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FOOD & WATER WATCH and ELISSA SCHWARTZ, BETTINA HEMPEL, PAULA ROGOVIN, LISA ROSE and LAURIE LUDMER (“COMMITTEE OF PETITIONERS”),	: SUPERIOR COURT OF NEW JERSEY : LAW DIVISION: BERGEN COUNTY : : :
Plaintiffs,	: Docket No. BER-L. 21 : :
-vs.-	: Action in Lieu of Prerogative Writ : :
DOUG RUCCIONE, in his capacity as Township Clerk, the TOWNSHIP OF TEANECK, and STEVEN CHONG, in his capacity as Bergen County Deputy Clerk	: VERIFIED COMPLAINT : and <u>R.</u> 4:69-4 Certification : : :
Defendants.	: : X

The Plaintiffs, FOOD & WATER WATCH and ELISSA SCHWARTZ, BETTINA HEMPEL, PAULA ROGOVIN, LISA ROSE, and LAURIE LUDMER (the “Committee of Petitioners”), by way of their Verified Complaint, state as follows:

PRELIMINARY STATEMENT

1. This action lieu of prerogative writ involves Teaneck’s attempt to deny its citizens’ right to have a role in the legislative process through their statutory right of initiative. It seeks (a) a declaration that the electronic signatures that were collected by Plaintiffs prior to July 4, 2021 during the Governor’s Public Health Emergency as valid and the Teaneck Township Clerk’s failure to find Plaintiffs’ Initiative Petition sufficient (proposing an ordinance to create a community energy aggregation program—hereinafter “Community Energy Aggregation Program

Ordinance”) violates N.J.S.A. 40:69A-186 to 188, as modified by Executive Order 132 (“EO 132”), Executive Order 216 (“EO 216”) and P.L. 2020, Ch. 55 (b) an order in lieu of prerogative writ (*mandamus*) or otherwise directing the Township Clerk to certify as sufficient Plaintiffs’ Community Energy Aggregation Program Ordinance Initiative Petition (“Initiative Petition” or “Energy Aggregation Initiative Petition”) filed July 15, 2021, and corrected by their supplemental petition, filed August 5, 2021, and to submit such ordinance to the “to the municipal council without delay,” N.J.S.A. 40:69A-190; and, immediately thereafter to the County Clerk in order “to submit the ordinance to the voters” pursuant to 40:69A-191; and (c) an order in lieu of prerogative writ (*prohibition*) or otherwise enjoining the Clerk of Bergen County from printing any ballot for use at the November 2, 2021 General Election prior to this matter being resolved; and (d) an order awarding legal fees to Plaintiffs pursuant to the N.J.S.A. 10:6-2(c).

PARTIES

2. Plaintiff FOOD & WATER WATCH (“FWW”) is a non-profit organization 501(c)(3) organization that mobilizes people to advocate at the local, state and federal levels to protect our food, water and climate. It has members and supporters throughout the country, including in New Jersey. Its New Jersey office is located at 100 Bayard Street, Suite 202, in New Brunswick, NJ 08901. Over the past three years, FWW has successfully gathered more than 6,000 petition signatures in support of Faulkner Act initiative petitions for community energy aggregation programs in towns and cities across the state. It has expended significant financial and staff resources toward this effort; and in particular, it advocated for the ability of voters to initiate such ordinances through electronic petitions during the pandemic, and invested in the technology to enable voters to do so. FWW’s North Jersey Organizer who was on the ground in Teaneck was Samantha DiFalco. Accordingly, FWW has a special organizational interest in this litigation.

3. Plaintiff ELISA SCHWARTZ resides at 698 Larch Avenue, Teaneck, NJ 07666, and is interested in ensuring that the citizens of Teaneck have the opportunity to determine whether to adopt the Community Energy Aggregation Program Ordinance proposed in the Initiative Petition. She is a member of the Committee of Petitioners and a signer of the Initiative Petition that is the subject of this case.

4. Plaintiff BETTINA HEMPEL resides at 300 Frances Street, Teaneck, NJ 07666, and is interested in ensuring that the citizens of Teaneck have the opportunity to determine whether to adopt the Community Energy Aggregation Program Ordinance proposed in the Initiative Petition. She is a member of the Committee of Petitioners and a signer of the Initiative Petition that is the subject of this case.

5. Plaintiff PAULA ROGOVIN resides at 625 Linden Avenue, Teaneck, NJ 07666, and is interested in ensuring that the citizens of Teaneck have the opportunity to determine whether to adopt the Community Energy Aggregation Program Ordinance proposed in the Initiative Petition. She is a member of the Committee of Petitioners and a signer of the Initiative Petition that is the subject of this case.

6. Plaintiff LISA ROSE resides at 575 Northumberland Road, Teaneck, NJ 07666, and is interested in ensuring that the citizens of Teaneck have the opportunity to determine whether to adopt the Community Energy Aggregation Program Ordinance proposed in the Initiative Petition. She is a member of the Committee of Petitioners and a signer of the Initiative Petition that is the subject of this case.

7. Plaintiff LAURIE LUDMER resides at 264 Sherman Avenue, Teaneck, NJ 07666, and is interested in ensuring that the citizens of Teaneck have the opportunity to determine whether to adopt the Community Energy Aggregation Program Ordinance proposed in the Initiative Petition.

She is a member of the Committee of Petitioners and a signer of the Initiative Petition that is the subject of this case.

8. The rights of plaintiffs Food & Water Watch, Schwartz, Hempel, Rogovin, Rose and Ludmer to a referendum vote on their initiated ordinance, guaranteed under the Faulkner Act, have been unlawfully thwarted by defendant Ruccione's refusal to accept validly collected electronic signatures and his consequent failure to process, in accordance with statute, the Energy Aggregation Initiative Petition filed on July 15, 2021 and supplemented on August 5, 2021.

9. Defendant DOUG RUCCIONE is and was at the times relevant to this complaint, the Clerk of the Township of Teaneck with his principal place of business at the Teaneck Township Municipal Building, 818 Teaneck Road, Teaneck, NJ 07666. In his capacity as Township Clerk, Mr. Ruccione has the duty to perform such functions as may be required by law, N.J.S.A. 40:69A-38, including but not limited to his duties with respect to initiative and referendum petitions pursuant to N.J.S.A. 40:69A-187 to -191. Defendant Ruccione's responsibilities with respect to accepting and filing original and supplemental petitions, and with respect to communicating his decisions on the sufficiency or insufficiency of petitions, are ministerial in nature. The method he employs in order satisfy his duty to verify that the persons who signed the Initiative Petition "were registered and qualified to vote on the day they signed the petition," is subject to judicial review pursuant to an abuse of discretion standard. D'Ascensio v. Benjamin, 137 N.J. Super 155 (Ch. Div. 1975), *aff'd* 142 N.J. Super. 52 (App. Div. 1976).

10. Defendant TOWNSHIP OF TEANECK ("Teaneck") is, and was at all relevant times, the body corporate representing the inhabitants residing within its borders pursuant to N.J.S.A. 40:43-1 et seq. Organized pursuant to the Optional Municipal Charter Law ("Faulkner Act"), Teaneck has the obligation to implement its citizens' right to initiative and referendum in

accordance with N.J.S.A. 40:69A-184 et seq. In accordance with the Council-Manager form of government, the Teaneck Township Council is the legislative body of Teaneck authorized to enact ordinances and resolutions and hold city council meetings in accordance with N.J.S.A. 40:49-1 et seq., and its Manager is the administrative arm of Teaneck authorized to implement ordinances as enacted.

11. Defendant STEVEN CHONG is and was at the times relevant to this complaint, the Deputy Clerk of Bergen County with his principal place of business at One County Plaza, Room 122, Hackensack, NJ 07601. In his capacity as Deputy County Clerk, Mr. Hogan has the duty to have ready for the printer on or before 50 days prior the general election—i.e., September 13, 2021—a copy of the contents of the official ballot that will be used in the November 2, 2021 General Election, as required by N.J.S.A. 19:14-1. Mr. Chong is being sued only for purpose of injunctive relief prohibiting the printing of the ballot before this matter is resolved.

CLAIMS FOR RELIEF

COUNT ONE (Mandamus)

12. In a letter dated April 14, 2020, FWW wrote the Governor, Secretary of State and the Attorney General to request the expansion of the reach of the Governor's March 19, 2020 Executive Order 105 and April 8, 2020 Executive Order 120 (EO 105 and EO 120, respectively), permitting the electronic submission and signing of all candidate petitions, to include county and municipal referendum petitions authorized under various charters and numerous statutory provisions. As FWW explained in this correspondence, it intended to replicate its previous successes in New Brunswick and Piscataway by placing, in 2020, the Community Energy Aggregation Program Ordinance on the ballot in 15 additional municipalities. Something that was not possible to do unless they were permitted to circulate electronic petitions given the onset of

the Covid-19 pandemic. See Letter from New Jersey Applesed to Governor Murphy et al. dated April 14, 2020, attached hereto as Exhibit A (without attachments).

13. In order to permit the petitioning process to continue safely, the Governor issued Executive Order Ex. 132 (“EO 132”) on April 29, 2020. In order to facilitate the signature process and “help limit unnecessary person-to-person contact” the EO allowed voters to fill out and submit initiative petitions electronically, and it suspended all other Faulkner Act requirements for the collection, verification and notarization of signatures submitted during the pendency of the emergency. See EO 132 attached hereto as Exhibit B.

14. On July 1, 2020, the Legislature codified the standards adopted in EO 105, 120 and 132, but also made some important changes. The law imposed a duty upon clerks to develop “electronic procedures for signature verification, petition notarization and submission of oaths to meet the requirements of current law.” P.L. 2020, 55, §1(c). The law also noted that clerks were directed to accept, either electronically or in person, handwritten signatures that were collected prior to the effective date of EO 132. Id. at §1(b)(3). Six months later, the Governor followed suit on the passage of this law by extending and expanding upon EO 132 with Executive Order 216 (EO 216) signed also on January 25, 2021. See EO 216 attached hereto as Exhibit C.

15. What was important about EO 216 is that it permitted petitions to be circulated in person with handwritten signatures as well as to continue to be circulated electronically with electronic signatures; and petitions could also be submitted in person as well as electronically --- something explicitly prohibited by EO 132. Moreover, it required candidate petitions to include a notarized oath of allegiance regardless of whether a petition was submitted by hand or electronically; however, no notarized oath of a circulator was required when an initiative or referendum petition was circulated electronically. In effect, the audit trail accompanying

electronic signatures constituted the equivalent of the circulator affidavit required when petitions were circulated in person.

16. It was under this EO, that FWW started its petition campaigns in several municipalities in New Jersey, including the Township of Teaneck. In an e-mail dated March 1, 2021, Samantha DiFalco, in accordance with EO 216, wrote defendant Ruccione “to request your procedures for the electronic submission and signing of initiative ordinance petitions.” See Packet of E-mails sent between FWW and Doug Ruccione between March 1, 2021 and April 7, 2021 attached hereto as Exhibit D.

17. One week later, on March 8, 2021, Mr. Ruccione responded stating that “[a]s long as your petition is formatted like a petition and contains the valid/required # of signatures we will accept it for review. Deadlines & # of signatures is not dictated by us but by State Statute, as you mention.” See Exhibit D.

18. The following day, on March 9, 2021, Ms. DiFalco “follow[ed] up with a copy of what one our out petitions would look like using DocuSign, a computer program with signatory verification.” She also asked the Township Clerk to “identify the maximum individual attachment size and the maximum total file size for your email address?” See Exhibit D.

19. Several e-mails traveled between Ms. DiFalco and the Township Clerk on March 10, 2021, during which time Mr. Ruccione was looking for a sample petition that was executed in another municipality. At the time, Ms. DiFalco was only able to produce a sample electronic petition without signatures. Five days later on March 15, 2021 Mr. Ruccione confirmed that he “was asking for a copy of what you have submitted to other towns.” That same day, Ms. DiFalco produced a copy of the petition circulated in East Brunswick prior to the pandemic, and again attached a sample of “what one of our petitions will look like this time using DocuSign.” She later

affirmed that “we do not have a real one yet but it will be in a .pdf form. That will work right?”

See Exhibit D.

20. On March 17, 2021, Ms. DiFalco confirmed to Mr. Ruccione that she was “fairly certain they will all be digital signatures. And if there are paper petitions circulated, which I think is unlikely, we can either deliver them in person or by mail, or scan them and send as PDFs.” (emphasis added). She further asked: “Please let me know if that works, and you have had a chance to review the model petition and can confirm that it would be acceptable under Teaneck’s procedures for electronic signatures.” Mr. Ruccione immediately responded, “I do not see an issue but am waiting for our attorneys to weigh in.” In a latter part of the email thread, Ms. DiFalco reiterated, “I think we’re not looking to have hard copy petitions circulated while COVID transmission is still a risk. The majority if not the entirety of the petitions would be signed using DocuSign.” Mr. Ruccione then asked Ms. DiFalco to explain “the initiative you are shooting for” and asked for a copy of the ordinance. This conversation regarding the initiated ordinance continued on March 18, 2021. See Exhibit D.

21. On March 26, 2021, Ms. DiFalco picked up their conversation and asked Mr. Ruccione in an email whether he had heard back from “the attorney.” They agreed to speak by phone on March 30, 2021, at which time Mr. Ruccione said that he did not have an answer yet. She repeated her request on April 7, 2021, as to whether the initiative petition that she had shared with the Township was acceptable. Mr. Ruccione responded, “Yes! It is! I thought I had confirmed. I apologize!” See Exhibit D.

22. From that time forward, the COP and FWW actively pursued their initiative petition by collecting signatures electronically, confident that the program they were using was sufficient

to meet Teaneck's requirements for electronic petitions, and the signatures so collected were going to be accepted.

23. On June 4, 2021, the Governor signed P.L. 2021, Ch. 103 (C. 26:13-32 et. seq.) and then signed Executive Order 244 ("EO 244") that terminated the Public Health Emergency, but maintained the State of Emergency. Pursuant to P.L. 2021, Ch. 103, all previous executive orders, with few exceptions, were set to "expire 30 days from the effective date of this act." As a result, EO 216 remained in effect until July 4, 2021. See EO 244 attached hereto as Exhibit E.

24. FWW and the COP understood EO 244 to mean that petitioners could collect electronic signatures and submit petitions to the clerk electronically until July 4, 2021. On and after July 4, 2021, petitioners could no longer collect electronic signatures and clerks could no longer accept petitions delivered electronically. Nonetheless, paper printouts of electronic petitions were to be accepted by filing officers so long as the audit trail indicated that they were signed electronically before July 4, 2021. This understanding was confirmed by FWW's counsel in conversations with clerks in other municipalities in which they intended to submit initiative petitions, conversation with members of another committee of petitioners—known as One Town One Vote—who were circulating a direct change in government petition in Teaneck, and two other committees of petitioners circulating initiative petitions in Piscataway.

25. The information received from One Town One Vote was based on an email sent to Doug Ruccione by Ron Schwartz dated June 28, 2021 in which he confirmed statements made at an earlier meeting on June 16, 2021 involving representatives of One Town One Vote, their attorney, Mr. Ruccione and the municipal attorney John Shahdanian. The email states, in part:

3. You advised that the latest date to get petitions to the county clerk for placement on the ballot would be the end of August;
4. We advised you that we were obtaining both electronic and live signatures on our petitions in accordance with the governor's executive order;

5. We agreed that the last date to obtain electronic signatures would be July 4, 2021. We indicated that we would close down our electronic voting link on July 3[.]

The email is attached hereto as Exhibit F. The email indicates that defendant Ruccione did not notify the representatives of One Town One Vote during that meeting that he would not accept electronic petitions circulated prior to July 4, even if submitted on paper and in person; and rather, led them to believe that electronic signatures collected prior to July 4, 2021 would be accepted.

26. FWW submitted electronic petitions to the Clerk for the Township of North Brunswick on July 6, 2021; to the Clerk for Woodbridge Township July 13, 2021; and to the Clerk for the Township of Long Branch on July 7, 2021. All electronic signatures collected prior to July 4, 2021 were accepted and counted toward the number of signatures required to satisfy the statutory threshold. All three letters of sufficiency are attached hereto as Exhibit G.

27. In an email, dated July 31, 2021 addressed to Renée Steinhagen from Raj Goomer, attorney for the Township of Piscataway, Mr. Goomer confirmed that the clerk would accept “font signatures up to July 3rd, 2021 as part of these petitions as long as the voter is an eligible voter in Piscataway and the audit trail is provided, which seems to have been provided for both petition packages submitted.” The e-mail addressed to Ms. Steinhagen is attached hereto as Exhibit H.

28. From June 22, 2021 through July 13, 2021, plaintiff Paula Rogovin communicated with defendant Ruccione trying to schedule a time to meet “so that we can submit completed petitions for the 100% Renewable Energy CCA campaign.” See E-mail Threads between Paula Rogovin and Doug Ruccione attached hereto as Exhibit I. At no time during this interchange did Mr. Ruccione inform Ms. Rogovin that Teaneck Township would not accept any electronic petitions, even if submitted in print form, after July 4, 2021, even though he knew that almost all their petitions had been circulated electronically.

29. On July 15, 2021, the COP submitted the Initiative Petition with 877 signatures, 614 of which were included in electronic petitions circulated prior to July 4, 2021. See a copy of such petition, dated April 29, 2021, attached hereto as Exhibit J.

30. In a letter dated August 4, 2021 to the COP, defendant Ruccione issued a Notice of Insufficiency finding that “[s]ince the Committee did not submit any electronic petitions until July 15, 2021, my office is unable to accept them, and they are all deemed invalid.” Nonetheless, Mr. Ruccione went on to analyze all 877 signatures finding 749 to be valid, only 42 short of the 791 needed to meet the statutory threshold. See Letter dated August 4, 2021 attached hereto as Exhibit K.

31. On August 5, 2021, the COP submitted to the Township Clerk an Amended Petition with an additional 276 signatures. A sample Amended Petition is attached hereto as Exhibit L.

32. On August 5, 2021, New Jersey Appleseed wrote Mr. Ruccione on behalf of FWW and the COP requesting that he count the electronically collected signatures previously submitted that he had deemed valid in his August 4, 2021 letter (that stated “assuming same had been submitted on or before July 4, 2021”), so that with the valid signatures filed in the Amended Petition, the petition may be found sufficient, ready for Township Council review and consideration. See Letter from Steinlagen to Ruccione dated August 5, 2021, attached hereto as Exhibit M.

33. On August 9, 2021, John Shahdanian II, Esq. responded, on behalf of defendant Ruccione to New Jersey Appleseed’s letter. In that letter, counsel states that “post July 4, 2021, no clerk, municipal or otherwise ha[s] the authority to accept electronic signature submissions. Indeed, nowhere in your letter do you provide any authority to contravene this glaring issue.” See

Letter addressed to Renée Steinhagen and Zachary Corrigan, Esq. dated August 9, 2021 and attached hereto as Exhibit N.

34. On August 12, 2021, Mr. Ruccione notified the COP of his determination that “between the Petition and the Amended Petition there were a total of 375 valid signatures, which number is below the 791 signatures required to initiate an ordinance pursuant to N.J.S.A. 40:69A-184.” Because Mr. Ruccione declined to consider any electronic signatures collected prior to July 4, 2021, valid, he “filed a final Certificate of Insufficiency in my office.” See Letter dated August 12, 2021 addressed to the COP and attached hereto as Exhibit O.

34. At this time, neither FWW nor the COP are aware of any other municipal clerk who has rejected electronic signatures collected prior to July 4, 2021 as invalid simply because the petition itself was filed after that date.

35. Defendant Ruccione has a ministerial, non-discretionary duty to process Plaintiffs’ Initiative Petition in strict accordance with N.J.S.A. 40:69A-186 to -191, as modified by the Governor’s Executive Orders and legislation regarding election related petitions circulated and submitted during the Public Health Emergency.

36. By ignoring the clear language and intent of the Governor’s EO 132, 216, and 244 (and the Legislature’s intent when incorporating those Orders), which was to facilitate New Jerseyans’ statutory rights of initiative and referendum by permitting them to circulate and submit electronic petitions during the COVID pandemic, defendant Ruccione has abused his authority and has failed to perform his mandatory duty to process Plaintiffs’ Initiative Petition in accord with N.J.S.A. 40:69A-184 et seq., as modified by those Executive Orders. Specifically, defendant Ruccione has deprived FWW and the COP of their statutory right of initiative by refusing to accept electronic

signatures that were valid at the time collected, even if submitted after the Governor terminated the Public Health Emergency that he had declared in Executive Order No. 103.

WHEREFORE, the Plaintiffs demand relief against defendant Ruccione (1) adjudging and declaring that his rejection of Plaintiffs' Energy Aggregation Initiative Petition violates N.J.S.A. 40:69A-186 to -191, as modified by relevant Executive Orders; (2) directing him to certify Plaintiffs' Initiative Petition as proper, valid and sufficient in all respects, and submit to the Teaneck Council for further processing and/or submit immediately to the County Clerk to be put on the November 2, 2021 ballot; and (3) granting Plaintiffs such other and further legal and equitable relief as this Court may find just and proper. Plaintiffs also demand relief against defendant Chong prohibiting and enjoining him or any employee of the Bergen County Clerk's office from printing any sample, military, regular, mail-in, provisional or emergency ballot prior to resolution of this dispute.

COUNT TWO
(Equitable Estoppel)

37. Plaintiffs repeat and restate each and every allegation contained in Paragraphs 1-36 as set forth herein.

38. Throughout the Spring, FWW was in communication with defendant Ruccione seeking to make sure that their Energy Aggregation Initiative Petition would be acceptable under Teaneck's procedures for electronic signatures. Once it received a definitive "yes" answer it proceeded to collect electronic signatures using its electronic petition up until July 4, 2021, the date at which time EO 216 expired.

39. At all times, during this period, defendant Ruccione was aware that FWW and the COP intended to rely primarily on electronic petitions (even though person-to-person circulation was permitted) in order to limit the public health risk that they felt was still present.

40. On June 22, 2021, plaintiff Paula Rogovin contacted defendant Ruccione to schedule a time on June 30, 2021, at which time the COP would submit its completed petitions. On June 29, 2021, she again contacted Mr. Ruccione to inform him that the COP was switching its delivery date to July 9, 2021. Mr. Ruccione did not respond and did not inform Ms. Rogovin that his office was not accepting any electronic petitions, even if printed out, after July 4, 2021. If he had told her, Ms. Rogovin would have arranged to submit FWW's and the COP's Energy Aggregation Initiative to the Township Clerk on Friday, July 3, 2021.

41. On July 8, 2021, Ms. Rogovin contacted Mr. Ruccione a second time to reschedule the COP's delivery date an additional week due to personal health problems. Although Mr. Ruccione did reply to her message this time, he did not inform her of his position that none of Plaintiffs' electronic petitions will be accepted as valid, even if delivered in paper form.

42. FWW and the COP relied in good faith on Mr. Ruccione's representations that their electronic Energy Aggregation Initiative Petition would be acceptable under Teaneck's procedures for electronic signatures and on his silence when they specifically informed him that they intended to switch their delivery date from June 30 to July 8, 2021.

43. By failing to inform Plaintiffs of the Township's decision not to accept any electronic petitions after July 4, 2021 at any time after the Governor issued EO 244 and, specifically, when Ms. Rogovin informed Mr. Ruccione of the COP's decision to postpone submission of their electronic petitions from June 30, to July 8, 2021, defendant Ruccione acted in bad faith and undermined government's responsibility to deal fairly with its constituents.

44. Because Plaintiffs relied in good faith on defendant Ruccione's representation that the signatures on their electronic petitions would be accepted as valid and satisfied Teaneck's procedures for electronic petitions, defendant Ruccione is precluded from rejecting the 562

electronic signatures contained in Plaintiffs' Initiative Petition filed on July 15, 2021, which he previously determined to represent qualified voters.

WHEREFORE Plaintiffs demand relief against defendant Ruccione estopping him from rejecting the 562 electronic signatures contained in Plaintiffs' Initiative Petition, which he previously determined to represent qualified voters and asserting that the petition has some other defect; and granting Plaintiffs such other and further legal and equitable relief as this Court may find just and proper.

COUNT THREE

(New Jersey Civil Rights Act, N.J.S.A. 10:6-2)

45. Plaintiffs repeat and restate each and every allegation contained in Paragraphs 1-44 as set forth herein.

46. Pursuant to N.J.S.A. 40:69A-184, "[t]he voters of any municipality may propose any ordinance and may adopt or reject the same at the polls, such power being known as the initiative." In accord with N.J.S.A. 40:69A-186, each petition must be uniform in size and style, must contain the full text of the proposed ordinance, include on each page the name and addresses of five (5) voters, and each signer "shall sign his name in ink or indelible pencil and shall indicate after his name, his place of residence." The statute's requirement to sign one's name in ink and the circulator affidavit also set forth in N.J.S.A. 40:69A-186 was eliminated by EO 132 and EO 216 due to the audit trail capability associated with electronic petition software programs.

47. Pursuant to N.J.S.A. 40:69A-187, the municipal clerk is also required to "determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified voters" within twenty days of filing. EO 132 and EO 216 again modified this provision but only insofar as it eliminated the need for the circulator affidavit to ensure that the signature represented that of the voter. The essential function of the

review is to determine whether the petition is signed by a sufficient number of qualified voters, and if the person signing the petition was a voter at the time of signing. Case law indicates that if voters signed the petition in a manner authorized by law, their signature counts towards the statutory threshold needed to place the initiated question on the ballot.

48. Defendants Ruccione and Teaneck violated N.J.S.A. 40:69A-186 and -187 when they rejected valid signatures of qualified Teaneck voters simply because EO 132 and EO 216 expired prior to submission of FWW's and the COP's electronic petition in paper form.

49. By denying Plaintiffs their statutory right of initiative, Township Defendants have violated N.J.S.A. 10:6-2(c) authorizing "[a]ny person who has been deprived of . . . any substantive rights . . . secured by the . . . laws of this State . . . [to] bring a civil action for damages and for injunctive or other appropriate relief."

WHEREFORE Plaintiffs demand relief against defendants Ruccino and Teaneck (1) adjudging and declaring that defendant Ruccino's rejection of Plaintiffs' Energy Aggregation Initiative Petition constitutes a violation of Plaintiffs' right to substantive due process as well as their statutory right of initiative thus violating N.J.S.A. 10:6-2(c); (2) granting attorneys fees pursuant to N.J.S.A. 10:6-2(f) and (3) granting Plaintiffs such other and further legal and equitable relief as this Court may find just and proper.

Respectfully submitted,

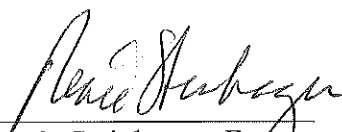
NEW JERSEY APPLESEED PUBLIC INTEREST
LAW CENTER, INC.

By: /s/Renée Steinhagen
Renée Steinhagen, Esq.

August 19, 2021

DESIGNATION OF TRIAL COUNSEL

Renée Steinhagen, Esq. is hereby designated as trial counsel for Plaintiffs.



Renée Steinhagen, Esq.

Date: August, 19, 2021

CERTIFICATION PURSUANT TO RULE 4:5-1

I, RENÉE STEINHAGEN, hereby certify that:

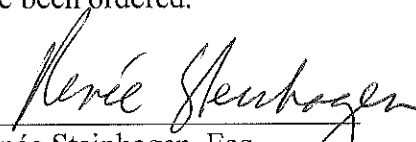
1. The matter in controversy is not the subject of any other pending Court or arbitration proceeding.
2. I am not aware of any other contemplated Court or arbitration proceeding and;
3. I am not aware at the present time of any other party that should be joined to this litigation.


Renée Steinhagen, Esq.

Date: August 19, 2021

CERTIFICATION PRUSUANT TO RULE 4:69-4

I hereby certify that there were no local agency proceedings relevant to the subject of this Complaint that were or could have been transcribed and that the relevant governmental records consist entirely of documents. Accordingly, no transcripts have been ordered.


Renée Steinhagen, Esq.

Date: August 19, 2021

CERTIFICATION OF SAMANTHA DIFALCO

I, SAMANTHA DIFALCO, being of full age do hereby swear and certify as follows:

1. I am the North Jersey Organizer for plaintiff FWW in above referenced action, and have personal knowledge of the facts and circumstances giving rise to this action.
2. I have read the annexed Complaint including all the facts alleged therein.
3. All the facts alleged in the Complaint are true and accurate to the best of my personal knowledge and belief.
4. Pursuant to R. 1:4-7, I intend this certification to constitute a verification of the Complaint in this matter.
5. 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 that I am subject to punishment.

Dated: August 18, 2021.


SAMANTHA DIFALCO

