

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

-----X  
In the Matter of the Application of )  
 ) VERIFIED  
 ) PETITON AND  
 ) COMPLAINT  
 ) PURSUANT TO  
MICHAEL PARIETTI, ROBERT ROMANOWSKI and ) CPLR ARTICLE 78  
DEBORAH SEIDMAN-MUNITZ, ) AND  
 ) DECLARATORY  
 ) RELIEF  
 )  
- against )  
 )  
TOWN OF RAMAPO, CHRISTAN G. SAMPSON )  
As TOWN OF RAMAPO TOWN CLERK, ) Index No. /15  
 ) Respondents. )  
-----X

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ROCKLAND )

Petitioners/complainants, by their attorney Susan H. Shapiro, for their verified petition and complaint for relief against respondents TOWN OF RAMAPO (“TOWN”), CHRISTOPHER ST. LAWRENCE (“CSL”), AS TOWN SUPERVISOR, CHRISTIAN G. SAMPSON, AS RAMAPO TOWN CLERK (“SAMPSON”), and MONA MONTAL, as PURCHASING DIRECTOR (“MONTAL”) allege as follows:

GENERAL ALLEGATIONS AND BACKGROUND

1. This is a hybrid action and proceeding, for both declaratory relief and Article 78 review, brought by qualified electors of the Town of Ramapo, Rockland County, challenging the results of a special election of the Town held on September 30, 2014, on certain ballot

propositions, and requesting relief with respect thereto. As more particularly alleged herein, that election was so badly conducted by the Respondents that, whether by intent or sheer ineptitude, the process was so badly flawed, and the outcome so corrupted and unreliable, that invalidation should be required and a new election ordered to be held at the Town Biennial Election of November 3, 2015.

2. In a previous proceeding seeking limited protective relief and guidance with respect to that special election, the Court (Garvey, J.), determined *sua sponte* that the election was already so flawed that a new election was required, and ordered the ballots be destroyed without canvassing of votes.

3. On appeal, however, the Appellate Division, Second Department, concluded that Justice Garvey had acted prematurely, stating, in its June 24, 2015 decision (2015 NY Slip Op 05482) *inter alia*, that:

The authority to invalidate the special election may be exercised by the court in the context of a hybrid proceeding pursuant to CPLR article 78 to review a determination made by the Town based on the results of the referendum and action for a declaratory judgment (compare *Matter of Boyes v Allen*, 32 AD2d 990, affd 26 NY2d 709, with *Matter of Delgado v Sunderland*, 97 NY2d 420). . . . . Under the circumstances presented here, such a hybrid proceeding/action *would be premature at this juncture, as the appropriate officials have not yet canvassed the vote and determined the results of the special election pursuant to the Election Law and the Town Law*. Until such a determination is made, we cannot ascertain whether the petitioners have been aggrieved, or whether the alleged irregularities in the electoral process had any impact on the outcome of the election (see *Matter of Boyes v Allen*, 32 AD2d at 990-991; see also *Matter of Davis v Commissioner of Educ. of State of N.Y.*, 189 AD2d 1046, 1048) (emphasis supplied).

4. Subsequent to that June 24, 2015 decision, the Board of Canvassers for such election canvassed the ballots of such election, and on August 27, 2015, reported on the canvass of that

election and the Town Clerk signed a "Certification of Election" on September 4, 2015 (the "Certified Results"). *See Exhibit A.*

5. The vote canvass certified by the Town Clerk for Proposition 1, "Shall the Number of Councilmen or Councilwomen of the Town of Ramapo be Increased From Four to Six?", is:

	For:	Against:
Machine:	13,858	13,581
Absentee:	366	209
Affidavit:	<u>420</u>	<u>1,858</u>
TOTAL:	14,644	15,648

6. The vote canvass certified by the Town Clerk for Proposition 2, "Shall the Ward System be Established For the Election of Councilmen and Councilwomen the Town of Ramapo?", is:

	For:	Against:
Machine:	13,891	13,526
Absentee:	377	201
Affidavit:	<u>419</u>	<u>1,854</u>
TOTAL:	14,687	15,581

7. As set forth herein, the certified results of the special election confirm that Petitioners were in fact aggrieved and that the improprieties in the electoral process impacted the outcome of the election, and also disenfranchised voters in a way that cannot be cured. Accordingly, the election results should be set aside in their entirety and a new election ordered to be held at the Town Biennial Election of November 3, 2015.

8. While awaiting the results of such canvass and certification, petitioners obtained, by FOIL request and otherwise, copies of various records of such election, which tend to show, as set forth in more detail herein below, that said records are incomplete and inconsistent, that

the election as conducted has yielded results which are inconsistent and unreliable, and that the procedures employed by the Town Clerk in supervising and conducting such election, and the procedures imposed by said Town Clerk upon the said inspectors, were unreliable, inconsistent with the customary procedures employed in any election, contrary to law and even bizarre.

9. In light of the September 4, 2015 Certified Results, the hybrid declaratory judgment action and Article 78 proceeding referred to in the June 24, 2015 decision of the Appellate Division is no longer factually premature.

10. Filed herewith, annexed hereto and incorporated herein by reference is are Exhibits, consisting of supporting affidavits, materials referred to in such affidavits, documents produced by the Town pursuant to FOIL requests, and analytical documents created by one or more of the affiants based upon the materials supplied by the Town. Petitioners respectfully reserve their right to submit further evidence as may be appropriate in the summary and plenary phases of this matter.

#### PARTIES AND JURISDICTION

11. Petitioners are, and were at all times relevant, qualified electors of the Town of Ramapo, supporting a ballot initiative to increase the number of members of the Ramapo Town Council and to instate a ward system of election of such members.

12. Petitioner, Michael Parietti, is resides at 6 Spook Rock Road, Suffern, NY 10901, located in the Town of Ramapo, (“Parietti”) and was a proponent and organizer of the ward

system referendum on the ballot at the Town of Ramapo's special election held on September 30, 2014.

13. Petitioner, Robert Romanowski, resides at 183 Maple Avenue, Monsey New York 10952, located in the Town of Ramapo, ("Romanowski") and was a proponent and organizer of the ward system referendum on the ballot at the Town of Ramapo's special election held on September 30, 2014.

14. Petitioner, Deborah Seidman-Seidman-Munitz, resides at 5 Rose Hill Road, Montebello, NY 10901, located in the Town of Ramapo, ("Munitz") She is a concerned resident of the Town of Ramapo and have been an active community volunteer since 2011 in detailed research and analysis of Town of Ramapo practices and FOIL procedures, and has become familiar with various sections of NY State Town Code.

15. Respondent Town of Ramapo ("Town") is a municipal corporation under the Town Law of the State of New York, located within Rockland County.

16. Respondent Christian G. Sampson is the Town Clerk of said Town, ("Town Clerk") and as such is charged with the duty of conducting elections of such Town which do not otherwise fall under the purview of the Rockland County Board of Elections.

17. This Court has jurisdiction over the claims set forth herein pursuant to Election Law ("EL") Article 16, Civil Practice Law and Rules ("CPLR") Article 78, and Town Law ("TL") Article 6.

18. Venue is proper in the Supreme Court, County of Rockland, pursuant to EL Art. 16

and CPLR §504(2).

### SUBSTANTIVE ALLEGATIONS

19. On September 30, 2014 there was conducted a special election in the Town with respect to two ballot propositions concerning the increase of the number of members of the Town Council from four to six, and the adoption of a Ward system for election of such members.

20. New York State Election Law is made expressly applicable to Town special elections by virtue of NY Town Law § 83, which provides in pertinent part:

“... Election inspectors and ballot clerks for biennial town elections shall be those appointed as provided by the election law, and both special town elections and biennial elections shall be conducted, the votes canvassed, and the results certified and returned so far as practicable in the manner prescribed by such law. ...”

### PRE-ELECTION

#### **THE TOWN WAS FORCED TO HOLD AN ELECTION THAT TOWN BOARD MEMBERS DID NOT WANT**

21. The two propositions were placed on the ballot as a result of a petition brought by Petitioners, Parietti and Romanowski, pursuant to NY Town Law § 81, and not upon the Town's own motion. In fact, the Town was ordered by the Rockland County Supreme Court (Garvey, J.) to hold the special election, after the Town wrongfully denied the petition, and after the Town had lost their appeals to suppress the Petitioner's right to commence an Article 78 proceeding regarding the original denial.

22. After being forced to hold this special election, the Town further decided they would

not allow poll watchers, a common practice and safeguard.

#### **THE TOWN PASSED A RESOLUTION RELATING TO VOTER REGISTRATION**

23. NY Town Law § 84 allows for personal registration of voters for Town special elections upon resolution of the Town Board.

24. In connection with the special election, on August 22, 2014 the Town adopted and promulgated resolution 2014-357, which resolved “that potentially eligible voters may register to vote at the Rockland County Board of Elections on or before September 23, 2014,” *See Exhibit B*

25. The plain language of this Resolution would lead any reasonable person to believe, and, upon information and belief, did in fact lead many to believe, that a person would need to register with the Board of Elections by September 23rd in order to vote in the special election.

26. Even if the language in the Resolution was not meant by the Town to require voter registration for the special election, the Resolution unnecessarily and foreseeably tended to confuse the electorate to believe that personal registration was in fact required.

27. The Court already found that the Town’s Resolution regarding registration “resulted in confusion” and “was misleading to the general public as to who could vote in the special town election.” (*Parietti et al, v Town of Ramapo et al*, Supreme Court Index No. 1712/14 p.9).

#### **THE INCLUSION OF ABSENTEE BALLOT VOTING SUPPORTED THE PERSONAL REGISTRATION**

28. The Town’s Resolution 2014-357 provided for absentee ballot voting.

29. Town Law § 84-a(1) provides that “Absentee ballots shall be provided for all special town elections for which personal registration is required”, but makes no provision for the use of absentee ballots in Town special elections for which personal registration is not required.”

30. The allowance for absentee ballot voting further underscored and reinforced the understanding that voting in the special election would be by personal registration, only.

**ABSENTEE BALLOTS APPLICATION INSTRUCTIONS WERE CONTRARY TO LAW**

31. Pursuant to the Resolution’s inclusion of absentee ballot voting, the Town directed the preparation and distribution of absentee ballot applications.

32. NY Town Law §84-a provides,

“No absentee voter's ballot shall be canvassed, unless it shall have been received in the office of the town clerk not later than five P.M. on the day of the election.”

33. Yet, the Town’s instructions on the Absentee Ballot Application state that the, “ballot itself must either be personally delivered to the Town Clerk no later than close of polls on election day [i.e., 10pm], or postmarked... not later than before the day before the election and received no later than the 7th day after the election.”

34. Ultimately, so as not to disenfranchise voters who relied on the Town’s improper absentee ballot application instructions, the Town Clerk decided to canvass and count the absentee ballots received during its published timeframe, in violation of the express provisions of NY Town Law §84-a. *See Aff.Munitz #61*

35. Upon information and belief the number of absentee ballots received during this time frame that were included was six (6). *See Aff.Munitz #61*



36. Moreover, some absentee ballot application were rejected because the person seeking the absentee ballot was not registered, and the town did not advise those potential voters that they could show up on election day and vote as an unregistered voter. *See Aff. Klein, Nan.*

**PRIOR TO ELECTION DAY, ELECTION INSPECTORS TRAINED BY THE TOWN WERE TOLD THAT ONLY REGISTERED VOTERS COULD VOTE.**

37. Election inspectors for the special election were trained by the Town of Ramapo on September 23, 2014 – approximately one week before election day – and were never advised that unregistered voters could vote; rather, they were told that the last day to register to vote in the special election was on September 23, 2014. *See Aff. of Ivey, Whipple, and Neyland.*

38. In fact, the Town emphasized that this registration period cutoff was later than for general elections and that supplemental registrations books would be provided on election day reflecting any registrations entered after the main poll books were produced. *See Aff. Siegal*

**THE TOWN DID NOT NOTICE THE PUBLIC ABOUT UNREGISTERED VOTERS**

39. Between the issuance of the Resolution, which included registration and absentee ballot provisions, until the morning of the Special Election, upon information and belief, there was no public notice disseminated by the Town to inform the public that unregistered voters would be eligible to vote in the special election.

40. In fact there was no public notice published making it clear that unregistered voters would be eligible to vote in the Special Election.

41. Information suggesting that unregistered voters would be allowed to vote first surfaced in the late afternoon before the Special Election when the Journal News posted an article on

their website which was to be printed in newspaper on the morning of the Special Election, September 30, 2015. *See Aff. Munitz #24*

42. This article reported that “Unlike most local elections, Tuesday's referendums are administered under New York State municipal law, which allows people to vote if they are at least 18 years of age and can prove residency, even though they are not registered voters, according to the Rockland County Board of Elections.” *See Aff. Munitz Exhibit 9.*

43. Rumors and word of mouth began just before the close of business that unregistered voters would be allowed to vote and community members rushed to contact the Town through email FOIL requests and phone calls (*Aff. Munitz #25*), as well as in person with hand written questions by Robert Rhodes (*Aff. Munitz #26*) (which encounter was video-taped), but the Town did not respond to these requests that day. *See Aff. Munitz #25.*

44. Despite inquiries to the Town and the Town Clerk to clarify this critical issue regarding the allowance of unregistered voters, neither the Town nor Town Clerk responded until approximately 10:30a.m. the very morning of the election – four and a half hours after the polls opened. At that time they responded tersely by email, “Non registered voters can vote by affidavit at the polling sites” with no further details. *See Aff. Munitz #27*

45. At some point the morning of the election, Petitioner Munitz contacted the Board of Elections, and spoke Commissioner Lou Babcock, who confirmed Town’s decision to allow unregistered voters, and explained that the Board of Election had only found out these plans the day before the election. *See Aff. Munitz #27.*

46. As late as the day before the special election, the County Board of Elections was still advising potential voters that they had to be registered to vote at their Town of Ramapo address in order to be eligible to vote in the Town Special Election. *See Aff. Dweck*

47. Upon information and belief, a large number of qualified electors were misled and did not vote, or plan to vote, in the Special Election by reason of the registration resolution and/or the misleading and confusing information contained therein, believing that, like most elections, personal registration was required and that unregistered voters were ineligible to vote. In fact, up until the afternoon before the Special Election, if they had inquired at the Board of Elections whether unregistered voters could vote, they would have been told only registered voters were eligible to vote in the Special Election.

**THE TOWN SUPERVISOR, BOARD MEMBERS AND THE TOWN'S PURCHASING AGENT ACTIVELY CAMPAIGNED AGAINST THE REFERENDUM**

48. The Town Supervisor Christopher St. Lawrence has a weekly radio show on Saturday mornings where he takes questions from the public. On September 14, 2014 Petitioner Seidman-Munitz called into the show to ask why the Town did not send public mailings or post information on its website regarding the details of the Special Election. He responded that he was personally against the resolutions, blamed the proponents for the cost of holding the election on the propositions, and proceeded to rant to the public in opposition to the resolutions. He then hung up on Seidman-Munitz without answering the questions posed. *See Aff. Munitz #17*

49. Brendel Logan-Charles, a member of the Town Board, put out a press release strongly opposing the propositions. *See Aff. Munitz #18*

50. Mona Montal, Purchasing Director of the Town of Ramapo was leading the fundraising for the 63isEnough PAC campaign, created to oppose the propositions. In an email to local developers seeking donations of \$1,000-\$20,000 each, she stated:

“Unfortunately here in the Town of Ramapo, it has gotten Very Very Hot and it is not the weather. I have been charged with a mission and need your help... We were not prepared in terms of funding, for the type of campaign we needed to launch in order to vote the ward down.” *See Aff. Munitz #41 and Exhibit 15.*

51. The 63isEnough organization ran television commercials, ran multiple print ads in a community paper whose editor refused to publish ads from proponents, and sent multiple inflammatory postcards to voters in less polarized/swing vote areas, including ads that threatened orthodox voters with police brutality if the referendum passed. *See Aff. Munitz #42 and Exhibit 50.* Mona Montal also, put out a public anti-ward press release on the website 63isEnough.org under her title of Ramapo Democratic Committee Chairwoman, Suffern. *See Aff. Munitz #50*

52. Despite the obvious conflict of interest, Mona Montal was listed contact for the Election Inspectors on election day. *See Aff. Munitz Exhibit 36* She created the Town’s database used to track the absentee ballot applications and the absentee ballots issued/received, and created the Town’s database and procedures used for the affidavit validation processing after the election. *See Aff. Munitz Exhibit 35, 36, and 61.*

53. In addition to his public opposition to the proposition, Supervisor St. Lawrence’s main campaign funding organization “The Friends of Christopher St. Lawrence” donated \$20,000 to the 63isEnough campaign. *See Aff. Munitz Exhibit 44.*

## ELECTION DAY

### **Election Inspectors Start the Day Unaware Unregistered People will be Allowed to Vote.**

54. The polls opened at 6:00am on election day with election inspectors still believing that only registered voters could vote and members of the public sharing that same understanding.

*See Aff. Burke, Ivey, and Miller*

55. When election inspectors arrived at the polls, there were no notices of any change of voter eligibility requirements or notice that unregistered voters would be allowed to vote. The only material that the poll workers were given the morning of the election is attached as in

*Aff. Munitz Exhibit 36. See Aff. Munitz #77 and Aff. Neyland.*

56. Some election inspectors were turning unregistered voters away because the Town had failed to make them aware that it was allowing unregistered voters to vote. *See Aff. Neyland, and Miller,*

57. In a number of instances election inspectors did not find out about this divergence from their training until many hours after the polls opened. *See Aff. Neyland.*

58. Election inspectors learned from various third parties at various points during the day that the Town was allowing unregistered voters to vote. In some locations unregistered voters brought in that morning's Journal News Article (*See Aff. Neyland, Aff. Munitz # 11 and Aff. Munitz Exhibit 9*) to support their right to vote; in many other locations people just showed up claiming they had been told that they could vote even, if they were not registered.

59. Upon learning this news from voters, election inspectors scrambled to call the Town to

confirm this new information. Even hours after the polls opened, the Town of Ramapo was still closed for the night, and no one was picking up the phones to answer these critical questions. (*See Aff. Golden, Aff. Munitz #27*), in other instances during normal business hours, no one picked up or was available to answer the questions on this issue (*See Aff. Neyland*). In at least one instance the election inspector was so shocked by the news that she called the County Board of Election (“BOE”), and then the State Board of Elections because it was so inconsistent with her training and her expectations (*See Aff. Neyland*).

60. When election inspectors finally got through to someone in the Town they were advised that Affidavit Ballots were to be used to process unregistered voters. (*See Aff. Neyland*).

#### **Uneven Distribution of Affidavit Ballot Envelope Forms**

61. At some point prior to election day, the Town prepared custom Affidavit Ballot Envelope Forms, which were intended by the Town to be used to process unregistered voters at the polls. This envelope was different from the Affidavit Ballot Envelopes used in general elections to process registered voters who were not in the poll books or who the BOE noted must provide ID, but did not. Normally Affidavit Ballots cast are placed in Affidavit Ballot envelopes and not put the machine, and the envelopes are later validated by the Board of Elections. A copy of the Town’s custom envelope had on its face a form to be filled out by the unregistered voters and election inspectors. (*See Aff. Munitz #59 and Exhibit 23*).

62. Although the Town intended for the Affidavit Ballot Envelopes to be used for unregistered voters, it was reported that some poll locations had no such envelopes when they

opened (*Aff. Casden*); and, many locations had just ten (*Affidavitf. Neyland, Ivey*)

63. Upon information and belief, many (1,573 out of 2,499) of the Affidavit Ballot Envelopes did not include the number of the ballot cast making it impossible to confirm that the ballots cast were related to the unused ballot books returned to the canvassing center. (*See Aff. Munitz Exhibit 23 and Aff. Munitz #82 and Exhibit 45*)

64. Upon information and belief, it was known to and anticipated by the Town Clerk and the Town that the voters of certain election districts were more likely to be supportive of the ballot propositions, and that voters in other election districts were more likely to oppose the ballot propositions. (*See Aff. Munitz #80 and related exhibits*). As discussed below, the voting results substantiated this expectation (*See Aff. Munitz Exhibit 41*).

65. Upon information and belief, with such awareness and anticipation, the Town Clerk, and persons, including Mona Montal and Brendal Logan-Charles, caused to be delivered a significantly larger number of Affidavit Ballots to those polling places where large numbers of anti-proposition voters were expected to vote, and substantially fewer Affidavit Ballots to those polling places where the pro-proposition vote was expected. (*See Aff. Whipple #5 #13, Aff. Golden #10-11, Aff. Miller*)

66. Pro-proposition polling places ran out of Affidavit Ballot forms, and had difficulties getting replenishment, causing voters to be turned away. (*Aff. Golden #10, Casden # 22-23, D. Curry #8, Ivey at 7-8, Miller #4*)

67. Upon information and belief, by contrast, polling places where anti-proposition voting

was expected were supplied with large numbers of affidavit ballot forms that appear to have been more readily replenished throughout Election Day. Based on the numbers of the Affidavit Ballots cast, as recorded in the Town's validation database, hundreds (and hundreds) of ballots made their way to locations such as: Elmwood, Viznith School, Viznitz Girls School, and Gruss Girls, location that had voted heavily for the incumbents in the 2013 election. (*Aff. Munitz #82(j)*) (also see *Aff. Munitz Exhibit 43*) and in turn also, voted against the Ward resolutions. As discussed later, ballot reconciliation forms were missing, blank or substantially incomplete for all but one of these locations.

## **IDENTIFICATION**

68. Upon information and belief, not only was there inconsistency and confusion among polling places as to whether to allow unregistered voters, there was inconsistency and confusion among the polling places as what proof of person and/or residency, if any, would be required for unregistered voters to vote.

69. This confusion and inconsistency was attributable to the Town's failure to notify or train election inspectors in advance of the special election that unregistered voters could vote, and what identification, if any, would be required of an unregistered voter before allowing that voter to vote.

70. This confusion and inconsistency was exacerbated by the Town's failure to provide this information to election inspectors at the start of Election Day.

71. Upon information and belief, at the start of election day, election inspectors had still received no guidance as to how to properly process the potentially thousands of unregistered



voters in the Town, and this resulted in widespread disparity as to how voters were processed at the polls.

72. In some locations persons not registered were asked for identification, and were turned away if they could not provide identification, or could not provide suitable identification for the poll inspectors. (*See Aff. White # 5-9*)

73. In other locations, no identification was asked or required at all. (*See Aff. Burke # 13, Casden #13, Crowley #4,,Siegal # 7-10*)

74. According to the Town of Ramapo Affidavit Ballot Validation database, only 111 of 2,498 provided identification, thus there was no way for the Town to validate that the person who had voted was in fact the same person whose name was on the envelope, that the person's name was the name of an actually living person. (*See Aff. Munitz #82(a)&(e)*)

75. In addition, the lack of any identification did not provide proof that the voter was a resident of the town of Ramapo, and a US Citizen over the age of 18.

76. This lack of identification also precluded the canvassing board from making any reasonable determination as to whether this voter was a qualified elector during their validation process.

77. For locations asking for identification, the level of identification varied from poll location to poll location. Some locations required standard government issued identification like driver licenses and passports (*See Aff. Burke, White*). Other locations were accepting automobile insurance records on cell phones, and local yeshiva school id cards (*Aff. Ruth Ivey*

#9-10), or driver's license with Brooklyn addresses. (*See Aff. Burke # 11-12, Siegel #10*).

78. At one polling location, that had a larger number of Hispanic residents, Hispanic voters were required to provide proof of citizenship and were turned away if they did not have proof at the time. (*Aff. White #5-9*).

79. As an example, one Hispanic woman, a U.S citizen, was not allowed to vote because the poll workers said she needed proof of residency, so she went home, returned with a utility bill showing her address, and then was still subsequently denied the right to vote because the poll workers then questioned her citizenship and turned her away. (*See Aff. White*).

80. Meanwhile at other locations where no identification was required, the Town Clerk accepted the signature on the affidavit ballot envelope as proof of citizenship. (*See Aff. Munitz #30 & #56*)

81. Instructions from the Town regarding the need for identification were not consistent among polling locations, and even appeared to change from poll inspectors training the week before and from morning to afternoon at the same location. (*Aff. Ivey # 5, Neyland # 4, Siegal #6-8, Whipple #8, #10*)

82. In some instances, the Town Clerk personally told election inspectors not to ask for any identification. (*Aff. Wilkes, Burke #13, Neyland,*), yet at other polling locations the Town Clerk informed election inspectors that "as long as a person had proof of ID and residency in the Town of Ramapo, they could vote (*Aff. Ivy #4*).

83. Upon information and belief, the election inspectors described in the preceding

paragraphs attempted to do their duty to prevent people not entitled to vote, from voting.

84. Further upon information and belief, the Town Clerk, as described in the preceding paragraph, was acting in violation of EL § 17-130(22). In consequence of the foregoing, large numbers of persons, not qualified as electors of the Town, were nonetheless permitted to vote.

85. Upon information and belief, during election day, the Town Clerk personally assured election inspectors who expressed concern about the unorthodox procedures being employed which were contrary to their training, and supporters of the ballot propositions that all votes cast by affidavit ballot would be checked to verify eligibility after the election. (*Affidavit Neyland and Aff. Munitz Exhibit 12b video and transcript*)

86. Upon information and belief, this conduct by the Town resulted in an inflation of the number of votes against the ballot propositions cast by unregistered and unqualified voters using affidavit ballots.

#### **Insecure handling and unauthorized person working at polling location(s)**

87. The turnout and usage of Affidavit Ballots was so high at certain polling locations leading to such “chaos” that the chairperson of at least one location - Elmwood Elementary - actually allowed unauthorized and untrained persons from the crowd to work for much the day directing voters and handling election materials because she was overwhelmed. (*See Aff. Casden and Whipple*)

88. In the Elmwood location, which produced the largest number of registered voters (See *Aff. Munitz Exhibit 43*) and the second largest number of Affidavit Ballots (by the Town’s

accounting) (*See Aff. Munitz #82(j)*), all unregistered voters were referred to the desk of the chairperson for the processing of their affidavit ballots. The machine operator at that location noticed a Hassidic gentleman, who was a regular poll watcher, in the past, at that location, behind the desk “working hand-in-hand” with the chairperson to process the unregistered voters throughout the day. (*See Affidavit Whipple #9*) Bob Romanowski identified this gentleman as Aron Lebovits. (*See Aff. Romanowski*)

89. Other witnesses who spoke directly to the chairperson were told by her, “Thank god these two rabbis are helping me. I couldn’t do this without the help of these nice rabbis.” One gentleman was seen working with the chairperson behind the desk and another was working in front of the desk, interacting with the crowd and reviewing the affidavit ballots before their submission to the chairperson and/or the other gentleman behind the desk. (*Affidavit Casden #12-15*)

90. The fact that non-poll workers handled ballots at some polling locations is unlawful and violates basic election standards. (*See Aff. Whipple and Casden*)

## **POST-ELECTION**

91. On the day of the election at 10 p.m. Supreme Court Judge Hon. Margaret Garvey had already ordered an impoundment of the election materials. Upon information and belief although Judge Garvey ordered the impoundment, police did not retrieve the materials from some or all of the polling locations; at least some machine inspectors brought the election materials back to Town Hall at the end of the day, where police protection was not evident. (*See Aff. Whipple*)

92. There was such a concern over how unregistered voters would be validated that Town Supervisor St. Lawrence, during his Saturday morning radio show following the election, assured listeners that proofs of age and residency had been collected, even though for the most part this had not happened. (*See Aff Munitz #39 and Exhibits 12c-video and transcript*)

93. Although the Appellate Court Second Department ordered the canvassing of votes on June 24, 2015, the canvassing was not completed, and the results were not tallied until August 27, 2015, at which time the Town Clerk reported publically the results of such canvass.

94. Although, Petitioners immediately requested copies of election materials under FOIL on June 24, 2015 no response was received until July 28th, only after multiple FOIL requests and appeals were made. The information provided by scan was incomplete with approximately three hundred eight (380) Affidavit Ballot envelopes missing. (*See Aff. Munitz #62*)

95. The scans of the absentee ballot envelopes organized by polling location while the affidavit ballot envelopes were not. Petitioners were told that Affidavit Ballots were not provided by polling location because they had been merged together. This was mixing of the Affidavit Ballots was confirmed by the the scans provided by the Town which show that the Affidavit Ballots were shuffled together, thus making it difficult, if not impossible, to ascertain the quantities of Affidavit Ballots cast by polling location. (*See Aff. Munitz #61*)

96. Upon information and belief, the records produced by the Clerk pursuant to FOIL, including the poll registers, and Affidavit Ballot envelopes, show that the election was not conducted in any manner approaching conformity to NY Town Law and/or Election Law.

97. Affidavit Ballots were accepted, and such ballots cast and counted, notwithstanding that the associated Affidavit Ballots failed to certify that the voter was qualified to vote. 96% (2,387/2,498) of the voters did not provide any identification, thus there was no way for the Town to confirm and validate voter's eligibility. Even where election inspectors included specific names of voters on their challenge reports, who they believed were not qualified voters, (*see Aff. Munitz Exhibit 32, Gluch p 10 of challenge*) the Town did not disqualify or perform any additional validation in front of the observers, or create a record as to why they were accepted. (*see Aff. Munitz 83*)

98. In the course of the canvass, the Board of Canvassers failed to, or was unable to reconcile the ballots used with the ballots counted since some polling districts failed to provided or complete required reconciliation forms. The ballot reconciliation form for the Yehiva Viznith location is missing in its entirety. Ballot reconciliation form for Elmwood – where there was the heaviest voter turnout, and heaviest use of Affidavit Ballots – is completely blank. Ballot reconciliation form for Yeshivath Viznitz Girls School – the second heaviest turn out – has a reconciliation form which is only filled out at the opening and not at closing of the poll, and rest is mostly blank. The Suffern's George Parness ballot reconciliation form was partially incomplete (although it may be possible to complete this one based on a review of the unused ballot books in the warehouse). Four other locations: New Square LP3, Ukrainian Hall, Grandview and the Suffern Library have serious accounting errors on the face of the reconciliation forms, as numbers don't properly add up. (*See Aff. Munitz #72*).

99. In the course of the canvass, Affidavit Ballots, and possibly other materials, from

different polling places were commingled, making it impossible to identify or isolate errors, and making it impossible to reconcile where the number votes cast and tallied was materially discrepant from the numbered of ballots issued and used. Having destroyed the evidence of which affidavit ballot came from which polling location coupled with the fact that there was a significant number of affidavit envelope were missing polling location information and even inspection signatures, there is no way to determine with certainty where those affidavit ballot envelopes even came from. (*See Aff. Munitz 59-61*).

100. As per the Affidavit Ballot Database released by the Town, Eight hundred twenty-two (822) affidavit voters did not check box 2 at all on the affidavit ballot envelope, which represents the oath needed to be taken by the unregistered voters. Of these, eighty-nine (112) are listed as having made no selection at all and should have been invalidated; the remaining seven hundred ten (710) affidavit ballots were without the oath. Although some of those seven hundred ten (710) may have been invalidated for other reasons (such as lack of signature, birthdate, etc.) there remains a very large number that were approved incorrectly. (*See Aff. Munitz #82*).

101. The Town had received and rejected a proposal of the Rockland County Board of Election, dated June 22, 2015, that estimated that it canvass and validate the election results within approximately ten business days, which is considerably less time than over two months spent by the Town in conducting its own canvassing and validation. Upon information and belief, the Town violated Town Law provision in failing to complete the canvass without adjournment after the Appellate Division ordered the vote be counted on June 24, 2015. (*Aff. Munitz Exhibit 49*)

102. The Town's refusal to allow the County Board of Elections, with its expertise and independence, flies in the face of Judge Garvey's recommendation in her decision that "in light of the incredibly contentious nature of the underlying propositions and the heated nature of the debate on the underlying propositions in the Town of Ramapo, the court would suggest that Respondent TOWN OF RAMAPO request assistance from, and involve, the Rockland County Board of Election in the process to the greatest extent permitted by law...." (*Parietti et al. v Town of Ramapo et al.* Index No. 1712/14)

103. Not only did the Town refuse the reasonable proposal of the Board of Elections, the Town Clerk continued to use Mona Montal, the very person who actively opposed the propositions and went so far as fundraise substantial amounts for an anti-ward PAC, 63is Enough as one of the election inspectors for the purpose of canvassing and validation.

104. Petitioners believe that these Town decisions could not have been more antithetical the Town's representations made to this Court, and referred to in the Court's October 7, 2014 decision and order to invalidate the election.

105. Petitioners can not agree more with the "humble opinion" of the Court "that any oversight or direction that Respondent TOWN OF RAMAPO (and Respondent Christian Sampson as Ramapo Town Clerk) receives from the independent and impartial body that is the Rockland County Board of Elections can only serve to preserve the integrity of this important special town election, especially in the face of repeated allegations of fraud, improprieties, and irregularities on the part of the... Town... and Town Clerk." (*Ibid.* p. 9)



106. Starting on June 24, 2015 the Town had access to the paperwork at the Board of Elections warehouse and made copies of a purported two thousand four hundred ninety-nine (2,499) purported affidavit ballots. There was more than a month where the Town had access to copies of these affidavit ballot envelopes and used them to create a database of entries. Yet, the Town only release two thousand one hundred thirty-two (2,132) to the public under FOIL and printed only those two thousand one hundred thirty-two (2,132) in books available to the public who came to watch the validation processes. There still remain to this day three hundred sixty-nine (369) ballots that were not released under FOIL and the Town has made it clear that the onus is on the Petitioners to either request them directly or pay for the entire 2,499 records to be copied again at a cost of \$0.25 per page. (*See Aff. Munitz #86*)

107. Upon information and belief, the results and report of such canvass tend to show that both propositions failed, but that (a) the margin thereof is inadequate to overcome the uncertainty introduced into the election by gross errors, maladministration and misconduct by the said Clerk, all as more particularly set forth herein, and (b) but for the voting by persons not registered and who were not required to provide any proof of qualification, both propositions would have passed. In substance, the gross reports tend to show that a majority of those who were registered to voted on election day voted in favor of the propositions; that a majority of those who voted by absentee ballot voted in favor of the propositions; but that a majority of those who were unregistered but were permitted to vote by so-called Affidavit Ballots without submitting any proof of their qualifications as electors voted against the propositions.

## CONCLUSIONS AND RELIEF SOUGHT

108. The manner, in which the Town conducted the Special Election, whether by intent or sheer ineptitude, was so badly flawed, and the outcome so corrupted and unreliable, that invalidation should be required and a new election ordered to be held at the Town Biennial Election of November 3, 2015.

109. The Petitioners have been aggrieved by the irregularities in the electoral process which had an impact on the outcome of the election (see *Matter of Boyes v Allen*, 32 AD2d at 990-991; see also *Matter of Davis v Commissioner of Educ. of State of N.Y.*, 189 AD2d 1046, 1048).

110. The Town's repeated delayed in performance of its duties and bad faith in conducting the Special Election, and is evidence that it will continue to inappropriately delay the conduct of a new election by delaying submission by September 29, 2015 to the Board of Elections for a new election on the Resolutions from being scheduled during the regular biennial election on November 3, 2015.

111. Inclusion in the biennial election on November 3, 2015, which will be overseen by the Board of Elections and will not burden Ramapo taxpayers with the expense of another Special Election, and will provide a fair, valid and transparent election process for the residents of the Town of Ramapo without further delay.

Wherefore, it is respectfully requested for the Court to order and judgment entered to:

- a) To invalidate, vacate and annul the Town's Certification of the Special Election;
- b) Order the Town Clerk to immediately prior to September 29, 2015, submit the Resolutions to the Rockland County Board of Elections, for a new election on the Resolutions to be included in the biennial general election to be held on November 3, 2015.
- c) Award costs and disbursements of this proceeding to the Petitioners.
- d) Grant such relief as may be deemed by the Court as just and proper. To the extent the Court determines that any request for relief herein is an Article 78 proceeding or a declaratory judgment cause of action, respectively, Petitioners request the Court to convert the same to the proper proceeding or action accordingly.

Dated: September 11, 2015

Respectfully submitted,

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cc: Town of Ramapo, Michael Klein, Esq.  
Christian G. Sampson, Town Clerk Town of Ramapo