

LAW OFFICES OF WALTER M. LUERS, LLC  
Suite C203  
23 West Main Street  
Clinton, New Jersey 08809  
Telephone: 908.894.5656  
Facsimile: 908.894.5729  
wluers@luerslaw.com

MARK R. BROWN, ESQ.  
303 E. Broad Street  
Columbus, OH 43215  
Telephone: 614.236.6590  
Facsimile: 614.236.6956  
mbrown@law.capital.edu  
(admission *pro hac vice* pending)

<p>PATRICK NOBLE and the SOCIALIST PARTY OF NEW JERSEY,</p> <p>Plaintiffs,</p> <p>v.</p> <p>STATE OF NEW JERSEY, KIM GUADAGNO in her official capacity as the Secretary of State of New Jersey, and ROBERT F. GILES in his official capacity as Director of New Jersey's Division of Elections,</p> <p>Defendants.</p>	<p><b>SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION: MERCER COUNTY</b></p> <p><b>DOCKET NO.</b>_____</p> <p><b>CIVIL ACTION</b></p> <p><b>COMPLAINT</b></p>
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## INTRODUCTION

Plaintiffs bring this action under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983 against the State of New Jersey, New Jersey's Secretary of State, and its Director of the New Jersey Division of Elections, acting in their official capacities. Plaintiffs charge that Defendants have violated the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983 by refusing to allow voters to formally declare their political party affiliation with the Socialist Party of New Jersey by using the State's "Political Party Affiliation Declaration Form" that is otherwise made available to

similarly situated political parties, including six minor parties. *See N.J.S.A. § 19:23-45; N.J.A.C. 15:10-2.1(a)(2); Council of Alternative Political Parties v. State of New Jersey*, 344 N.J. Super. 225, 781 A.2d 1041 (App. Div. 2001) (extending right to use “political party affiliation declaration form” to Libertarian, Green, Constitution, Reform, and Natural Law Parties ); *Green Party of New Jersey v. State*, No. C-125-06 (Mercer Superior Court, Oct. 17, 2007) (extending right to use “political party affiliation declaration form” to Conservative Party).

### **PARTIES**

1. Patrick Noble is a registered voter in the State of New Jersey, a registered member of the Socialist Party of New Jersey, and the Secretary of the Socialist Party of New Jersey.
2. Mr. Noble, as Secretary of the Socialist Party of New Jersey, is fully authorized to act on behalf of the Socialist Party of New Jersey. Mr. Noble’s residence is in Red Bank, New Jersey, Monmouth County.
3. The Socialist Party of New Jersey is the New Jersey affiliate of the Socialist Party USA, a nationally recognized political party in the United States. The principal place of business of the Socialist Party of New Jersey is in Red Bank, New Jersey, Monmouth County.
4. The Socialist Party USA, is a national political party that has run candidates for President and Vice-President in every election except 1984 since 1976. Most recently, the Socialist Party USA ran its presidential and vice-presidential candidates on New Jersey’s ballots in 2008 and 2012.
5. The Socialist Party USA was formed in 1973 and is the direct descendant of the Socialist Party founded by Eugene Debs in the early twentieth century.
6. The Socialist Party of New Jersey is an unincorporated political party with a defined organization, with officers, a steering committee and dues-paying members.

7. The Socialist Party of New Jersey has adopted formal procedures for nominating members as candidates for particular offices.
8. The Socialist Party of New Jersey placed its nominees for Governor and Lieutenant Governor of New Jersey on New Jersey's 2009 ballot.
9. The Socialist Party of New Jersey ran a nominee for the United States House of Representatives in 2008, as well as nominees for United States Senate in 2006 and 2012.
10. Defendant Robert F. Giles, sued in his official capacity, is the Director of the State of New Jersey's Division of Elections, which enforces New Jersey's elections laws, and at all relevant times for purposes of this Complaint was acting under color of state law within the meaning of 42 U.S.C. § 1983. Defendant Giles' principal place of business is in Trenton, New Jersey, Mercer County.
11. Defendant, Lt. Governor Kim Guadagno, sued in her official capacity, is the State of New Jersey's Secretary of State, which oversees New Jersey's Division of Elections, and at all relevant times for purposes of this Complaint was acting under color of state law within the meaning of 42 U.S.C. § 1983. Defendant Guadagno's principal place of business is in Trenton, New Jersey, Mercer County.

### **JURISDICTION AND VENUE**

12. This is an equitable action arising under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.
13. Jurisdiction is proper in this Court because Plaintiffs seek only declaratory and injunctive relief and New Jersey's courts have concurrent jurisdiction over federal claims filed under 42 U.S.C. § 1983.

14. Venue is proper in this Court because Defendants' offices and principal places of business are located in this County and because suits against State agencies and State officials are to be venued in Mercer County.

### **FACTS**

15. New Jersey voters may formally register with the appropriate county commissioner of registration as members of the Democratic, Republican, Libertarian, Green, Constitution, Natural Law, Reform, and Conservative Parties. *See* State of New Jersey Political Party Affiliation Declaration Form ([http://www.state.nj.us/state/elections/form\\_pdf/party-affiliation-form-062011.pdf](http://www.state.nj.us/state/elections/form_pdf/party-affiliation-form-062011.pdf)) (last visited May 7, 2013).

16. A voter may declare his/her political party affiliation with the parties listed in ¶ 15 by signing and filing a "Political Party Affiliation Declaration Form" (hereinafter "party declaration form"). *N.J.S.A.* § 19:23-45; *N.J.A.C.* 15:10-2.1(a)(2); State of New Jersey Political Party Affiliation Declaration Form ([http://www.state.nj.us/state/elections/form\\_pdf/party-affiliation-form-062011.pdf](http://www.state.nj.us/state/elections/form_pdf/party-affiliation-form-062011.pdf)) (last visited May 7, 2013).

17. Under New Jersey law as currently interpreted by Defendants, a voter may not declare his/her political party affiliation with the Socialist Party of New Jersey by signing and filing a party declaration form. *See* State of New Jersey Political Party Affiliation Declaration Form ([http://www.state.nj.us/state/elections/form\\_pdf/party-affiliation-form-062011.pdf](http://www.state.nj.us/state/elections/form_pdf/party-affiliation-form-062011.pdf)) (last visited May 7, 2013).

18. A voter who has declared affiliation with a political party using a party declaration form is under New Jersey law considered to be a member of that party.

19. Plaintiff, Mr. Noble, is prohibited by Defendants from using a party declaration form to register with the Socialist Party of New Jersey.

20. In all 21 New Jersey counties, voter registration information is maintained on computers which can produce lists of registered voters indicating political party affiliation or “independent” status.

21. Because of Defendants’ actions, the Socialist Party of New Jersey is not able to identify its members from the county-generated registration lists.

22. Two courts in New Jersey, *see Council of Alternative Political Parties v. State of New Jersey*, 344 N.J. Super. 225, 781 A.2d 1041 (App. Div. 2001) (extending right to use “political party affiliation declaration form” to Libertarian, Green, Constitution, Reform, and Natural Law Parties); *Green Party of New Jersey v. State*, No. C-125-06 (Mercer Superior Court, Oct. 17, 2007) (extending right to use “political party affiliation declaration form” to Conservative Party), have concluded that New Jersey’s refusal to allow those minor parties with defined organizations, steering committees, dues-paying members, and nominating procedures for selecting candidates, to register members using New Jersey’s party declaration forms violates the First and Fourteenth Amendments to the United States Constitution.

23. As a result of the two holdings described in ¶ 22, New Jersey now allows the Green Party, the Libertarian Party, the Conservative Party, the Constitution Party, the Natural Law Party, and the Reform Party, as well as the Democrats and Republicans, to use New Jersey’s party declaration forms.

24. The Socialist Party of New Jersey is similarly situated to the Green Party, the Libertarian Party, the Conservative Party, the Reform Party, the Natural Law Party, and the Constitution Party.

25. The Socialist Party of New Jersey is a defined organization with a steering committee, dues-paying members, and nominating procedures for selecting its candidates.

26. The Socialist Party of New Jersey, through counsel, on June 4, 2010 and November 16, 2012, demanded that Defendant Giles afford the Socialist Party of New Jersey the same treatment provided to the minor parties described in ¶ 24 and authorize the Socialist Party of New Jersey's use of New Jersey's party declaration forms.

27. Defendant Giles has repeatedly rejected the Socialist Party of New Jersey's requests for equal treatment and has refused to authorize the Socialist Party of New Jersey's use of New Jersey's party declaration forms.

#### **FIRST CAUSE OF ACTION (FIRST AMENDMENT)**

28. Plaintiffs hereby incorporate ¶¶ 1-27 of their Complaint as if set forth fully herein.

29. Defendants' action in refusing to authorize Plaintiffs' use of party declaration forms to register members violates the First Amendment (as incorporated through the Fourteenth Amendment) to the United States Constitution and 42 U.S.C. § 1983.

#### **SECOND CAUSE OF ACTION (EQUAL PROTECTION)**

30. Plaintiffs hereby incorporate ¶¶ 1-29 of their Complaint as if set forth fully herein.

31. Defendants' action in refusing to authorize Plaintiffs' use of party declaration forms to register members violates the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

**WHEREFORE,** Plaintiffs respectfully request that this Court enter judgment against Defendants:

- A. Declaratory and injunctive relief declaring Defendants' refusal to allow Plaintiffs to use New Jersey's party declaration forms unconstitutional under the First and Fourteenth Amendments and 42 U.S.C. § 1983;
- B. Declaratory and injunctive relief ordering Defendants to place the Socialist Party of New Jersey's name on New Jersey's party declaration forms;
- C. Declaratory and injunctive relief ordering Defendants to take all necessary steps to insure that Plaintiffs receive all benefits attached to the use of New Jersey's party declaration forms;
- D. Awarding Plaintiffs an award of reasonable attorney's fees and costs under 42 U.S.C. § 1988(b);
- E. For such other or further relief as this Court deems just and equitable.

**CERTIFICATION PURSUANT TO R. 4:5-1**

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

**CERTIFICATION PURSUANT TO R. 1:38-7(b)**

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future.

**DESIGNATION OF TRIAL COUNSEL**

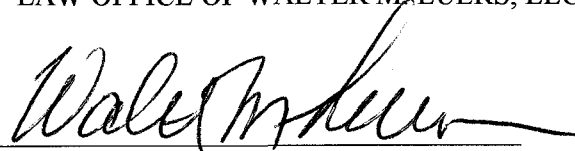
Pursuant to R. 4:25-4, Walter M. Luers, Esq. is designated as trial counsel on behalf of  
Plaintiff.

Respectfully Submitted,

LAW OFFICE OF WALTER M. LUERS, LLC

DATED: June 24, 2013

By:



Walter M. Luers, Member  
Suite C203  
23 West Main Street  
Clinton, New Jersey 08809  
Telephone: 908.894.5656  
Facsimile: 908.894.5729  
wluers@luerslaw.com

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Telephone: 614.236.6590  
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