

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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JUMAANE WILLIAMS, ERIC ADAMS, MAYA WILEY,
LINDSEY BOYLAN, CARLOS MENCHACA, ART
CHANG, STEPHEN BISHOP-SEELY, BRAD LANDER,
RESHMA PATEL, JIMMY VAN BRAMER, ARTHUR
SCHWARTZ, COREY ORTEGA, ERICA VLADIMER,
LAUREN TRAPANOTTO, EMILY ADAMS,
ELIZABETH ADAMS, KALED ALAMARIE, DAVID
ARONOV, KAREN BASS, ANTHONY BECKFORD,
JAY BELLANCA, MIRIAM BENSMAN, JOAN
BERANBAUM, JEREMY BERMAN, PATRICK
BOBILIN, EVAN BOCCARDI, ALEX BORES, ERIK
BOTTCHER, DARRELYN BRENNAN, RODRIGO
CAMARENA, SCOTT CAPLAN, JOHN CHOE, DAN
COHEN, NATALIE DAUPHIN, EMILIA DECAUDIN,
SYLVIA DI PIETRO, CHRISTOPHER DUROSINMI,
BERYL E. EDGECOMBE, YVES FILIUS, MARY
FINNERAN, PHELAN DANTE FITZPATRICK, BILLY
FREELAND, CARI GARDNER, DAVID GOLD, INGRID
GOMEZ, SELINA GREY, PRISCILLA GRIM, MARNI
HALASA, CHARLES HANDRAS, KENYA HANDY-
HILLIARD, SHAHANA HANIF, EVIE
HANTZOPOULOS, HON. FRANCINE HASELKORN,
MICHAEL HOGAN, GINA IRONSIDE, DARLENE
JACKSON, MARIA KAUFER, JOHN KAUFER, HAILIE
KIM, JOSHUA KINBERG, CAMERON KRAUSE,
ALETTA LAFARGUE, REBECCA LAMORTE, HILDA
LANDO, CAROLINE LASKOW, MARK LASTER,
JESSE LAYMON, BRETT LEITNER, SARA LIND,
MINO LORA, HARRY MANIN, TAMIKA MAPP,
SULTAN MARUF, SHANEQUA MOORE, QUINN
MOOTZ, KIM MOSCARITOLO, LESLIE MURPHY,
THOMAS H. NOOTER, MARIA ORDOÑEZ, CHI OSSÉ,
JOSEPH PACKER, DAISY PAEZ, BRENT
PRYSLOPSKI, ROBERT RAMOS, BRIDGET REIN,
MARK RICE, MARION RIEDEL, NICHOLAS ROBBINS,
MINDY ROSIER-RAYBURN, ALLEN ROSKOFF,
PATRICIA SCHACTER, DOUGLAS SCHNEIDER,
SUSAN SCHOFIELD, MICHAEL SEIFERT, MARYAM
SHARIAT, EMILY SHARPE, TRICIA SHIMAMURA,
DANIEL SHIN, MARCOS SIERRA, SHEBA SIMPSON-
AMSTERDAM, ANDREW SOKOLOF, BENJAMIN
SOLOTAIRE, CHRIS SOSA, MARTI SPERANZA
WONG, MARVIN STEPHERSON, MEGAN STOTTS,

Index No.

**VERIFIED
COMPLAINT**

DIANE TELEHANY, MARY THORPE, CAROLYN
TRAN, LORI WAHILA, NEVA WARTELL, JOHN
WASSERMAN, TIFFANY WINBUSH, and MICHELLE
WINFIELD,

Plaintiffs,

-against-

ANDREW M. CUOMO, as Governor of the State of New
York, and BILL de BLASIO, as Mayor of the City of New
York,

Defendants.

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INTRODUCTION

Plaintiffs, as and for their Verified Complaint, by their undersigned attorneys, allege as follows:

1. This Complaint, which seeks declaratory and injunctive relief, is addressed to a public health emergency created by a statute passed by the State legislature and signed into law by Governor Cuomo on January 29, 2021, which modifies the NY State Election Law and NYC, and by the application of existing provisions of the NY State Election Law, and NYC Charter addressed to in person petitioning requirements to get on the ballot for Democratic Party (and other party) candidacies and offices being voted on in the June 22, 2021 Primary. The amended statute was enacted, theoretically, in response to the public health emergency created by the COVID-19 Pandemic. That Pandemic has taken the lives of 35,000 people in New York State, and one hundred or more people are still dying every day. Person to person contact is, outside of family members, is, in the view of most experts, to be avoided, even outdoors.

2. New York Election Law, and the NYC Charter, generally require that candidates for all offices collect signatures in order to get on the ballot. In 2020 the Covid-19 Pandemic

slammed into New York State right in the middle of the petitioning period for the June 23, 2020 primary for Congress, state legislature, State Party Committee and Judicial Convention Delegate, and in Bronx, Brooklyn and Queens, for Party offices like District Leader and political party County Committees. By Executive Order on or about March 15, 2020, Governor Andrew Cuomo ended all petitioning and cut the number of signatures required for all races by 50%. For the limited number of Special Elections to fill vacancies since then, that 50% threshold has remained in effect.

3. The end of 2020 and the early months of 2021 have seen a huge increase in the number of COVID-19 cases in New York, numbers of cases even higher than those which occurred during the Spring of 2020, and calls arose to eliminate petitioning for public office primaries and elections scheduled for June 22, 2021. The response of the State Legislature and the Governor, was to enact a one year amendment to the Election Law which cut signature requirements to 30% of the amount required in the State Election Law, and, for NYC Offices, by the City Charter. That same statute cut the period for petitions to be gathered from 6 weeks to four weeks. The statute left in place New York's other "substantial," "burdensome" and "onerous" petitioning rules (see *Rockefeller v Powers*, 78 F.3d 44,45 (2nd Cir 1996)), which require candidates to collect two or three times the number of signatures required in order to achieve ballot status.

4. Meanwhile, the Covid-19 Pandemic rages.

5. All government health directives, State and Federal, advise individuals to stay "six feet apart" from non-household members when in public. Yet the Legislature, and the Governor, in their wisdom want thousands of candidates across the state to stand with clipboards, or have surrogates stand with clipboards, approaching people, or going door to door in apartment

buildings, seeking signatures. In New York City there are 30 candidates registered with the Campaign Finance Board to run for Mayor. That is 225,000 New Yorkers being asked for signatures, the new State law requires them to get 2500 signatures, which means 7500, in order to get on the ballot. There are over 325 Candidates seeking Democratic Party nominations for City Council seats all over the City. These candidates need 270 signatures, which means 260,000 New Yorkers will be asked for signatures. There are races this year for Comptroller (10 candidates) , Public Advocate (4 candidates), New York County District Attorney (8 Candidates), Manhattan Borough President (6 candidates) etc., as well as candidates running in Manhattan and Staten Island for Assembly District Leader, and candidates running for Mayor, City Council, Assembly District Leader and County Committee seats across the State. If the State Government's scheme on this election is played out millions of New York state residents will be approached to sign nominating petitions.

6. But we remain in a Pandemic. In fact, there is a new variant which, according to the Centers for Disease Control, makes it easier for COVID-19 to spread.

7. The New York State Constitution, at Article 17 Section 3 requires that the State protect and promote the health of its inhabitants. Maintaining any petitioning requirement does not do that. That requirement, during a pandemic, is unconstitutional.

8. The New York State Constitution (like the Federal Constitution) guarantees all citizens the right of free speech at Article 1 Section 8. It prohibits voter disenfranchisement (see Article 1 Section 1) and guarantees the right to suffrage at Article 2 Section 1. Laws which unduly burdensome to those right, must meet a strict scrutiny test, and are unconstitutional is a less restrictive means available to achieve a governmental purpose. In this Pandemic, the

Petitioning requirements are extremely burdensome, and cannot survive strict scrutiny because they are not the least restrictive means for the government to achieve the underlying purpose

9. The New York State Constitution guarantees equal protection of the law at Article 1 Section 11. Some New Yorkers, due to age or disability, are more susceptible to Covid-19 infections. In fact, the State has given those citizens priority in receiving Covid-19 vaccinations. Some New Yorkers live in communities, generally definable by income and racial/national origin composition, where Covid-19 infections are more prevalent than in others. The imposition of uniform petitioning requirements on these groups violates their right to equal protection of the law, and are therefore unconstitutional.

PARTIES

10. Plaintiff Jumaane Williams is a candidate for Public Advocate in the City of New York.
11. Plaintiff Eric Adams is a candidate for Mayor of the City of New York.
12. Plaintiff Maya Wiley is a candidate for Mayor of the City of New York.
13. Plaintiff Lindsey Boylan is a candidate for Manhattan Borough President.
14. Plaintiff Carlos Menchaca is a candidate for Mayor of the City of New York.
15. Plaintiff Art Chang is a candidate for Mayor of the City of New York
16. Plaintiff Stephen Bishop-Seely is a candidate for Mayor of the City of New York.
17. Plaintiff Brad Lander is a candidate for Comptroller of the City of New York.
18. Plaintiff Reshma Patel is a candidate for Comptroller of the City of New York.
19. Plaintiff Jimmy Van Bramer is a candidate for Queens Borough President.
20. Plaintiff Arthur Schwartz is a candidate for New York City Council, 3rd District and for District Leader, 66th Assembly District Part A.

21. Plaintiff Erica Vladimer is a candidate for Judicial Delegate, New York County Assembly District 76.

22. Plaintiff Lauren Trapanotto is a Member of the Democratic State Committee for the 76th Assembly District and plans to petition for candidates endorsed by the Four Freedoms Democratic Club.

23. Plaintiff Corey Ortega is a candidate for New York City Council, 7th District.

24. Plaintiff Emily Adams is a candidate for Tompkins County Democratic Committee.

25. Plaintiff Elizabeth Adams is a candidate for New York City Council, 33rd District.

26. Plaintiff Kaled Alamarie is a candidate for New York City Council, 32nd District.

27. Plaintiff David Aronov is a candidate for New York City Council, 29th District.

28. Plaintiff Karen Bass is petitioning for Aleda Gagarin, candidate for New York City Council, 29th District.

29. Plaintiff Anthony Beckford is a candidate for New York City Council, 45th District.

30. Plaintiff Jay Bellanca is petitioning for Michael Stern, candidate for Washington County District Attorney.

31. Plaintiff Miriam Bensman is a candidate for Judicial Delegate.

32. Plaintiff Joan Beranbaum is a candidate for Judicial Delegate and County Committee.

33. Plaintiff Jeremy Berman is a candidate for Judicial Delegate 76th Assembly District.

34. Plaintiff Patrick Bobilin is petitioning for Rebecca Lamorte, candidate for New York City Council, 5th District.

35. Plaintiff Evan Boccardi is a candidate for New York City Council, 29th District.

36. Plaintiff Alex Bores is a candidate for District Leader, 76th Assembly District, Part B.

37. Plaintiff Erik Bottcher is a candidate for New York City Council, 3rd District.

38. Plaintiff Darrelyn Brennan is petitioning for candidates for Democratic County Committee Member in Poughkeepsie, NY.

39. Plaintiff Rodrigo Camarena is a candidate for Candidate for New York City Council, 38th District.

40. Plaintiff Scott Caplan is a candidate for New York County Democratic Committee.

41. Plaintiff John Choe is a candidate for New York City Council, 20th District.

42. Plaintiff Dan Cohen is a candidate for New York City Council, 7th District.

43. Plaintiff Natalie Dauphin is petitioning for Aleda Gagarin, candidate for New York City Council, 29th District.

44. Plaintiff Emilia Decaudin is petitioning for a slate of Judicial Delegate candidates in the 37th Assembly District.

45. Plaintiff Sylvia Di Pietro is a candidate for District Leader, 75th Assembly District Part A.

46. Plaintiff Christopher Durosini is a candidate for New York City Council, 37th District.

47. Plaintiff Beryl E. Edgecombe is a candidate for Judicial Candidate/Delegate Candidate.

48. Plaintiff Yves Filius is a candidate for New York City Council, 16th District (Bronx).

49. Plaintiff Mary Finneran is petitioning for Neva Wartell, candidate for County Legislature, and the Athens Village slate (of Mayor and two Trustees).
50. Plaintiff Phelan Dante Fitzpatrick is a candidate for New York City Council, 3rd District.
51. Plaintiff Billy Freeland is a candidate for New York City Council, 5th District.
52. Plaintiff Cari Gardner is petitioning for Neva Wartell, candidate for County Legislature, and the Athens Village slate (of Mayor and two Trustees).
53. Plaintiff David Gold is a candidate for New York City Council, 6th District.
54. Plaintiff Ingrid Gomez is a candidate for New York City Council, 21st District (Queens).
55. Plaintiff Selina Grey is a candidate for New York City Council, 49th District (Staten Island).
56. Plaintiff Priscilla Grim is petitioning for Art Chang, candidate for Mayor of the City of New York.
57. Plaintiff Marni Halasa is a candidate for New York City Council, 3rd District.
58. Plaintiff Charles Handras is a candidate for Judicial Delegate.
59. Plaintiff Kenya Handy-Hilliard is a candidate for New York City Council, 40th District.
60. Plaintiff Shahana Hanif is a candidate for New York City Council, 39th District.
61. Plaintiff Evie Hantzopoulos is a candidate for New York City Council, 22nd District.
62. Plaintiff Francine Haselkorn is the State Democratic Committee Member for the 75th Assembly District, and will be petitioning for Part A District Leaders 75 part A and Judicial Convention candidates, and Civil Court Judges running in the 75th Assembly District.

63. Plaintiff Michael Hogan is petitioning for various candidates in Orangetown, NY.
 64. Plaintiff Gina Ironside is petitioning for Rockland County Executive.
 65. Plaintiff Darlene Jackson is a candidate for New York City Council, 18th District.
 66. Plaintiff Maria Kaufer is a candidate for Delegate to the Judicial Convention -
Judicial District 11 (Queens), and plans to petition for Aleda Gagarin who is running for City
Council in District 29.
 67. Plaintiff John Kaufer is petitioning for Aleda Gagarin, candidate for New York
City Council, 29th District.
 68. Plaintiff Joshua Kinberg is a candidate for District Leader, 67th Assembly District.
 69. Plaintiff Hailey Kim is a candidate for New York City Council, 26th District.
 70. Plaintiff Cameron Krause is petitioning for a slate candidate endorsed by the
Village Independent Democrats.
 71. Plaintiff Aletta LaFargue is a candidate for New York City Council, 3rd District.
 72. Plaintiff Rebecca Lamorte is a candidate for New York City Council, 5th District.
 73. Plaintiff Hilda Lando is a candidate for Steuben County Legislator.
 74. Plaintiff Caroline Laskow is a candidate for District Leader, Assembly District 65
- Part A.
75. Plaintiff Mark Laster is petitioning for Aleda Gagarin, candidate for New York
City Council, 29th District.
 76. Plaintiff Jesse Laymon is a candidate for New York City Council, 26th District.
 77. Plaintiff Brett Leitner is a candidate for New York County Democratic
Committee.
 78. Plaintiff Sara Lind is a candidate for NYC New York City Council, 6th District.

79. Plaintiff Mino Lora is a candidate for New York City Council, 11th District.
80. Plaintiff Harry Manin is a candidate for County Committee 37/73.
81. Plaintiff Tamika Mapp is a candidate for City Council Candidate District 8.
82. Plaintiff Sultan Maruf is a candidate for New York City Council, 26th District.
83. Plaintiff Shanequa Moore is a candidate for New York City Council, 12th District.
84. Plaintiff Quinn Mootz is petitioning for Sara Lind, candidate for New York City Council, 8th District.
85. Plaintiff Kim Moscaritolo is a candidate for New York City Council, 5th District.
86. Plaintiff Leslie Murphy is a candidate for New York City Council, 3rd District.
87. Plaintiff Thomas H. Nooter is a candidate for Democratic District Leader.
88. Plaintiff Maria Ordoñez is a candidate for New York City Council, 7th District.
89. Plaintiff Chi Ossé is a candidate for New York City Council, 36th District.
90. Plaintiff Joseph Packer is a candidate for New York City Council, 47th District.
91. Plaintiff Daisy Paez is a candidate for District Leader Assembly District 65 Part B.
92. Plaintiff Brent Pryslopski is a candidate for Corning City Council.
93. Plaintiff Bridget Rein is a candidate for the New York City Council, 39th District.
94. Plaintiff Mark Rice is petitioning for Shekar Krishnan, candidate for New York City Council, 25th District.
95. Plaintiff Marion Riedel is a candidate for Manhattan Democratic County Committee Member.
96. Plaintiff Nicholas Robbins is a candidate for Member of the County Committee – 71/63.

97. Plaintiff Mindy Rosier-Rayburn is petitioning for candidates endorsed by the Chelsea Reform Democratic Club.
98. Plaintiff Allen Roskoff is petitioning for candidates endorsed by the Jim Owles Liberal Democratic Club.
99. Plaintiff Patricia Schacter is a candidate for Judicial Delegate, 3rd Judicial District (Ulster County).
100. Plaintiff Douglas Schneider is a candidate for New York City Council, 39th District.
101. Plaintiff Susan Schofield is petitioning for all Broome County Democratic candidates.
102. Plaintiff Michael Seifert is petitioning for Paul Barton, candidate for City Court Judge, Elmira, NY.
103. Plaintiff Maryam Shariat is petitioning for Evie Hantzopoulos, candidate for New York City Council, 22nd District.
104. Plaintiff Emily Sharpe is a candidate for New York City Council, 26th District.
105. Plaintiff Tricia Shimamura is a candidate for New York City Council, 5th District.
106. Plaintiff Daniel Shin is a candidate for Judicial Delegate.
107. Plaintiff Marcos Sierra is a candidate for New York City Council, 11th District.
108. Plaintiff Sheba Simpson-Amsterdam is a candidate for New York City Council, 9th District.
109. Plaintiff Andrew Sokolof is petitioning for Carolyn Tran, Tiffany Caban, and Juan Ardila, candidates for New York City Council in Queens.
110. Plaintiff Benjamin Solotaire is a candidate for New York City Council, 33rd District.
111. Plaintiff Chris Sosa is a candidate for New York City Council, 5th District.

112. Plaintiff Marti Speranza Wong is petitioning for candidates for New York City Council endorsed by Amplify Her.

113. Plaintiff Marvin Stepherson is a candidate for Monroe County Legislator District Three, Chili NY.

114. Plaintiff Megan Stotts is petitioning for Evie Hantzopoulos, candidate for New York City Council, 22nd District.

115. Plaintiff Diane Telehany is a candidate for First Ward City Councilman – Corning NY.

116. Plaintiff Mary Thorpe is petitioning for various candidates for Chemung County Democratic Committee.

117. Plaintiff Carolyn Tran is a candidate for New York City Council, 25th District.

118. Plaintiff Lori Wahila is petitioning for Josh Shapiro and Mara Grace, candidates for Broome County Family Court.

119. Plaintiff Neva Wartell is a candidate for Greene County Legislature (Catskill District 1).

120. Plaintiff John Wasserman is petitioning for various candidates in Brooklyn.

121. Plaintiff Tiffany Winbush is a candidate for Candidate, New York City Council, 1st District.

122. Plaintiff Michelle Winfield is a Member of the State Democratic Committee for the 74th Assembly District and is a candidate for Judicial Delegate in the 74th AD, will be petitioning for candidates endorsed by the Samuel Tilden Democratic Club, and is 74 years old.

123. Defendant Andrew Cuomo is Governor of the State of New York , and is sued in his official capacity.

124. Defendant Bill de Blasio is Mayor of the City of New York, and is sued in his official capacity.

STATUTORY BACKGROUND

125. Section 6-136 of the Election Law titled *Designating petitions; number of signatures*, reads as follows:

1. Petitions for any office to be filled by the voters of the entire state must be signed by not less than fifteen thousand or five per centum, whichever is less, of the then enrolled voters of the party in the state (excluding voters in inactive status), of whom not less than one hundred or five per centum, whichever is less, of such enrolled voters shall reside in each of one-half of the congressional districts of the state.

2. All other petitions must be signed by not less than five per centum, as determined by the preceding enrollment, of the then enrolled voters of the party residing within the political unit in which the office or position is to be voted for (excluding voters in inactive status), provided, however, that for the following public offices the number of signatures need not exceed the following limits:

(a) For any office to be filled by all voters of the city of New York, seven thousand five hundred signatures;

(b) For any office to be filled by all the voters of any county or borough within the city of New York, four thousand signatures;

(c) For any office to be filled in the city of New York by all the voters of any municipal court district, one thousand five hundred signatures;

(c-1) For any office to be filled in the city of New York by all the voters of any city council district, nine hundred signatures;

(d) For any office to be filled by all the voters of cities or counties, except the city of New York and counties therein, containing more than two hundred fifty thousand inhabitants according to the last preceding federal enumeration, two thousand signatures;

(e) For any office to be filled by all the voters of cities or counties containing more than twenty-five thousand and not more than two hundred fifty thousand inhabitants, according to the last preceding federal enumeration, one thousand signatures;

(f) For any office to be filled by all the voters of any other city or county, or of a councilmanic district in any city other than the city of New York, five hundred signatures;

(g) For any office to be filled by all the voters of any congressional district, twelve hundred fifty signatures;

(h) For any office to be filled by all the voters of any state senatorial district, one thousand signatures;

(i) For any office to be filled by all voters of any assembly district, five hundred signatures;

(j) For any office to be filled by all the voters of any political subdivision, except as herein otherwise provided, contained within another political subdivision, not to exceed the number of signatures required for the larger subdivision;

(k) For any other office to be filled by the voters of a political subdivision containing more than one assembly district, county or other political subdivision, not to exceed the aggregate of the signatures required for the subdivisions or parts of subdivisions so contained; and

(l) For any county legislative district, five hundred signatures.

3. The number of signatures on a petition to designate a candidate or candidates for the position of delegate or alternate to a state or judicial district convention or member of the state committee or assembly district leader or associate assembly district leader need not exceed the number required for member of assembly, and to designate a candidate for the position of district delegate to a national party convention need not exceed the number required for a petition for representative in congress.

126. On January 28, 2021 Governor Andrew Cuomo signed an amendment of Section 6-136 which reads as follows:

Section 1. Subdivision 2 of section 6-136 of the election law, as amended by chapter 79 of the laws of 1992, the opening paragraph as amended by chapter 659 of the laws of 1994 and paragraph (c-1) as amended by chapter 418 of the laws of 1993, is amended to read as follows: *EXPLANATION--Matter in italics (underscored) is new; matter in brackets [] is old law to be omitted.*

2. All other petitions must be signed by not less than [five] one and one-half per centum, as determined by the preceding enrollment, of the then enrolled voters of the party residing within the political unit in which the office or position is to be voted for

(excluding voters in inactive status), provided, however, that for the following public offices the number of signatures need not exceed the following limits:

(a) [For] Notwithstanding any provision of the New York city charter providing for greater thresholds to the contrary, for any office to be filled by all voters of the city of New York, [seven thousand five hundred] two thousand two hundred fifty signatures;

(b) [For] Notwithstanding any provision of the New York city charter providing for greater thresholds to the contrary, for any office to be filled by all the voters of any county or borough within the city of New York, [four thousand] one thousand two hundred signatures;

(c) [For] Notwithstanding any provision of the New York city charter providing for greater thresholds to the contrary, for any office to be filled in the city of New York by all the voters of any municipal court district, [one thousand five hundred] four hundred fifty signatures; (c-1) [For] Notwithstanding any provision of the New York city charter providing for greater thresholds to the contrary, for any office to be filled in the city of New York by all the voters of any city council district, [nine hundred] two hundred seventy signatures;

(d) For any office to be filled by all the voters of cities or counties, except the city of New York and counties therein, containing more than two hundred fifty thousand inhabitants according to the last preceding federal enumeration, [two thousand] six hundred signatures;

(e) For any office to be filled by all the voters of cities or counties containing more than twenty-five thousand and not more than two hundred fifty thousand inhabitants, according to the last preceding federal enumeration, [one thousand] three hundred signatures;

(f) For any office to be filled by all the voters of any other city or county, or of a councilmanic district in any city other than the city of New York, [five hundred] one hundred fifty signatures;

(g) For any office to be filled by all the voters of any congressional district, [twelve hundred fifty] three hundred seventy-five signatures;

(h) For any office to be filled by all the voters of any state senatorial district, [one thousand] three hundred signatures;

(i) For any office to be filled by all voters of any assembly district, [five hundred] one hundred fifty signatures;

(j) For any office to be filled by all the voters of any political subdivision, except as herein otherwise provided, contained within

another political subdivision, not to exceed the number of signatures required for the larger subdivision;

(k) For any other office to be filled by the voters of a political subdivision containing more than one assembly district, county or other political subdivision, not to exceed the aggregate of the signatures required for the subdivisions or parts of subdivisions so contained; and

(l) For any county legislative district, [five hundred] one hundred fifty signatures.

§ 2. Notwithstanding subdivision 4 of section 6-134 of the election law, the first day to sign a designating petition shall be March 2, 2021.

§ 3. Notwithstanding subdivision 1 of section 6-158 of the election law, a designating petition for the June 2021 primary election shall be filed with the appropriate board of elections on March 22 through March 25, 2021 and the political calendar with respect to objections, acceptances, authorizations, declinations, substitutions and the last day to commence an election law article 16 proceeding shall be adjusted accordingly.

§ 4. This act shall take effect immediately and shall not apply to any special election that will occur in the city of New York for which petitions are required to be filed before February 15, 2021 and shall expire December 31, 2021, when upon such date the provisions of this act shall be deemed repealed.

127. The relevant provisions of the NY State Constitution:

a) Rights, privileges and franchise secured; uncontested primary elections NY CONST Art. 1, § 1

No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his or her peers.

b) Freedom of speech and press; criminal prosecutions for libel NY CONST Art. 1, § 8

Every citizen may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.

c) Equal protection of laws; discrimination in civil rights prohibited NY CONST Art. 1, § 11

No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his or

her civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.

d) Qualifications of voters NY CONST Art. 2, § 1

Every citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to the vote of the people provided that such citizen is eighteen years of age or over and shall have been a resident of this state, and of the county, city, or village for thirty days next preceding an election.

e) Public health NY CONST Art. 17, § 3

The protection and promotion of the health of the inhabitants of the state are matters of public concern and provision therefor shall be made by the state and by such of its subdivisions and in such manner, and by such means as the legislature shall from time to time determine.

128. The relevant provision of the NYC Charter reads:

Chapter 46, §1057-b: Designating and independent nominating petitions; number of signatures

a. The number of signatures required for any designating petition or independent nominating petition for the designation or nomination of a candidate for an elected office of the city shall be governed by applicable provisions of the New York state election law, except that in no event shall the number of signatures required exceed the following limits:

(1) for the offices of mayor, comptroller, or public advocate, three thousand seven hundred fifty signatures;

(2) for the office of borough president, two thousand signatures; and

(3) for the office of member of the city council, four hundred fifty signatures.

FACTS RELEVANT TO ALL CLAIMS

129. Beginning in March 2020 the COVID-19 Pandemic hit New York State. For months, despite an order from Governor Cuomo shutting down all but essential businesses New York, New York State became the center of the Pandemic. There were days in March and April 2020 when 1000 people or more died in New York Hospitals. Schools were closed, government offices were closed.

130. Petitioning for the June 23, 2020 party primaries had begun on February 23, 2020. On March 7, the Governor signed Executive Order 202 Declaring a Disaster Emergency. But he did not suspend petition gathering. On March 12, 2020, the Governor issued EO 202.1, prohibiting indoor gatherings of more than 500 people, requiring restaurants to function at 50% capacity, shutting Broadway theatres. But petitioning continued.

131. On March 14, 2020, the Governor issued EO 202.2 which finally addressed Election Law petitioning. It stated: “Article 6 of the Election Law is modified to the extent necessary to reduce required number of signatures on petitions pursuant to Section 6-136 of such law to 1.5% of the enrolled voters required, or 30% of the stated threshold, whichever is less. Further such provisions are modified to require that gathering of signatures shall be suspended effective Tuesday, March 17, 2020 at 5 p.m.” No statistics were kept, but undoubtedly, prior to March 17, 2020, plaintiffs contracted COVID-19; one such plaintiff was Plaintiff Corey Ortega.

132. On March 16, 2020, the Governor issued Executive Order 202.3 which closed all restaurants, movie theatres, and gyms effective that date. On that same day, the Governor issued EO 202.4 requiring all non-essential government employees to work from home, and shutting all schools in the state commencing March 18, 2020. Petitioning remained in place through midnight on March 17, 2020.

133. On March 18, 2020, the Legislature, and the Governor, by amendment to the Election Law, required petitions to be filed with the Board of Elections by March 20, 2020. In New York City the resulting turmoil caused the NYC Board of Elections to invalidate the filings of over 170 or the 700 candidate petitions which had been filed. The “need” to process these petitions caused a large number of Boards of Election workers to contract COVID-19. In the NYC Board of Elections alone, over 15 employees died from COVID-19, and untold numbers of

candidates and their surrogates who had to personally interact with these employees, contracted COVID-19.

134. Primary elections were held on June 23, 2020 and the General Election was held on November 3, 2020. The State, however, enacted legislation to make it far easier to vote by mail. In fact, the legislature and the Governor required that all voters be sent absentee ballot applications, and that the COVID pandemic was to be considered an excuse not to vote in person.

135. Those who voted were required to stand six feet apart on lines into polling stations, wear a mask at all times, and interact with Poll Workers who spoke to them from behind plastic barriers.

136. Between March 2020, and the present, only a very small number of elections which required petitions were conducted, or are about to be conducted, four of which were/are Special Elections for the NYC Council. In addition, during July and August 2020, a period where COVID-19 infections declined in New York, a small number of candidates filed independent nominating petitions so that they could run against Party designees in the November election.

137. After cold weather arrived in the Fall of 2020, and most especially after Thanksgiving, COVID-19 cases escalated across the United States, including in New York. That number increased significantly in New York as well, as have hospitalizations and deaths.

138. As of February 4, 2020, the Centers for Disease Control and Prevention (CDC), reported 873,414 new cases of COVID-19 in the prior 7 days. In its on-line posting titled "How to Protect Yourself and Others Ex. A, the CDC recommended a) that everyone over the age of two, wear a mask in public. The it warns, in large type:

STAY 6 feet away from others
Outside your home: Put 6 feet of distance between yourself and people who don't live in your household.

It then repeats and continues:

Stay at least 6 feet (about 2 arms lengths) from other people.
Keeping distance is especially important for people who are at higher risk of getting very sick

139. The New York State Health Department web site has a posting which is called

140. HELP STOP THE SPREAD OF COVID-19 – COVID-19 is Still a Threat. A copy is attached as Exhibit B. It states: “Wear a Mask and Practice Social Distancing: Even if you feel well, stay at home as much as possible. In public keep at least 6 feet distance from others.

141. On January 27, 2021 Plaintiffs and others from around the State wrote to Governor Cuomo, State Senate Majority Leader Andrea Stewart-Cousins, Assembly Speaker Carl Heastie, NYC Mayor Bill de Blasio (attached as Exhibit C1 and all members of the State Legislature, imploring that petitioning be cancelled for the June 22, 2021 party primaries. Plaintiffs pointed out that one alternative, on-line petition gathering, was being implemented in a number of states which required petitioning to get on the ballot, including New Jersey. On January 28, 2021, Jumaane Williams, who is the Public Advocate for the City of New York, wrote to Mayor de Blasio, with a copy to Governor Cuomo, seeking to eliminate in-person petitioning, so as to avoid unnecessary deaths.

142. The response was the amendment to the Election Law set forth in Paragraph 128 above. Petitioning was now to take place over a three week 5 day period from a five week, six day period (63% of the time previously allowed) , and adopted numbers generally identical to the numbers adopted by Governor Cuomo in his March 2020 EO 201.2, requiring between 30 and

33.3 % of the number required in the Election Law or the NYC Charter. For example, petition requirements for Citywide office in NYC were reduced from 7500 to 2500, while petition requirements for City Council positions were reduced from 900 to 270.

143. The “justification” set forth in the Senate Bill, which was ultimately adopted, was as follows:

In 2020, the COVID-19 public health pandemic necessitated a temporary reduction in the number of signatures required for designating petitions by 70%. Petitioning in the 2021 election cycle will begin in late February. Due to the ongoing public health crisis, the legislature proposes to again temporarily reduce the number of required signatures by 70%. This will allow candidates to organize their campaigns, print their petitions, and collect voters' signatures while respecting public health guidelines.

144. Neither the Senate, nor the Assembly, nor the Governor explain what “public health guidelines the legislation was respecting. Nor did they explain why they adopted the same percentages as were adopted on the first days of the Pandemic, before the Government, and the scientific community, understood the depth of. Nor did the Legislature or the Governor explain how person to person petitioning of any sort could be safe when a new more-easily contractable COVID-19 variant, was spreading throughout the United States, including New York, a variant which may elude the vaccine which a small percentage of New Yorkers have received since vaccines were approved in December 2020.

145. Under the NYC Charter Mayor de Blasio has the power to suspend the provisions of Chapter 46, §1057-b. He has not responded to Plaintiff Williams, and has not taken any action. His actions may be hamstrung by the amendment to the Election Law, which states that the provisions are in effect, “notwithstanding the provisions of the NYC Charter.”

146. On February 2, 2021, the NY Times published a scientifically reputable study titled “Tracking Coronavirus in New York City, NY, a copy of which is annexed as Exhibit D.

the subhead states: “New York City is at an **extremely high risk** level.” (emphasis in the original). Through charts of government-released data, the Times concludes: “Cases are extremely high and have stayed about the same over the past two weeks. The numbers of hospitalized COVID-19 patients and deaths in the New York City area have risen. The test positivity rate in New York City is high, suggesting that cases may be undercounted.” In a section entitled “How to protect yourself and others,” the Times warns: You should stay at least six feet away from people who live in other households.

147. On February 6, 2021, the Times published another statistical study, New York City Coronavirus Map and Case Count. A copy is annexed as Exhibit E. It reports 78 new coronavirus deaths and 3003 new cases in NYC just on February 5. While cases had decline 27% over the prior 14 days, deaths had increased 13%. The statistics showed that the virus had varied impact around NYC. Income seems to play a role. According to the Times “many of the neighborhoods with the highest number of cases per capita were areas with the lowest median incomes... The biggest hot spots included communities in the South Bronx, north and southeast Queens, and much of Staten Island. While age was a major factor in who died from Covid-19, neighborhoods with high concentrations of black and Latino people, as well as low-income residents, suffered the highest death rates.

148. The NY State Health Department reveals similar data in what it calls its “Cluster Action Initiative.” That initiative, which maps communities with the highest rates of Covid-19 (see Exhibit F-1) includes communities in the Bronx, north and southeast Queens, the South Bronx, and Northeast Manhattan. These maps are annexed as Exhibit F-1.

149. On February 6, 2021, Governor Cuomo issued his most recent press release (annexed as Exhibit G) which stated that positivity and hospitalization numbers were declining

from the holiday surge “a reflection of the discipline New Yorkers have shown to defeat the virus.” The Governor continued. “we must continue doing the things we know are effective at taming the virus: wear a mask, adhere to social distancing, and avoid gatherings.” He did not explain how candidates could petition and adhere to social distancing.

150. The situation, even for those in the health community, remains dire. On February 3, 2021, New York City’s top health official, Health Commissioner Dave Choksi, tested positive for Covid-19. See Exhibit H.

151. On February 2, 2020, the NY Times did a statistical analysis addressed to Governor Cuomo’s recent decision to allow indoor dining titled: NYC’s COVID Metrics are Dire. Cuomo is reopening Restaurants Anyway (see Exhibit I). Of most note in the article are the facts that despite the “improvement” in statistics, the average per-capita case counts in New York City were 64% higher than on December 11, 2020, when indoor dining was closed. Average Covid-19 hospitalizations were still 60% higher than December 11, 2020. The Times also pointed out that the Governor’s statistics, showing a 30% drop in test positivity rates, came from cherry-picking data points, using extremes that did not reflect the overall trend.

152. That data fudging was highlighted in a February 8, 2021 report in the Patch, a community-based newspaper, in an article titled Is NYC Beating Back The Coronavirus? It Depends Where You Look. The article reported as follows:

A Tale Of Two Datasets

It's no secret that New York State and New York City officials often feud.

Their disagreements come from the top — Cuomo and Mayor Bill de Blasio — on down to how they measure coronavirus levels themselves.

The mismatch infamously played out in November when de Blasio closed schools when the city's numbers showed the coronavirus positivity rate hit 3 percent. The state-measured numbers at that time

were far below and, indeed, consistently remain lower than those reported by the city.

It's for this reason that Cuomo on Friday said New York City's average positivity rate measured at 5.08 percent and the city reported the same metric at 8.55 percent.

Cuomo on Friday said the state's overall positivity rate hit lowest point since Nov. 28.

The city's data doesn't necessarily show such good news.

The average positivity in the city stayed at or above 9 percent for all but the last week of January. In November, it stood at 3.3 percent.

Cases on average consistently remained above 5,000 per day through that month as well, as compared to 1,841 per day in November.

But every measurement except for average positivity does appear heading down, just not to the lows seen in the state-measured numbers.

153. The Times also reported on February 1, 2021 that “9 Top NY Health Officials Have Quit as Cuomo Scorns Expertise.” See Exhibit K. Most disturbing about the article is the fact that Governor Cuomo was quoted as stating “When I say ‘experts’ in air quotes, it sounds like I am saying I don’t really trust the experts. Because I don’t. Because I don’t.”

154. Many of the Plaintiffs are running for office in Black and Hispanic communities included in the NY State Department of Health’s heightened cluster maps. Plaintiffs also include candidates who are in high risk groups because of age or disability. For example, Michelle Winfield is 74 years old. Arthur Schwartz is 68 years old.

155. Plaintiffs submit that there is no justification in science or in the improving, but still dire statistics, for the Legislature and the Governor to have authorized in-person petitioning for the June 2021 part primaries, petitioning which will require contact, between hundreds of thousands if more than a million New Yorkers, at distances less than six feet. And that close contact is being **required** by the State of New York. While the Governor may not trust the experts who warn all citizens to remain 6 feet apart during the Pandemic, that is the sound

scientific advice being given by federal and State health officials, as one means to combat the spread of the worst public health disaster ever to hit the United States – including New York.

AS A FIRST CAUSE OF ACTION

156. The State Constitution at Art. 17, § 3, titled Public health, states” The protection and promotion of the health of the inhabitants of the state are matters of public concern and provision therefor shall be made by the state and by such of its subdivisions and in such manner, and by such means as the legislature shall from time to time determine.

157. Requiring in-person petitioning by hundreds of candidates state-wide, involving up to a million contacts between residents petitioning and signing petitions, and requiring candidates and their supporters to put themselves in a risk-taking situation in order to get the candidate on a ballot, does not protect or promote public health.

158. The January 28, 2021 amendments to the Election Law violate Art. 17, § 3 of the State Constitution and are therefore unconstitutional.

159. The application of the existing provisions of Section 6-136 of the Election Law or of Chapter 46, §1057-b of the NYC Charter to the primaries scheduled for June 22, 2021 would similarly violate Art. 17, § 3 of the New York State Constitution.

AS A SECOND CAUSE OF ACTION

160. The State Constitution at Art. 1, § 1 Rights, titled privileges and franchise secured, states: “No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his or her peers.”

161. The State Constitution at Art. 1, § 8, titled Freedom of speech and press states: “Every citizen may freely speak, write and publish his or her sentiments on all subjects, being

responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.”

162. The State Constitution at Art. 2, §1 states: “Every citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to the vote of the people provided that such citizen is eighteen years of age or over and shall have been a resident of this state, and of the county, city, or village for thirty days next preceding an election.”

163. Clearly, the right to run for office, and to vote for the candidate of one’s choice are rights protected by the State Constitution.

164. Requiring in-person petitioning by hundreds of candidates state-wide, involving up to a million contacts between residents petitioning and signing petitions, and requiring candidates and their supporters to put themselves in a risk-taking situation in order to get the candidate on a ballot, does not protect or promote public health, creates an undue burden on the opportunity of candidates to run for office, and potentially denies voters the right to vote for candidates unwilling to take the risk of in-person petitioning.

165. The January 28, 2021 amendments to the Election Law therefore violate Art. 1, § 1, Art. 1, § 8, and Art. 2 § 1 of the State Constitution and are therefore unconstitutional.

166. The application of the existing provisions of Section 6-136 of the Election Law or of Chapter 46, §1057-b of the NYC Charter to the primaries scheduled for June 22, 2021 would similarly violate Art. 1, § 1, Art. 1, § 8, and Art. 2 § 1 of the New York State Constitution.

AS A THIRD CAUSE OF ACTION

167. The State Constitution at Art. 1, § 11, titled Equal protection of laws; discrimination in civil rights prohibited NY, states: “ No person shall be denied the equal

protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his or her civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.”

168. Requiring in-person petitioning by candidates state-wide, by Black and Hispanic candidates in high positive communities of color, and by older candidates and their supporters, and by candidates and supporters who have disabilities making them more susceptible to COVID involving contacts between residents petitioning and signing petitions, and requiring such candidates and their supporters to put themselves in a risk-taking situation in order to get the candidate on a ballot, has a discriminatory impact on Black, Hispanic, older and disabled candidates.

169. The January 28, 2021 amendments to the Election Law therefore violate Art. 1, § 11 of the State Constitution and are therefore unconstitutional.

170. The application of the existing provisions of Section 6-136 of the Election Law or of Chapter 46, §1057-b of the NYC Charter to the primaries scheduled for June 22, 2021 would also similarly violate Art. 1, § 11 of the New York State Constitution.

INJURY

171. The actions of Governor Cuomo, and the State Legislature, and the inaction of Mayor de Blasio have given the plaintiffs, and all other candidates in a position where in order to run for or petition for someone running for office in the June 22, 2021 primary, they must put their health at extreme risk, and must put the health of the public at risk, in what can best be described as a “State-wide super spreader event.”

172. Through their above-described conduct, Defendants, unless enjoined by this Court will cause Plaintiffs immediate and irreparable injury.

PRAYER FOR RELIEF

Wherefore, Plaintiffs, on their own behalf and on behalf of the class, pray for the following relief against Defendant:

1. That this Court enter a declaratory judgment declaring (a) the amendments to the Election Law enacted on January 28, 2020 unconstitutional; and (b) that the application of the in-person petitioning requirements of Section 6-136 and NYC Charter Chapter 46, §1057-b to be similarly unconstitutional.

2. That this Court enter a preliminary injunction enjoining Defendants from requiring in-person Petitioning in order for a candidate to be placed on the ballot for any position to be voted on in the primaries scheduled for June 22, 2021, and directing Defendants to devise an alternative, constitutionally sound method for certifying candidacies.

3. That this Court grant such other relief that it deems just and proper.

4. That this Court award Plaintiffs' reasonable attorneys' fees and costs.

Dated: February 8, 2021
New York, New York

ADVOCATES FOR JUSTICE
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VERIFICATION

ARTHUR Z. SCHWARTZ, being duly sworn, deposes and says: I am counsel to Plaintiffs, and a plaintiff myself. I have read the Petition, and the same is true to my knowledge, information, and belief.

Dated: February 8, 2021

/s/ Arthur Z. Schwartz

ARTHUR Z. SCHWARTZ