.* at 233, 109 S.Ct. at 1025. The State of California was not found to have made such a showing, thus the Court ruled that the challenged laws could not be upheld. *Id.*

Defendants in the instant matter argue that N.J.S.A. 19:5-3 burdens the rights of the members of the Burlington County Democratic Committee to the extent that the statute imposes ¹³³⁴gender based restrictions on the rights of the members of the Committee to select their officers. This statute would prevent defendants from the exercise of their First Amendment association rights to join together in a political party and to

to allow registered voters who are not party members to vote in the party’s primary.

govern that party free of the interference of the State.

[3] N.J.S.A. 19:5-3 restricts the positions of chair and vice-chair to persons of opposite genders. As in the *Eu* case, this statute limits New Jersey political parties' discretion in how to organize themselves and select their leaders, thus burdening the associational rights of the parties and their members. In addition, as in *Eu* the associational rights at stake are particularly strong as they implicate the right of an entirely voluntary group of persons who are seeking to associate with one another for specific political goals and objectives central to the democratic process.

[4] We therefore move to an analysis of whether the law serves a compelling state interest. The only interest asserted by the plaintiff in support of the statute and the way he seeks to distinguish the instant matter from the United States Supreme Court's holding in *Eu* appears to be the assurance and protection of equal representation of the two genders in terms of political party leadership. Plaintiffs assert that the intent behind the passage of N.J.S.A. 19:5-3 must be considered when determining the fate of the statute. While it is apparent that the statute's likely intent at the time of its passage was the remedial goal of assuring equal representation in top political party leadership of the two genders, that purpose has been largely subsumed by the pronouncements of both federal and state law striking down gender-based discrimination. See, e.g., *Frank v. Ivy Club et als.*, 120 N.J. 73, 576 A.2d 241 (1990); *Fuchilla v. Layman*, 109 N.J. 319, 334, 537 A.2d 652 (1988); *Roberts v. U.S. Jaycees*, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed.2d 462 (1984); New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -42.

The first insertion of a gender reference into N.J.S.A. 19:5-3 was in 1955 when an amendment was inserted providing for the election of a "vice-chairlady." N.J.S.A. 19:5-3, L.1955, c. 236, p. 335,904, sec. 1. In 1964 the provision was further amended to delete the requirements of a male chair and a female vice-chair, and instead simply required the chair and vice-chair positions be filled by

persons of opposite gender. N.J.S.A. 19:5-3, L.1964, c. 23, sec. 1.

The statute has remained despite the fact that gender discrimination is contrary to the legislative policy of the State of New Jersey. See, *Frank*, 120 N.J. at 110, 576 A.2d 241. "The eradication of 'the cancer of discrimination' has long been one of our State's highest priorities." *Id.* (citing *Dixon v. Rutgers, The State University of N.J.*, 110 N.J. 432, 451, 541 A.2d 1046 (1988)). In fact, while N.J.S.A. 19:5-3 was once enacted to protect women, it can now be argued that it serves to bar them from at least 50 per cent of the seats available for top leadership. So while at one time the law may have been viewed as salutary to equalize opportunity between the genders in the political forum and to encourage women's involvement in politics, such a law now has an effect opposite to that of its original design. In addition, and even more compelling, the plaintiff in this matter has made no showing that the law or the intent behind the law is presently necessary to ensure an orderly and fair electoral process, as required by *Eu*.

*5 To sum up, first, N.J.S.A. 19:5-3 burdens the associational rights of the members of political parties in New Jersey in that it mandates county political committees to have one woman and one man in the positions of Chair and Vice-Chair of the committees, preventing the occupancy of the positions by two men or by two women, as was the case with the Burlington County Democratic Committee. Second, no showing has been made of a compelling state interest sufficient to sustain the burdens of N.J.S.A. 19:5-3. The requirement of one man and one woman in the positions does not serve to ensure an "orderly and fair" election process. Clearly, taking N.J.S.A. 19:5-3, the Supreme Court's pronouncement in *Eu* and the policy in this State against discrimination together, N.J.S.A. 19:5-3 is rendered unconstitutional and invalid.



Exhibit F



City of Clifton, Ward 1, District 2

Kristin M. Corrado
County Clerk, Secretaria del Condado

Official Primary Election
Tuesday, June 7, 2016, Passaic County, New Jersey
Elección Primaria, martes, 7 de junio de 2016, Condado de Passaic, New Jersey

Nancy Ferrigno, RMC
City Clerk, Secretaria del Condado
Nancy Ferrigno, RMC
Secretary of the City

Office Cargo	Choice for President Vote for One Selección para Presidente Vote por Uno	Delegates To The Republican National Convention Vote for one group of affiliated delegates and alternates. Delegados a la Convención Nacional Republicana Vote por un grupo de delegados y alternos afiliados.	Member of the House of Representatives Vote for One Miembro de la Casa de Representantes Distrito Congresional 9	Sheriff Alfonso Vote por Uno	Surrogate Juez del Tribunal Testamentario Vote por Uno	Members of the Board of the County Membres de la Junta de Proprietarios Vote por Dos
Republican República	Donald J. TRUMP 1A	1A	Hector L. CASTILLO 7A	Frank FEEDAN 1A	Yern REICHER 1A	Stephen R. ARENTA 10A
Republican República	Ted CRUZ 1B	2				Idan ANDERSON 11A
Republican República	John R. KASICH 1C	3				
Personal Choice Selección Personal	Write In Escriba un nombre de candidato	4				
Democratic Democrático	Hillary CLINTON 1D		Member of the House of Representatives Vote for One Miembro de la Casa de Representantes Distrito Congresional 9	Sheriff Alfonso Vote por Uno	Surrogate Juez del Tribunal Testamentario Vote por Uno	Members of the Board of the County Membres de la Junta de Proprietarios Vote por Dos
Democratic Democrático	Bernie SANDERS 1E		Richard BERDNIK 1B	Bernice TOLEDO 1B	Larry DUFFY 10B	Bruce JAMES 12B
Democratic Democrático			PASCARELL, Jr. 1B		Samantha FRISS 10E	Pat LEPORE 11B
Democratic Democrático			Marco Joseph SPARANDEO 1F		Ann SIMS 11E	Joanne MACBETH 12F
Personal Choice Selección Personal	Write In Escriba un nombre de candidato					
Democratic Democrático						
Democratic Democrático						
Democratic Democrático						
Democratic Democrático						
Personal Choice Selección Personal	Write In Escriba un nombre de candidato					

◀ ▶ A B C D E F G H I J K L M O
ENTER N O P Q R S T U V W X Y Z

WARNING: Do Not Pass The 'Cast Vote' Buttons Until You Have Made All Desired Selections. Cast Vote Buttons Only Work When All Buttons Are Pushed. Do Not Press The 'Cast Vote' Buttons Until You Have Made All Desired Selections. Cast Vote Buttons Only Work When All Buttons Are Pushed.

Exhibit G



Celeste M. Riley
CELESTE M. RILEY
Commissioner of City Clerk
#2019-128

OFFICIAL PRIMARY ELECTION MAIL-IN BALLOT
BOLETA DE VOTO POR CORREO OFICIAL DE LAS ELECCIONES PRIMARIAS
June 5, 2018
City of Bridgeport
2nd Congressional District - Republican
2 Distrito Congressional - Republicano

"IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO MARK OR INSPECT THIS BALLOT."
"ES RECAL QUE OTRA PERSONA DEBE MARCAR O INSPECCIONAR ESTE BALOTO."

OFFICE TITLE TITULO OFICIAL	A Republican Republicano	B Republican Republicano	C Republican Republicano	D Republican Republicano	E Republican Republicano	F Republican Republicano	G Republican Republicano	PERSONAL CHOICE SELECCION PERSONAL
United States Senator Senador de los Estados Unidos Vote for One Votos por Uno	1A <input type="radio"/> Republican República HUGIN	1B <input type="radio"/> Republican República GOLDBERG	2C <input type="radio"/> Republican República GROSSMAN	2D <input type="radio"/> Republican República FICCHI	2E <input type="radio"/> Republican República SINGH	2F <input type="radio"/> Republican República TURKVAJNE	Personal Choice Selección Personal	<input type="radio"/>
House of Representatives Cámara de Representantes Vote for One Votos por Uno	3A <input type="radio"/> Republican República CODISPOTI						Personal Choice Selección Personal	<input type="radio"/>
Surrogate Vices for One Vices por Uno	4A <input type="radio"/> Republican República KILBY						Personal Choice Selección Personal	<input type="radio"/>
Board of Chosen Freeholders Junta de los Elegidos (Freeholders) Vote for One Votos por Uno	5A <input type="radio"/> Republican República SPATOLA, JR.						Personal Choice Selección Personal	<input type="radio"/>

Form 1 - Bridgeport

IMPORTANT INSTRUCTIONS TO VOTERS

1. Use ONLY a pencil or ink pen (black or blue) to mark your ballot. Do not use red ink.
2. Complete all entries and fill in the right or left of your selections.
John DOE →
3. To vote for one person, place an "X" in the circle next to the name. To vote for more than one person, place an "X" in the circle next to each name. To vote for no one, place an "X" in the circle next to the name "None".
4. After marking your ballot, place it in the envelope provided and seal it in the back. Information recorded on the envelope, such as your name, address, and date, is not to be seen by anyone. Your ballot must be received by the County Board of Election before the closing of the polls.

INSTRUCCIONES IMPORTANTES A LOS ELECTORES

1. Use SOLO un lápiz o un bolígrafo (negro o azul) para marcar su boleta. No use tinta roja.
2. Complete todas las entradas y rellene el círculo de cada una de sus selecciones.
John DOE →
3. Para votar por una sola persona, coloque una "X" en el círculo que aparece al lado de su nombre. Para votar por más de una persona, coloque una "X" en el círculo que aparece al lado de cada nombre. Para votar por nadie, coloque una "X" en el círculo que aparece al lado de "Nada".
4. Después de haber marcado su boleta, coloque la boleta en el sobre que se le proporciona y selle el sobre en la parte posterior. La información registrada en el sobre, como su nombre, dirección y fecha, no debe ser vista por nadie. Su boleta debe ser recibida por el Consejo del Condado antes que cierre las urnas.

VOTE BOTH SIDES OF BALLOT

VOTE EN AMBOS LADOS DE LA BOLETA

VOTE BOTH SIDES OF BALLOT
VOTE EN AMBOS LADOS DE LA BOLETA

County Committee Candidates/Primary Election/June 5, 2018
Candidatos del Comité del Condado/Elecciones Primarias/5 de Junio del 2018
City of Bridgeton

All Candidates signers are Cumberland County Regular Republican Organization unless otherwise designated.
 Todos los signatarios de los candidatos de Cumberland County Regular Republican Organization, a menos que se han designado otros signatarios.

distrito/ district	Members of County Committee Membres del Comité del Condado (Vote per side on su distrito)	distrito/ district	Members of County Committee Membres del Comité del Condado (Vote per side on su distrito)
1-1	NO PETITION FILED	4-1	NO PETITION FILED
1-1	NO PETITION FILED	4-1	NO PETITION FILED
2-1	NO PETITION FILED	4-2	NO PETITION FILED
2-1	NO PETITION FILED	4-2	NO PETITION FILED
2-2	NO PETITION FILED	5-1	NO PETITION FILED
2-2	NO PETITION FILED	5-1	NO PETITION FILED
2-3	NO PETITION FILED		
2-3	NO PETITION FILED		
3-1	NO PETITION FILED		
3-1	NO PETITION FILED		
3-2	NO PETITION FILED		
3-2	NO PETITION FILED		
3-3	NO PETITION FILED		
3-3	NO PETITION FILED		
3-4	NO PETITION FILED		
3-4	NO PETITION FILED		
3-5	NO PETITION FILED		
3-5	NO PETITION FILED		

Form 1 - BRIDGETON

Your Ward is: _____
 su barrio es _____
 Your District is: _____
 su distrito es _____

(PERSONAL CHECK/SEAL/COMPRESA)
 (PERSONAL CHECK/SEAL/COMPRESA)
 → ○
 → ○

IMPORTANT INSTRUCTIONS TO VOTERS
 Locate your district, vote for two candidates only, fill in the oval to the right of your choice(s). If you have a personal check there, mark "PERSONAL CHECK".
 Localice su distrito en la lista, vote por dos candidatos. Marque con el símbolo de la izquierda si está sellado. Si no aparece ningún nombre, o si usted tiene un candidato de su preferencia cuyo nombre no aparece impreso en este documento, escriba el nombre de su candidato en la sección marcada "Sellado Personal".

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 11, 2019, I electronically filed the foregoing with the Clerk of the Superior Court of Mercer County by using the NJ e-courts system, which will forward a true and correct copy of the foregoing via email to all appropriate defense counsel.

I HEREBY CERTIFY that electronic service to First Deputy County Counsel Niki Athanasopoulos, Esq. was effected contemporaneously, pursuant to consent obtained to serve electronically in lieu of paper service, to: Niki.Athanasopoulos@co.middlesex.nj.com.

I HEREBY CERTIFY that electronic service to Senior Deputy Attorney General George N. Cohen, of the Community Affairs, State and Elections Section, was effected electronically contemporaneously, to: George.Cohen@law.njoag.gov

I HEREBY CERTIFY that electronic service to Robert Giles, Director of the NJ Division of Elections, was effected electronically contemporaneously, to: Robert.Giles@sos.nj.gov

AND I HEREBY CERTIFY that paper service is promptly forthcoming to the Office of the Attorney General Headquarters: Richard J. Hughes Justice Complex, 8th Fl., West Wing, 25 Market Street, Trenton, NJ 08625-0080.

BROMBERG LAW LLC

By: /s/ Yael Bromberg
Yael Bromberg, Esq.

Attorney for Plaintiffs

Civil Case Information Statement

Case Details: MERCER | Civil Part Docket# L-000732-19

Case Caption: CENTRAL JERSEY PROGR ESSIVE DE VS
ELAINE M. FLYN

Case Type: CIVIL RIGHTS

Document Type: Verified Complaint

Case Initiation Date: 04/11/2019

Jury Demand: NONE

Attorney Name: YAEL BROMBERG

Hurricane Sandy related? NO

Firm Name: BROMBERG LAW LLC

Is this a professional malpractice case? NO

Address: 73 GLEN AVE PO BOX 1131

Related cases pending: NO

GLEN ROCK NJ 07452

If yes, list docket numbers:

Phone:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Name of Party: PLAINTIFF : Central Jersey Progressive
Dem

Name of Defendant's Primary Insurance Company
(if known): None

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

This is an election matter with emergent deadlines pursuant to Title 19, in particular an upcoming election deadline this Friday April 12 for which we seek to enjoin Defendants from acting in circumvention of the federal and state constitutions and implementing laws.

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO

Title 59? NO

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 in accordance with *Rule 1:38-7(b)*

04/11/2019

Dated

/s/ YAEL BROMBERG

Signed

