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*Rule 1:40 Mediator

File No. GL-998

November 20, 2020

Via eCourts

The Honorable Benjamin C. Telsey, A.J.S.C.

Gloucester County Justice Complex

70 Hunter Street

Woodbury, NJ 08096

**Re: IN THE MATTER OF THE APPLICATION OF NICHOLAS P. DESILVIO
FOR RECOUNT AND RECHECK OF ALL VOTES CAST IN THE
GENERAL ELECTION HELD ON NOVEMBER 3, 2020 WITH THE
COUNTY OF GLOUCESTER, NEW JERSEY**

Dear Judge Telsey:

Please be advised that this firm represents the Petitioner, Nicholas P. DeSilvio, in the above captioned matter. Enclosed please find an original and one copy of the following:

1. Verified Petition for Recount and Recheck; and
2. Proposed Order;

By copy of this correspondence, we will provide notice of this Petition to the Gloucester County Counsel and the Deputy Attorney General assigned to represent the Gloucester County Board of Elections.

I thank the court for its attention to this matter.

Respectfully Submitted,

/s/ Christopher J. Dasti

Christopher J. Dasti

CJD/JDC

Enclosures

cc: Nicholas P. DeSilvio (via email)

DASTI ASSOCIATES

CHRISTOPHER J. DASTI, ESQ. [013802010]
310 Lacey Road
P.O. Box 779
Forked River, New Jersey 08731

Attorneys for Petitioner Nicholas P. DeSilvio

IN THE MATTER OF THE
APPLICATION OF NICHOLAS P.
DESILVIO FOR RECOUNT AND
RECHECK OF ALL VOTES CAST IN
THE GENERAL ELECTION HELD ON
NOVEMBER 3, 2020 WITH THE
COUNTY OF GLOUCESTER, NEW
JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CIVIL PART
GLOUCESTER COUNTY

CIVIL ACTION

DOCKET NO.: GLO-L-

**VERIFIED PETITION FOR
RECOUNT AND RECHECK**

Petitioner, Nicholas P. DeSilvio, residing at 698 Grant Avenue, Franklinville,
County of Gloucester, State of New Jersey, by way of this Petition says as follows:

1. At all times relevant herein, Petitioner was a candidate for the Board of Chosen Freeholders for the County of Gloucester in the State of New Jersey.
2. The General Election was held for said office on November 3, 2020.
3. As a duly qualified candidate, Petitioner has standing to file the within application for recount and recheck pursuant to N.J.S.A. 19:28-1 et seq., and N.J.S.A. 19:52-6, et seq.
4. There were six candidates for three seats on the Board of Chosen Freeholders: George Shivery, Jr., Chris Konawel, Heather Simmons, Lyman Barnes, Jim Jefferson, and Petitioner.
5. The official canvass, as reported, states Heather Simmons received 88,429 votes, Jim Jefferson received 85,031 votes, Lyman Barnes received 84,317

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votes, Petitioner received 82,373 votes, Chris Konawel received 81,318 votes, and George Shivery, Jr. received 79,984 votes. Therefore, Petitioner lost the election by a margin of 1,944 votes according to the presently reported results.

6. At all times relevant herein, the Respondent, Gloucester County Board of Elections, was and continues to be the custodian of the Vote by Mail ballot application, envelopes, the Vote by Mail, voting orders, and other paraphernalia associated with respect thereto. Further, the Respondent is charged with the duty of conducting the recount of the Vote by Mail ballots in accordance with the requirements of the General Election laws at a time and place established by the Board of Elections.

7. Petitioner has been informed and believe that there may have been errors in reporting the tallies due to the nature of the 2020 General Election being an Exclusive Vote by Mail election.

8. N.J.S.A. 19:28-1 provides for a recount of the Vote by Mail ballots upon payment of \$25.00. Thus, Petitioner applies for a recount of the Vote by Mail ballots cast.

9. At all times relevant herein, the Respondent is the custodian of the absentee ballot applications, envelopes, absentee ballots, vote by mail ballots, provisional ballots, affirmations and envelopes, and other paraphernalia associated with respect thereto. Further, the Respondent is charged with the duty of conducting the recheck of the absentee, provisional, and vote by mail ballots in accordance with the requirements of the election laws at a time and place established by the Board of Elections.

10. Petitioner believes that the public interest in the outcome of the election warrants a recount and that the \$25 per district fee should be waived because the vote total separating Petitioner and Lyman Barnes is less than .39%.

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WHEREFORE, Petitioner seeks relief as follows:

- A. For a hand recount and recheck pursuant to N.J.S.A. 19:28-1, et seq. and N.J.S.A. 19:52-6, et seq., and that the ballots cast, including any provisional ballots, if applicable, at the aforementioned election for the office of Board of Chosen Freeholders for the County of Gloucester be opened and recount taken;
- B. Pending such recount, recheck and recount and until further Order of this Court, that the Gloucester County Board of Elections and the County Clerk, be restrained and enjoined from unlocking, unsealing, opening, resetting, zeroing, stripping, disposing of, or otherwise interfering with the voting machines, voting authorities, voting records, and that they further preserve and secure all paper ballots, canvass sheets, envelopes, inner envelopes, envelope flaps, applications, rejected absentee ballots, provisional ballots, affirmations and envelopes, messenger records and other documents or records regarding the conduct or results of the Election.; and
- C. That the Petitioner or his representatives be empowered and permitted to examine and copy the election materials, documents, Vote by Mail ballots, and all other records and documents;
- D. Any other relief as this Court may deem equitable and just.

DASTI & ASSOCIATES
Attorneys for Petitioner,
Nicholas P. DeSilvio

s/Christopher J. Dasti, Esq.
CHRISTOPHER J. DASTI, ESQ.

Dated: November 20, 2020

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VERIFICATION

Nick DeSilvio, of full age, hereby verifies as follows:

1. I am the Petitioner in the above-captioned matter.
2. I have read the allegations in the foregoing Verified Petition and they are true to the best of my personal knowledge and belief. I have relied upon my attorneys for those statements related to legal conclusions and/or statements of law.

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.

Dated: November 20, 2020


NICHOLAS P. DESILVIO

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P.O. Box 779
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CERTIFICATION PURSUANT TO RULE 1:4-4(c)

Pursuant to R. 1:4-4(c), the signature of Nicholas DeSilvio filed in the above-captioned matter is a facsimile of the original signature. I certify that Nicholas DeSilvio acknowledged the genuineness of his signature to me, and that if requested by the Court or a party, the Certification of Nicholas DeSilvio with the original signature will be filed.

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

DASTI & ASSOCIATES
Attorneys for Petitioner,
Nicholas P. DeSilvio

Dated: November 20, 2020

s/Christopher J. Dasti, Esq.
CHRISTOPHER J. DASTI, ESQ.

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- B. Pending such recount, recheck and recount and until further Order of this Court, that the Gloucester County Board of Elections and the County Clerk, be restrained and enjoined from unlocking, unsealing, opening, resetting, zeroing, stripping, disposing of, or otherwise interfering with the voting machines, voting authorities, voting records, and that they further preserve and secure all paper ballots, canvass sheets, envelopes, inner envelopes, envelope flaps, applications, rejected absentee ballots, provisional ballots, affirmations and envelopes, messenger records and other documents or records regarding the conduct or results of the Election.; and
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Nicholas P. DeSilvio

s/Christopher J. Dasti, Esq.
CHRISTOPHER J. DASTI, ESQ.

Dated: November 20, 2020

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