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New Jersey Democratic State Committee,

James Carpino, Judith Murray,

Robert Davis, Jr. and Patricia Davis

NEW JERSEY DEMOCRATIC STATE
COMMITTEE, JAMES CARPINO, JUDITH
MURRAY, ROBERT DAVIS, JR. and
PATRICIA DAVIS,

Plaintiffs,

v.

JAMES BEAN, MICHAEL SEEBECK, JOY
DESANCTIS, CARMINE DESANCTIS,
EUGENE CLAPSI, KATRINA CLAPSI, and
THE MONMOUTH COUNTY BOARD OF
ELECTIONS,

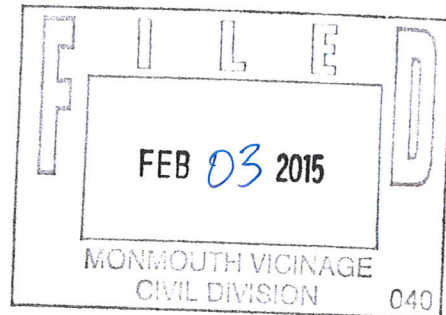
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:
MONMOUTH COUNTY
DOCKET NO.: L-~~4214-14~~

480-15

CIVIL ACTION

AMENDED COMPLAINT



Plaintiffs, New Jersey Democratic State Committee (“NJDCS”), James Carpino (“J. Carpino”), Judith Murray (“J. Murray”) Robert Davis, Jr. (“R. Davis”) and Patricia Davis (“P. Davis”) (the “Individual Plaintiffs”) (collectively, “Plaintiffs”) by and through their attorneys, Genova Burns LLC, by way of Complaint against defendants James Bean (“J. Bean”), Michael Seebeck (“M. Seebeck”), Joy DeSanctis (“J. DeSanctis”), Carmine DeSanctis (“C. DeSanctis”), Eugene Clapsis (“E. Clapsis”), Katrina Clapsis (“K. Clapsis”), (collectively, the “Individual Defendants”) and the Monmouth County Board of Elections (the “Board”) (collectively, the “Defendants”), allege as follows:

PARTIES

1. Plaintiff, NJDSC is a state-wide political party organization as defined under Title 19, with a principal address of 196 West State Street, Trenton, New Jersey 08608. In its role as a state political party, the NJDSC promotes the voting rights of New Jersey voters and ensures that they are not limited or violated.

2. Plaintiff, J. Carpino is a qualified voter under the New Jersey Statutes residing at 1501 Ocean Avenue in the Borough of Belmar, County of Monmouth, State of New Jersey, whose mail-in ballot for the November 4, 2014 General Election (the “2014 Election”) was challenged by the Individual Defendants.

3. Plaintiff, J. Murray is a qualified voter under the New Jersey Statutes residing at 1259 Pint Tree Way, in the Borough of Belmar, County of Monmouth, State of New Jersey, whose mail-in ballot for the 2014 Election was challenged by the Individual Defendants.

4. Plaintiff, R. Davis is a qualified voter under the New Jersey Statutes residing at 1701 Ocean Avenue, in the Borough of Belmar, County of Monmouth, State of New Jersey, whose mail-in ballot for the 2014 Election was challenged by the Individual Defendants.

5. Plaintiff, P. Davis is a qualified voter under the New Jersey Statutes residing at 1701 Ocean Avenue, in the Borough of Belmar, County of Monmouth, State of New Jersey, whose mail-in ballot for the 2014 Election was challenged by the Individual Defendants.

6. Upon information and belief, J. Bean is an individual residing at 612 16th Avenue in the Borough of Belmar, County of Monmouth, State of New Jersey.

7. Upon information and belief, M. Seebeck is an individual residing at 110 2nd Avenue in the Borough of Belmar, County of Monmouth, State of New Jersey

8. Upon information and belief, J. DeSanctis is an individual residing at 101 6th Avenue in the Borough of Belmar, County of Monmouth, State of New Jersey.

9. Upon information and belief, C. DeSanctis is an individual residing at 101 6th Avenue in the Borough of Belmar, County of Monmouth, State of New Jersey.

10. Upon information and belief, E. Clapsis is an individual residing at 1304 B Street in the Borough of Belmar, County of Monmouth, State of New Jersey.

11. Upon information and belief, K. Clapsis is an individual residing at 1304 B Street in the Borough of Belmar, County of Monmouth, State of New Jersey.

12. Upon information and belief, the Board has a principal address of 300 Halls Road in the Township of Freehold, County of Monmouth, State of New Jersey.

JURISDICTION AND VENUE

13. This is an action concerning the violation of a New Jersey statute and the invalidation of challenge affidavits of mail-in ballots.

14. Venue is proper in this jurisdiction as the parties reside in the County of Monmouth, State of New Jersey.

FACTS COMMON TO ALL COUNTS

15. Pursuant to N.J.S.A. 19:4-1, in relevant part:

[E]very person possessing the qualifications required by Article II, paragraph 3, of the Constitution of the State of New Jersey and having none of the disqualifications hereinafter stated and being duly registered as required by Title 19, shall have the right of suffrage and shall be entitled to vote in the polling place assigned to the election district in which he actually resides, and not elsewhere.

16. In addition, any “qualified voter shall be entitled to vote using a mail-in ballot in any election held in this State.” N.J.S.A. 19:63-3(a).

17. To invoke this right, N.J.S.A. 19:63-3(b)-(d) requires a voter to apply for a mail-in ballot in writing or, if within seven (7) days of an upcoming election, in person to the county clerk.

18. Under Title 19, a qualified voter may also “apply for and obtain a mail-in ballot by authorized messenger” N.J.S.A. 19:63-4(a).

19. The option to submit an application for a mail-in ballot by authorized messenger is subject to several requirements, in relevant part:

A qualified voter is entitled to apply for and obtain a mail-in ballot by authorized messenger, who shall be so designated over the signature of the voter and whose printed name and address shall appear on the application in the space provided. The authorized messenger shall be a family member or a registered voter of the county in which the application is made and shall place his or her signature on the application in the space so provided in the presence of the county clerk or the designee thereof. No person shall serve as an authorized messenger for more than 10 qualified voters in an election. No person who is a candidate in the election for which the voter requests a mail-in ballot shall be permitted to serve as an authorized messenger or bearer. . . . After the authentication of the signature on the application, the county clerk or the designee thereof is authorized to deliver to the authorized messenger a ballot to be delivered to the qualified voter.

N.J.S.A. 19-63-4(a).

20. In addition, upon receipt by the county clerk of an application for a mail-in ballot, pursuant to N.J.S.A. 19:63-8, the clerk:

[S]hall, with the cooperation of the commissioner of registration, cause the signature of the applicant to be compared with the signature of the person appearing on the permanent registration form or the digitalized image of the voter’s signature stored in the Statewide voter registration system, to determine from such examination, and any other available information, if the applicant is a voter qualified to cast a ballot in the election in which the voter wants to vote

21. Upon delivery to the qualified voter of a mail-in ballot, the voter can either: (1) mail or hand-deliver their mail-in ballot to their board of elections; or (2) utilize an individual known as a “bearer” to deliver the mail-in ballot to their board of elections. N.J.S.A. 19:63-12.

22. If a bearer delivers the mail-in ballot, he or she must complete the “bearer” section of the mail-in ballot envelope in the voter’s presence and provide their name, address and signature. Id.

23. N.J.S.A. 19:63-6(a) and N.J.S.A. 19:63-16(c) also permit a voter to have a family member or other person assist him or her with completing the application for a mail-in ballot and/or the actual mail-in ballot upon receipt, provided that the individual who assisted the voter sets forth their name, address and signature on the application and/or ballot.

24. Moreover, N.J.S.A. 19:15-18 provides:

The members of the district boards and any duly authorized challenger, respectively, shall at any election, challenge every person who shall claim to have a right to vote therein whom they or he shall know, suspect or believe not to be qualified or entitled to so vote, and said members of the district board or challenger shall have the power and right to ask all questions which are suitable and necessary to determine such person’s right.

25. However, under N.J.S.A. 19:15-18 a person it is also prohibited to:

. . . challenge, delay or prevent the right to vote of any person because of that person’s race, color, national origin, expected manner of casting a vote or residence in a particular ward, housing complex or section of a municipality or county, provided that nothing herein shall be construed to prohibit a challenge based upon the failure of the challenged voter to meet the applicable statutory residency qualification for voting in the particular election district. Any member of the district board or duly authorized challenger who violates this section is guilty of a disorderly persons offense (emphases added).

26. Upon information and belief, on or about October 30, 2014, J. DeSanctis and C. DeSanctis delivered 144 challenges, via challenge affidavit forms, (the “Challenges”) to the Board for the 2014 Election.

27. A challenge to each of the Individual Plaintiffs’ mail-in ballots was included in the Challenges.

28. The Challenges were made against mail-in ballots delivered to voters by messenger and submitted to the Board on or before October 30, 2014 from the Borough of Belmar.

29. None of the Challenges were made against mail-in ballots delivered to voters by any other method.

30. The Challenges were signed by the Individual Defendants, which included an affirmation that “being duly sworn on oath or affirmation, to the best of my knowledge and belief, state that the foregoing statements made by are true and correct” (the “Affidavits”).

31. The number of Affidavits signed by the Individual Defendants is as follows:

- a. J. DeSanctis – 29;
- b. C. DeSanctis – 18;
- c. J. Bean – 36;
- d. M. Seebeck – 21;
- e. E. Clapsis – 23; and
- f. K. Clapsis – 17.

32. The Challenges and Affidavits were signed by the Individual Defendants prior to their delivery to the Board on October 30, 2014.

33. The Individual Defendants failed to provide a basis for their challenge of the mail-in ballot in issue in each of the Challenges.

34. Specifically, the Individual Defendants failed to identify a database, website, book, record or other research tool utilized to determine that any of the challenged voters were either “not domiciled”, had “multiple handwriting” or were “assisted”, in violation of the New Jersey Statutes.

35. In fact, the Individual Defendants knew, or should have known, that their Challenges were factually improper.

36. For example, in 2014, J. Bean visited J. Murray’s home to address computer issues she was experiencing. As such, J. Bean had first-hand knowledge of J. Murray’s residence at the time he challenged her voting eligibility.

37. Further, in 2014, C. DeSanctis visited R. Davis’ home to request his signature on a petition that was limited to individuals who were registered voters residing in the Township of Belmar. As such, C. DeSanctis had first-hand knowledge of R. Davis’ residence at the time he challenged his voting eligibility.

38. Despite having first-hand knowledge of the Individual Plaintiffs’ residence, the Individual Defendants based the Challenges to their eligibility to vote on a failure to meet the residency requirements.

39. In addition, upon information and belief, on October 30, 2014, J. DeSanctis was instructed and/or advised by Hedra Siskel, the Monmouth County Superintendent of Elections, to alter, amend and/or modify the sworn challenge affidavits, and/or to ensure that the subject challenges included the terms “check assisted” and/or “multiple handwriting” as a basis for the challenge.

40. As such, on October 30, 2014, immediately prior to submitting the Challenges and Affidavits to the Board – but subsequent to execution by the respective affiant – J. DeSanctis and/or C. DeSanctis altered and/or otherwise improperly modified, amended and/or changed the reason(s) for each Challenge to a mail-in ballot in accordance with the suggestion from Superintendent H. Siskel.

41. The Individual Defendants' vote suppression challenge scheme was based on challenging all mail-in ballots cast and delivered to voters by messenger.

42. As such, on or about November 3, 2014, the NJDSC filed an Order to Show Cause seeking to invalidate the Challenges, and corresponding Affidavits, to the mail-in ballots delivered by the Individual Defendants.

43. The Court denied entering an Order granting the relief sought by the NJDSC, finding that the Challenges and Affidavits could be reviewed collectively by the Board to determine their validity.

44. The Board subsequently reviewed each of the Challenges individually and denied one hundred and one (101) Challenges, finding that those mail-in ballots were valid.

45. The other forty-three (43) Challenges were granted based on either the certificate not signed, an incomplete bearer portion, a signature that does not match or a voter registration identification missing as required for a mail-in ballot.

46. The Board never reviewed the Challenges collectively and did not decide whether the Individual Defendants' attempt to challenge only mail-in ballots distributed by messenger was a vote-suppression program violative of N.J.S.A 19:15-18.

FIRST COUNT
VIOLATION OF N.J.S.A. 19:15-18

47. Plaintiffs repeat and reallege the allegations set forth in the foregoing paragraphs of this Complaint as if set forth more fully herein.

48. N.J.S.A. 19:15-18 provides that “. . . no duly authorized challenger shall, however, challenge, delay or prevent the right to vote of any person because of that person’s . . . expected manner of casting a vote or residence in a particular ward, housing complex or section of a municipality or county . . . any . . . duly authorized challenger who violates this section is guilty of a disorderly persons offense” (emphases added).

49. The Individual Defendants simply challenged only mail-in ballots delivered to voters by messenger, which ballots they believed would favor the incumbent mayor.

50. The Individual Defendants executed the Affidavits without having firsthand knowledge of the basis for any of the Challenges, or with knowledge that their Challenges were false.

51. Indeed, the Individual Defendants failed to provide a basis for the reasons identified in the Challenges.

52. Specifically, the Individual Defendants failed to identify a database, website, book, record or other research tool utilized to determine that any of the challenged voters were either “not domiciled” or had “multiple handwriting” or were “assisted”, in violation of the New Jersey Statutes.

53. The Individual Defendants’ improper conduct caused a delay in, and/or prevented, the right of the Individual Plaintiffs, and others, to vote in the 2014 Election.

54. As such, the Individual Defendants' challenge of solely mail-in ballots received by messenger, who they believed to be friendly to the incumbent mayor, seeking to have those votes invalidated, is a violation of N.J.S.A. 19:15-18.

55. Further, the Board's failure to review the Challenges collectively, to determine whether the Individual Defendants' conduct in challenging only mail-in ballots distributed by messenger was a vote-suppression program violative of N.J.S.A. 19:15-18.

56. The Defendants' conduct illegally prevented the Individual Plaintiffs' from exercising their constitutional right to vote.

57. Based upon the foregoing, voters of the State of New Jersey risked being disenfranchised, and future voters will be subject to similar, if not exactly the same, voter suppression scheme.

WHEREFORE, Plaintiffs demand:

(a) a finding that defendants J. DeSanctis, C. DeSanctis, J. Bean, M. Seebeck, E. Clapsis and K. Clapsis violated N.J.S.A. 19:15-18 by basing their challenges on the method and manner of voting, namely, mail-in ballots applied for by messenger and/or submitted by a bearer; and

(b) a finding that defendant, the Board failed to take appropriate actions to determine whether the Individual Defendants' conduct constituted a vote-suppression program in violation of N.J.S.A. 19:15-18; and

(c) the voiding or otherwise invalidating of any and all challenge affidavits submitted by the Individual Defendants; and

(d) the payment of Plaintiffs' attorneys' fees and costs; and

(e) such other and further relief as the Court may deem just and equitable.

GENOVA BURNS LLC

*Attorneys for Plaintiff,
New Jersey Democratic State Committee,
James Carpino, Judith Murray,
Robert Davis, Jr. and Patricia Davis*


RAJIV D. PARIKH

Date: February 2, 2015

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:5-1(c), Rajiv D. Parikh, Esq., is hereby designated as trial counsel on behalf of plaintiffs New Jersey Democratic State Committee, James Carpino, Judith Murray Robert Davis, Jr. and Patricia Davis.

RULE 4:5-1 CERTIFICATION

I hereby certify pursuant to R. 4:5-1(b) that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, nor is any other action contemplated. I further certify that there are no other parties who should be joined in the action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1(b).

DEMAND FOR JURY TRIAL PURSUANT TO RULE 4:35-1

Plaintiffs New Jersey Democratic State Committee, James Carpino, Judith Murray Robert Davis, Jr. and Patricia Davis respectfully request a trial by jury on all claims asserted by and against them in this lawsuit, and on all issues so triable.

I certify that the foregoing statements made by me are true and I am aware that if any of the statements made by me are willfully false, I am subject to punishment.

GENOVA BURNS LLC
*Attorneys for Plaintiffs,
New Jersey Democratic State Committee,
James Carpino, Judith Murray,
Robert Davis, Jr. and Patricia Davis*


RAJIV D. PARIKH

Date: February 2, 2015