

CUTOLO BARROS LLC

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Attorneys for Plaintiff

MONMOUTH COUNTY REPUBLICAN

COMMITTEE,

Plaintiff,

vs.

TAHESHA WAY, in her official capacity as

Secretary of State of New Jersey; and

MONMOUTH COUNTY

BOARD OF ELECTIONS,

Defendants.

) SUPERIOR COURT OF NEW JERSEY

) LAW DIVISION: MERCER COUNTY

) DOCKET NO.: MER-L-1713-20

) Civil Action

) **AGREEMENT AND**
) **STIPULATION OF DISMISSAL**
) **OF COUNT I WITHOUT PREJUDICE**

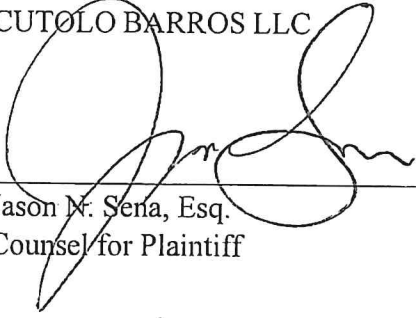
THIS MATTER having been filed on September 24, 2020, by Plaintiff Monmouth County Republican Committee wherein Count I seeks an order enjoining Defendant Monmouth County Board of Elections from opening the secure ballot drop boxes prior to the issuance of the statutorily required guidance from Defendant Secretary of State Tahesha Way and an order requiring the Secretary of State to issue the guidance regarding the “appropriate standards for ensuring that all voters with disabilities are able to exercise their right to vote in the November 2020 General Election,” pursuant to N.J.S.A. 19:63-31(u), and the “appropriate standards for the acceptance of mail-in ballots, including, but not limited to, the poll worker verification that the voter returning the voted mail-in ballot at the polling place is the individual who voted the mail-in ballot, the securing of the returned mail-in ballots, and the return of the mail-in ballots to the county boards of elections after the close of polls,” pursuant to N.J.S.A. 19:63-31(h), and COUNT II seeks a declaratory judgment that the provisions of N.J.S.A. 19:63-31(m) permitting the counting of un-postmarked ballots received within 48-hours of election day violates U.S.C. § 1, 2 U.S.C. § 7 and 2 U.S.C. § 1 and an order enjoining those provisions from being implemented and enforced; and,

WHEREAS, the Secretary of State having issued the following guidance pursuant to the Secretary of State’s responsibilities under N.J.S.A. 19:63-31: and notwithstanding the filing of this complaint: i) the New Jersey Guide to Ballot Drop Boxes, on September 25, 2020, which mooted the immediate relief sought in Count I of Plaintiff’s Complaint against Defendant Monmouth County Board of Elections; and ii) the New Jersey Guide to Processing an In-Person Voter at the Polling Place on Election Day, on September 30, 2020, which mooted the relief sought against the Secretary of State; and

THEREFORE, the Plaintiff HEREBY voluntarily dismisses Count I without prejudice as the relief sought has been provided, without attorney's fees or costs to either party; and

IT IS FURTHER stipulated and agreed that should the remaining count of Plaintiff's Complaint, that being Count II, be removed to District Court and consolidated for disposition with the matter of Donald Trump for President. Inc. v. Way, et al., Case No. 20-10753 (MAS-ZNQ), Plaintiff will not amend the Complaint following removal to assert any new causes of action, nor to reassert Count I in District Court.

CUTOLO BARROS LLC



Jason N. Sera, Esq.
Counsel for Plaintiff

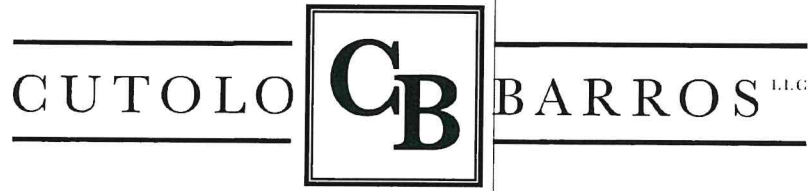
Date: 10/2/2020

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: s/Susan M. Scott

Susan M. Scott
Deputy Attorney General
Counsel for Defendants

Date: 10-2-2020



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REPLY TO FREEHOLD

October 5, 2020

Via eCourts

Hon. Mary C. Jacobsen, A.J.S.C.
Superior Court of New Jersey
New Criminal Courthouse
400 S. Warren St., 4th Floor
Trenton, NJ 08650

Re: *Monmouth County Republican Committee v. Way, et al.*
Docket No.: MER-L-1713-20

Dear Judge Jacobsen:

This firm represents Plaintiff Monmouth County Republican Committee in the above matter. We are pleased to report that Count I of the Verified Complaint has been resolved. Enclosed please find a Stipulation of Dismissal as to Count I only.

Count II of the Complaint, which seeks to invalidate a portion of Title 19 which would allow Boards of Election to count un-postmarked ballots received within 48-hours of the close of polls, remains pending. We have no issue with the removal of this remaining portion of the Verified Complaint to District Court for consolidation with the matter of Donald Trump for President, Inc. v. Way, et al., as Count II seeks relief that is nearly identical to what is being sought in that matter.

We thank the Court for its courtesies in this matter.

Respectfully submitted,

Jason N. Sena

Enclosure

cc: Susan Scott, Esq., DAG (susan.scott@law.njoag.gov)