

Jill Anne LaZare, Esq. (019662001)
Brett M. Pugach, Esq. (032572011)
55 Union Place, Suite 330
Summit, New Jersey 07901
Telephone (908) 219-4366
Fax (908) 219-4362
Attorneys for Plaintiffs Christine Dansereau and Denise Wilkerson

CHRISTINE DANSEREAU AND DENISE
WILKERSON,

Plaintiffs,

v.

LYDIA D. MASSEY, in her capacity as Acting
Municipal Clerk of the Borough of Roselle,
AND JOANNE RAJOPPI, in her capacity as
Clerk of Union County,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: UNION COUNTY

DOCKET NO. UNN-L-

CIVIL ACTION

VERIFIED COMPLAINT

Plaintiffs Christine Dansereau (“Dansereau”) and Denise Wilkerson (“Wilkerson”) (collectively “Plaintiffs”), by way of Verified Complaint against defendant Lydia D. Massey, in her official capacity as Acting Municipal Clerk of the Borough of Roselle (“Clerk”), and defendant Joanne Rajoppi, in her official capacity as the Clerk of Union County (“County Clerk”) (collectively “Defendants”), say:

PARTIES

1. Plaintiff Christine Dansereau is the incumbent Mayor of the Borough of Roselle, and a candidate for re-election to the office of Mayor of the Borough of Roselle in the Democratic Primary Election to be held on June 4, 2019.

2. Plaintiff Denise Wilkerson is a sitting councilperson in the Borough of Roselle, and a candidate for election to the office of Council-at-Large of the Borough of Roselle in the Democratic Primary Election to be held on June 4, 2019.

3. Defendant Lydia D. Massey is the Acting Municipal Clerk of the Borough of Roselle, who is vested with certain statutory duties and obligations including the receipt and processing of certain candidate petitions and certifying candidates to appear on the ballot to the County Clerk.

4. Defendant Joanne Rajoppi ("County Clerk") is the Clerk of the County of Union, who is vested with certain statutory duties and obligations including the designing, preparation, and printing of ballots, the issuance of mail-in ballots, and conducting a drawing for ballot positions for various elections held in Union County.

JURISDICTION AND VENUE

5. The Superior Court has jurisdiction over this election matter pertaining to petitions for municipal office in the Borough of Roselle in Union County with respect to the Democratic Primary Election to be held on June 4, 2019.

6. Venue is proper in Union County under R. 4:3-2(a)(2) and (3) because the elections, candidates, and petitions at issue pertain to the Borough of Roselle in Union County, the cause of action arose in Union County, and all parties reside within Union County.

BACKGROUND

7. Primary elections for the Democratic and Republican parties are scheduled to take place on June 4, 2019 to determine, among other offices, which candidates nominated by each of the parties for Mayor and for Council-at-Large in the Borough of Roselle will appear on the November 2019 General Election ballot.

8. Candidates seeking the nomination for their respective party's nomination for such offices are required to file petitions for nomination in accordance with N.J.S.A. 19:23-1 et seq., and to submit such petitions to the Municipal Clerk, pursuant to N.J.S.A. 19:23-6.

9. Among other items, the petitions are required to set forth that the signers of the petition are qualified voters of the municipality in which they reside and for which they desire to nominate candidates, that they are members of the appropriate political party, that they intend to affiliate with that political party at the ensuing election, that they indorse the person or persons named in their petition as candidate or candidates for nomination for the office or offices therein named, and that they request that the name of the person or persons therein mentioned be printed upon the official primary ballots of their political party as the candidate or candidates for such nomination, pursuant to N.J.S.A. 19:23-7.

10. Candidates for offices such as Mayor and Council-at-Large that are to be voted for by the voters of a political party throughout the entire municipality, where that municipality has a population in excess of 14,000 as ascertained by the last Federal census, such as the Borough of Roselle, are required to obtain at least 50 signatures on their nominating petitions, pursuant to N.J.S.A. 19:23-8.

11. Petitions were required to be filed by 4:00 p.m. on April 1, 2019, pursuant to N.J.S.A. 19:23-14.

12. If a petition is defective excepting as to the number of signatures, the municipal clerk must notify the candidate, setting forth the nature of the defect and the date when the ballots will be printed, pursuant to N.J.S.A. 19:23-19.

13. Candidates whose petitions were determined by the Municipal Clerk to be defective are permitted to amend the petition either in form or in substance, but not to add signatures, so as to remedy the defect within three days, pursuant to N.J.S.A. 19:23-20.

14. On April 1, 2019, prior to the 4:00 p.m. deadline, Plaintiffs submitted multiple petition booklets (“Petition”) as a single petition for both Christine Dansereau for Mayor and Denise Wilkerson for Council-at-Large to the Clerk.

15. Plaintiffs submitted a total of 6 petition booklets, including 3 circulated by Dansereau and 3 circulated by Wilkerson, with a combined total of 123 signers, well in excess of the 50 signatures required by statute.

16. At the top of each petition booklet, it clearly states for all signers to see that by signing the petition, they reside in the Borough of Roselle, are qualified voters, are members of the Democratic Party and endorse the below candidates for the offices of “Mayor and Council-at-Large,” (listed in that order) and request that such candidates’ names be printed on the ballot.

17. The Petition then lists the names, addresses, and emails of “Christine Dansereau” on the first line provided, and “Denise Wilkerson” on the second line provided, in that order.

18. When circulating her petition booklets, as a matter of course, Dansereau made clear to the signers that these petitions were for both offices, and that she was running for re-election to Mayor, and that Wilkerson was running for Council-at-Large.

19. When circulating her petition booklets, as a matter of course, Wilkerson made clear to the signers that these petitions were for both offices, and that she was running for Council-at-Large and that Mayor Dansereau was running to be re-elected as Mayor.

20. Following timely submission of all of the 6 petition booklets together to the Clerk on April 1, 2019, the Clerk wrote a letter to Plaintiffs on April 2, 2019 stating that she is

“without statutory authority to accept these joint petitions for filing because said petitions are for different offices.”

21. The Clerk further stated that she would not make any findings regarding defects or challenges, and would only mark the Petition as “received but not accepted.”

22. The Clerk did not cite to any particular statute, case, or other authority to support her position.

23. Despite their fundamental disagreement as to the merits of the Clerk’s position, Plaintiffs nevertheless sought out signers of their Petition in an effort to cure this purported defect.

24. In that regard, Dansereau and Wilkerson were able to obtain, on separate petitions (one for Dansereau for Mayor, and one for Wilkerson for Council-at-Large) (“Cured Petitions”), 70 signatures for Dansereau and 69 signatures for Wilkerson.

25. All of those signatures obtained on the Cured Petitions were obtained from signers who had signed the original Petition, and as such, no additional signatures were added.

26. In addition, and at the same time, Dansereau and Wilkerson also obtained certifications from 70 of those same signers who had signed the original Petition, which state that such signers knew and understood that the original Petition was calling for Dansereau to run for Mayor, and Wilkerson to run for Council-at-Large, and that this is, in fact, who and for which office they desire to appear on the ballot for the upcoming primary election.

27. The Cured Petitions for both Dansereau and Wilkerson were submitted to the Clerk by Wilkerson and campaign manager, Anthony Esposito on April 4, 2019, within the three-day period to cure a defect pursuant to N.J.S.A. 19:23-20, which allows candidates to

amend petitions “either in form or in substance, but not to add signatures, so as to remedy the defect within three days.”

28. The Cured Petitions were accompanied by a letter from Jill LaZare, Esq., dated April 3, 2019, explaining that the Cured Petitions were submitted to cure any *alleged* defect, “without prejudice and without admission of any kind that the original petition was defective or otherwise improper.”

29. Despite submission of the Cured Petitions on April 4, 2019 with the accompanying letter, the Clerk nevertheless refused to accept the petitions or even mark them received.

30. The Clerk responded to Jill LaZare’s letter on April 5, 2019, stating that she has no authority to act on the proposed amended petitions, and requested that Plaintiffs seek assistance via the Superior Court.

31. As a result, Plaintiffs have filed this Verified Complaint in Lieu of Prerogative Writ and Order to Show Cause, respectfully requesting that this matter be heard on an expedited basis.

32. Pursuant to Title 19, important upcoming time-sensitive statutory deadlines include but are not limited to the following: (1) April 11, 2019 is the deadline for municipal clerks to certify to the county clerks the list of candidates who filed petitions for the primary election, N.J.S.A. 19:23-14; (2) April 12, 2019 is the date set by statute for county clerks to draw for ballot positions, N.J.S.A. 19:23-24; (3) April 15 is the deadline for county clerks to prepare the official primary election ballots for printing, N.J.S.A. 19:14-1; (4) April 15, 2019 is the deadline for filing in Superior Court to protect the rights of a primary election candidate,

N.J.S.A. 19:13-12; and (5) April 20, 2019 is the deadline for county clerks to commence mailing of mail-in ballots, N.J.S.A. 19:63-5, -9.

FIRST COUNT

(Action in Lieu of Prerogative Writ Pursuant to R. 4:69-1 et seq.)

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

34. Plaintiffs timely submitted the original Petition with a sufficient number of signatures.

35. The face of the Petition contained the offices “Mayor” first, and then “Council-at-Large second, as well as the names of the corresponding candidates, “Dansereau” first, and then “Wilkerson” second.

36. The individuals eligible to sign a petition to indorse a candidate for the office of Mayor in Roselle are the exact same individuals eligible to sign a petition to indorse a candidate for the office of Council-at-Large, as both offices are voted on at the June 4, 219 Democratic Primary Election by all otherwise eligible voters throughout the municipality.

37. The Clerk received but rejected the Petition because the candidates were running for different offices.

38. The intent of the voters was further clarified through their signing of the Cured Petitions and their execution of Certifications demonstrating their intent to sign for Dansereau for Mayor and Wilkerson for Council-at-Large, and to have such candidates appear on the ballot.

39. The Clerk erred by rejecting the Petition because there is no *per se* rule prohibiting candidates from filing a single Petition solely because they are running for different offices.

40. The Clerk's rejection of the Petition violates N.J.S.A. 19:13-10 which requires acceptance of all nominating petitions in apparent conformity with Title 19.

41. The Clerk erred by rejecting the Petition because this States' jurisprudence regarding the liberal construction of elections laws requires acceptance of the Petition.

42. The Clerk erred by rejecting the Petition because this States' jurisprudence regarding the liberal construction of elections laws requires that Title 19 not be construed so as to deprive access to the ballot, or to render an election void, for technical reasons.

43. The Clerk erred because Plaintiffs should have been afforded the opportunity to cure any alleged defect, but instead the Clerk rejected even the receipt of Plaintiffs' Cured Petitions, in violation of N.J.S.A. 19:23-20.

44. The Clerk erred by contravening the intent of the signers of the Petition.

45. The Clerk's actions were arbitrary and capricious.

46. The Clerk's actions were contrary to law.

WHEREFORE, Plaintiffs demand judgment as follows:

A. Temporarily and preliminarily enjoining and restraining the Clerk from certifying to the County Clerk the names of the candidates who filed petitions with the Clerk until the issues raised in the Verified Complaint in this matter are fully adjudicated; and

B. Temporarily and preliminarily enjoining and restraining the County Clerk from conducting the ballot placement drawing currently set by statute to take place on April 12, 2019 at 3:00 p.m., and from 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 Democratic Primary Election in the Borough of Roselle in

Union County until the issues raised in the Verified Complaint in this matter are fully adjudicated; and

C. Ordering 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, including, but not limited to the ballot placement drawing scheduled for April 12, 2019 at 3:00 p.m., the April 15, 2019 deadline for preparation of official primary election ballots for printing, and the April 20, 2019 deadline for the commencement of mailing of mail-in ballots; and

D. Issuing an Order directing the Clerk to accept Plaintiffs' Petition and certify to the County Clerk Christine Dansereau's name as a candidate for Mayor in the Borough of Roselle and Denise Wilkerson's name as a candidate for Council-at-Large in the Borough of Roselle in connection with the June 4, 2019 Democratic Primary Election; and

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

SECOND COUNT

(Action to Protect Plaintiffs from Invasion of Candidates' Rights Pursuant to N.J.S.A. 19:13-12)

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

48. Plaintiffs timely submitted the original Petition with a sufficient number of signatures.

49. The face of the Petition contained the offices "Mayor" first, and then "Council-at-Large second, as well as the names of the corresponding candidates, "Dansereau" first, and then "Wilkerson" second.

50. The individuals eligible to sign a petition to indorse a candidate for the office of Mayor in Roselle are the exact same individuals eligible to sign a petition to indorse a candidate for the office of Council-at-Large, as both offices are voted on at the June 4, 219 Democratic Primary Election by all otherwise eligible voters throughout the municipality.

51. The Clerk received but rejected the Petition because the candidates were running for different offices.

52. The intent of the voters was further clarified through their signing of the Cured Petitions and their execution of Certifications demonstrating their intent to sign for Dansereau for Mayor and Wilkerson for Council-at-Large, and to have such candidates appear on the ballot.

53. Plaintiffs' rights have been invaded by the Clerk's rejection of the Petition because there is no *per se* rule prohibiting candidates from filing a single Petition solely because they are running for different offices.

54. Plaintiffs' rights have been invaded by the Clerk's violation of N.J.S.A. 19:13-10 which requires acceptance of all nominating petition in apparent conformity with Title 19.

55. Plaintiffs' rights have been invaded by the Clerk's rejection of the Petition because this States' jurisprudence regarding the liberal construction of elections laws requires acceptance of the Petition.

56. Plaintiffs' rights have been invaded by the Clerk's rejection of the Petition because this States' jurisprudence regarding the liberal construction of elections laws requires that Title 19 not be construed so as to deprive access to the ballot, or to render an election void, for technical reasons.

57. Plaintiffs' rights have been invaded by the Clerk's failure to afford the opportunity to cure any alleged defect, and rejection of even the receipt of Plaintiffs' Cured Petitions, in violation of N.J.S.A. 19:23-20.

58. Plaintiffs' rights have been invaded by the Clerk's contravention of the intent of the signers of the Petition.

59. Plaintiffs' rights have been invaded by the Clerk's arbitrary and capricious actions.

60. Plaintiffs' rights have been invaded by the Clerk's actions contrary to law.

WHEREFORE, Plaintiffs demand judgment as follows:

A. Temporarily and preliminarily enjoining and restraining the Clerk from certifying to the County Clerk the names of the candidates who filed petitions with the Clerk until the issues raised in the Verified Complaint in this matter are fully adjudicated; and

B. Temporarily and preliminarily enjoining and restraining the County Clerk from conducting the ballot placement drawing currently set by statute to take place on April 12, 2019 at 3:00 p.m., and from 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 Democratic Primary Election in the Borough of Roselle in Union County until the issues raised in the Verified Complaint in this matter are fully adjudicated; and

C. Ordering 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, including, but not limited to the ballot placement drawing scheduled for April 12, 2019 at 3:00 p.m., the April 15, 2019 deadline for preparation of official primary election ballots for

printing, and the April 20, 2019 deadline for the commencement of mailing of mail-in ballots;
and

D. Issuing an Order directing the Clerk to accept Plaintiffs' Petition and certify to the County Clerk Christine Dansereau's name as a candidate for Mayor in the Borough of Roselle and Denise Wilkerson's name as a candidate for Council-at-Large in the Borough of Roselle in connection with the June 4, 2019 Democratic Primary Election; and

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

Respectfully submitted,

LAW OFFICES OF JILL ANNE LAZARE, LLC
Attorneys for the Plaintiffs,
Christine Dansereau and Denise Wilkerson

By: _____

JILL ANNE LAZARE

Dated: April 9, 2019

DESIGNATION OF TRIAL COUNSEL

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

LAW OFFICES OF JILL ANNE LAZARE, LLC
Attorneys for the Plaintiffs,
Christine Dansereau and Denise Wilkerson

By: _____

JILL ANNE LAZARE

Dated: April 9, 2019

RULE 4:5-1 CERTIFICATION

Pursuant to R. 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 Verified Complaint and joined in the action.

I am aware if any of the foregoing statements are willfully false, I may be subject to punishment.

LAW OFFICES OF JILL ANNE LAZARE, LLC

Attorneys for the Plaintiffs,

Christine Dansereau and Denise Wilkerson

By:



JILL ANNE LAZARE

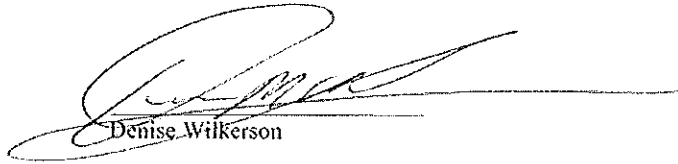
Dated: April 9, 2019

VERIFICATION

I, Denise Wilkerson, hereby certify as follows:

1. I am a sitting councilperson in the Borough of Roselle, a candidate for Council-at-Large in the Borough of Roselle, and a plaintiff in the foregoing Verified Complaint.
2. I have read the foregoing Verified Complaint and state that the facts contained therein are true to my own knowledge, and the allegations set forth on information and belief, I believe to be true.

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


Denise Wilkerson

Date: April 9, 2019



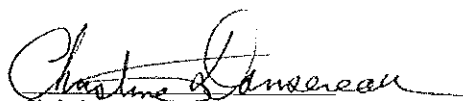
NEW
JERSEY
GLOBE

VERIFICATION

I, Christine Dansereau, hereby certify as follows:

1. I am the incumbent Mayor of the Borough of Roselle, a candidate for re-election for Mayor in the Borough of Roselle, and a plaintiff in the foregoing Verified Complaint.
2. I have read the foregoing Verified Complaint and state that the facts contained therein are true to my own knowledge, and the allegations set forth on information and belief, I believe to be true.

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


Christine Dansereau

Date: April 9, 2019

NEW
JERSEY
GLOBE