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FILED
CUSTOMER SERVICE TEAM

APR 02 2015

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #6

ERNESTO VASQUEZ, and GINA :
MIRANDA-DIAZ, : SUPERIOR COURT OF NEW JERSEY
Plaintiffs, : LAW DIVISION: HUDSON COUNTY
v. : DOCKET NO: *L-1385-13*
: Civil Action
COMMISSIONER COUNT J. WILEY, : VERIFIED COMPLAINT
BEATRIZ E. WILEY, THE WEST :
NEW YORK BOARD OF EDUCATION, :
and THE NORTH BERGEN BOARD :
OF EDUCATION :
Defendant.

Plaintiffs, Ernesto Vasquez and Gina Miranda-Diaz ("Plaintiffs"), by and through their attorneys, McElroy, Deutsch, Mulvaney & Carpenter, LLP, by way of Verified Complaint against Defendants, Commissioner Count J. Wiley ("Count Wiley"), Beatriz E. Wiley ("Beatriz Wiley") (collectively, the "Wileys"), West New York Board of Education ("WNY Board of Ed."), and North Bergen Board of Education ("NB Board of Ed.") (collectively as "Defendants"), allege and say:

SUMMARY OF THE ACTION

1. This action seeks the removal of Count Wiley as Commissioner in West New York and/or Beatriz Wiley from the

position of Hudson County Democratic County Committeewoman representing Ward 4, District 5 of North Bergen for failing to meet the residency requirements to hold their respective elected offices.

2. This action also seeks judgment against Count Wiley and Beatriz Wiley for committing legal fraud and for conspiring to commit legal fraud against the voters of North Bergen and/or West New York.

3. This case demonstrates the definition of committing legal fraud to obtain public office and conspiring to do so.

4. In May 2011, Count Wiley was elected as a member of the governing body in West New York.

5. In June 2011, Beatriz Wiley was elected as the Hudson County Democratic County Committeewoman representing Ward 4, District 5 of North Bergen. She was reelected to that position in 2012, 2013, and 2014.

6. At various times since Beatriz Wiley became a County Committeewoman and while she continued to serve in that position, both she and Count Wiley have certified that Beatriz Wiley resides in West New York and not North Bergen.

7. Count Wiley's official biography on the West New York municipal website states that he lives in West New York with his wife Beatriz.

8. At all other times, Beatriz Wiley has certified that she resides in North Bergen and she has voted in North Bergen consistently since at least 2003.

9. In 2010, Beatriz Wiley legally changed her name with the Hudson County Superintendent of Elections from Beatriz E. Cano.

10. Since approximately 2010, either Count Wiley has resided with his wife in North Bergen and been ineligible to serve as Commissioner in West New York, or Beatriz Wiley has resided with her husband in West New York and been ineligible to serve as County Committeewoman representing Ward 4, District 5 of North Bergen.

11. Count Wiley and Beatriz Wiley have conspired to commit legal fraud against the voters of North Bergen and/or West New York.

12. Accordingly, this action for judgment and other relief is now necessary to protect the interests of the registered voters of North Bergen and/or West New York.

PARTIES

13. Plaintiff, Ernesto Vasquez, is a registered voter in West New York residing at 443 64th Street, Apartment 4, West New York, New Jersey, 07083.

14. Plaintiff, Gina Miranda-Diaz, is a registered voter in North Bergen residing at 600 79th Street, North Bergen, New Jersey 07047.

15. Defendant, Commissioner Count J. Wiley, whose address is 6010 Monroe Place, West New York, New Jersey 07093, is an elected member of the governing body of West New York, a candidate for Mayor of West New York in the 2015 election, and married to Defendant Beatriz Wiley.

16. Defendant, Beatriz Wiley, whose address is 1615 80th Street, North Bergen, New Jersey 07047, is a Hudson County Democratic County Committeewoman representing Ward 4, District 5 of North Bergen ("Democratic County Committeewoman"), and Married to Defendant Count Wiley.

17. Upon information and belief, Defendant, WNY Board of Ed., is a board of education organized and existing under the laws of the State of New Jersey with its principal place of business at 6028 Broadway Avenue, West New York, New Jersey 07093.

18. Upon information and belief, Defendant, NB Board of Ed., is a board of education organized and existing under the laws of the State of New Jersey with its principal place of business at 7317 Kennedy Blvd., North Bergen, New Jersey 07047.

FACTUAL BACKGROUND

19. On November 17, 2010, Beatriz E. Cano legally changed her name to Beatriz Wiley. (Exhibit A).

20. On January 31, 2011, Beatriz Wiley's Nominating Petition to be placed on the ballot for the position of Democratic County Committeewoman representing Ward 4, District 5 of North Bergen was notarized. In the Petition, Beatriz Wiley declared she was legally qualified to hold the office in part due to her residence at 1615 80th Street, North Bergen, New Jersey. (Exhibit B).

21. On May 10, 2011, Count Wiley was elected to serve on the governing body of West New York as a Commissioner.

22. On the same date, Beatriz Wiley voted by machine in the North Bergen Municipal Election. (Exhibit A).

23. On June 7, 2011, Beatriz Wiley voted by machine in North Bergen in the State Primary election. (Exhibit A).

24. On the same date, Beatriz Wiley was elected as the Democratic County Committeewoman representing Ward 4, District 5 in North Bergen.

25. On January 13, 2012, Beatriz Wiley's Nominating Petition for the position of Democratic County Committeewoman representing Ward 4, District 5 of North Bergen was notarized. In the Petition, Beatriz Wiley declared she was legally

qualified to hold the office in part due to her residence at 1615 80th Street, North Bergen, New Jersey. (Exhibit C).

26. On June 5, 2012, Beatriz Wiley voted by machine in North Bergen in the State Primary election. (Exhibit A).

27. On the same date, Beatriz Wiley was elected as the Democratic County Committeewoman representing Ward 4, District 5 in North Bergen.

28. On October 16, 2012, Beatriz Wiley donated \$150.00 to the North Bergen Democratic Municipal Committee under the name Beatriz E. Cano. Beatriz Wiley listed her address as 1615 80th Street, North Bergen, New Jersey. (Exhibit D).

29. Six days later, on October 22, 2012, Count Wiley and Beatriz Wiley certified under threat of punishment the accuracy of the contents of Form D-1, promulgated by the New Jersey Election Law Enforcement Commission ("ELEC"), naming Beatriz Wiley as the chairperson of Count J. Wiley's 2015 campaign for Commissioner and listing her mailing address as 6010 Monroe PL, 2nd Floor, West New York, New Jersey. The form was filed with ELEC on October 26, 2012. (Exhibit E).

30. At the time Form D-1 was certified and filed, Beatriz Wiley was serving as Democratic County Committeewoman for North Bergen.

31. N.J.S.A. 19:5-3 states that members of the county committee shall actually reside in the districts or units which they respectively represent.

32. On November 6, 2012, Beatriz Wiley voted by machine in North Bergen in the New Jersey State General election. (Exhibit A).

33. On March 21, 2013, Beatriz Wiley's Nominating Petition to be placed on the ballot for the position of Democratic County Committeewoman representing Ward 4, District 5 of North Bergen was received by the North Bergen Clerk's Office. In the Petition, Beatriz Wiley declared she was legally qualified to hold the office in part due to her residence at 1615 80th Street, North Bergen, New Jersey. (Exhibit F).

34. On June 4, 2013, Beatriz Wiley was elected to serve as Democratic County Committeewoman representing Ward 4, District 5 of North Bergen.

35. On October 14, 2013, Beatriz Wiley donated \$150.00 to the North Bergen Democratic Municipal Committee under the name Beatriz E. Cano. Beatriz Wiley listed her address as 1615 80th Street, North Bergen, New Jersey. (Exhibit G).

36. In 2013, Beatriz Wiley voted by machine in North Bergen in five separate elections including the State General election on November 5, 2013. (Exhibit A).

37. On January 30, 2014, Count Wiley and Beatriz Wiley certified under threat of punishment the accuracy of the contents of ELEC Form D-1 naming Beatriz Wiley as the chairperson and treasurer of Count J. Wiley's 2015 campaign for Commissioner and listing her mailing resident address as 6010 Monroe PL, 2nd Floor, West New York, New Jersey. Form D-1 was filed with ELEC on February 18, 2014. (Exhibit H).

38. At the time Form D-1 was certified and filed, Beatriz Wiley held the position of Democratic County Committeewoman representing Ward 4, District 5 in North Bergen.

39. Seven days after Form D-1 was filed, on February 25, 2014, Beatriz Wiley's Nominating Petition to be placed on the ballot for the position of Democratic County Committeewoman representing Ward 4, District 5 of North Bergen was notarized. In the Petition, Beatriz Wiley declared she was legally qualified to hold the office in part due to her residence at 1615 80th Street, North Bergen, New Jersey. The Petition was filed with the North Bergen Municipal Clerk on March 17, 2014. (Exhibit I).

40. On March 5, 2014, on ELEC Form D-3, Count Wiley and Beatriz Wiley certified under threat of punishment that Beatriz Wiley was the Treasurer of Count Wiley's campaign for Commissioner and both her mailing and resident address was 1615

80th Street, North Bergen, New Jersey. Form D-3 was filed with ELEC on March 12, 2014. (Exhibit J).

41. On April 2, 2014, on ELEC Form D-1, Count Wiley and Beatriz Wiley certified under threat of punishment that Beatriz Wiley was the Treasurer of Count Wiley's campaign for Commissioner and both her mailing and resident address was 1615 80th Street, North Bergen, New Jersey. However, Form D-1 lists Beatriz Wiley's evening contact number as the same number listed as the day and evening contact number for Count Wiley. Form D-1 was filed with ELEC on April 14, 2014. (Exhibit K).

42. Sometime after taking office in 2011, Count Wiley posted, or allowed to be posted, his biography on the West New York municipal website. The biography states that Count Wiley resides in West New York with his wife Beatriz. (Exhibit L).

43. On information and belief, the biography was posted in 2012, while Beatriz Wiley was serving as Democratic County Committeewoman for Ward 4, District 5 of North Bergen, as it lists the Wileys' minor child, J.W., as being two-years old. In or about February 2015, J.W. turned five-years old. The biography remains available online to the public as of the filing date. (Exhibit L).

44. On April 1, 2015, an article posted on www.NJ.com stated that, "[a]ccording to Wiley, he owns the second home in North Bergen, where his wife grew up, because his two eldest

daughters, who are in their 20s, live there. His West New York house, where he, his wife and their other three children live, is crowded, he said, and he's paying taxes in North Bergen to help out his daughters." (Exhibit M).

45. The article also stated, "[Wiley's] wife has worked for [North Bergen] Mayor Nick Sacco for 15 years, so she votes in North Bergen, Wiley said." (Exhibit M).

46. At the time the article was written, Beatriz Wiley served as the Democratic County Committeewoman representing Ward 4, District 5 of North Bergen.

47. Thus, based on Count Wiley's statements as well as the additional evidence above, Beatriz Wiley does not meet the residency requirements to serve as a Democratic County Committeewoman for Ward 4, District 5 of North Bergen.

48. Alternatively, Count Wiley resides with his wife Beatriz Wiley in the home they own in North Bergen, New Jersey and therefore does not meet the residency requirements to serve as a Commissioner in West New York.

49. Upon information and belief, Defendants' minor child, I.W., attends Horace Mann Elementary School, or another elementary school, in North Bergen.

50. To register a minor child for school in North Bergen, a parent must provide the NB Board of Ed. a Certificate of Continuing Occupancy issued by the North Bergen Office of the

Construction Official, and at least two of the acceptable enumerated documents listing a North Bergen address.

51. Upon information and belief, Defendants' minor child, J.W., attends the Early Childhood School, or another early childhood development program offered by the WNY Board of Ed.

52. To register a minor child for school in West New York, a parent must provide the WNY Board of Ed. two "recent and acceptable proofs of West New York residency," which are enumerated in the application for enrollment in the West New York school district.

53. Thus, Count Wiley or Beatriz Wiley would have had to certify a North Bergen residence for one child and a West New York residence for another.

COUNT I

(Legal Fraud)

54. Plaintiffs repeat the allegations set forth in paragraphs 1 through 53 as if fully set forth herein.

55. Beatriz Wiley resides at 6010 Monroe Place, West New York, New Jersey with her husband Count Wiley.

56. On numerous occasions, including on the Nominating Petitions filed to get Beatriz Wiley on the ballot for Democratic County Committeewoman, Beatriz Wiley materially misrepresented her residence as being 1615 80th Street, North

Bergen, New Jersey, when she actually lived at 6010 Monroe Place, West New York, New Jersey.

57. Beatriz Wiley knew or believed the representation was false.

58. Beatriz Wiley intended for the voters of North Bergen to rely upon the falsity in order to elect her as Democratic County Committeewoman.

59. The registered voters living in Ward 4, District 5 of North Bergen who participated in the Democratic Primary from 2011 through 2014 reasonably relied upon Beatriz Wiley's false declarations.

60. As a result, Beatriz Wiley was elected as Democratic County Committeewoman for Ward 4, District 5 of North Bergen even though she was ineligible to hold that position due to her residence in West New York.

WHEREFORE, Plaintiffs demand judgment against Beatriz Wiley:

- a. removing her from her position as an elected Hudson County Democratic County Committeewoman;
- b. finding that she committed legal fraud against the voters in Ward 4, District 5 of North Bergen;
- c. attorneys' fees and costs; and
- d. for such other and further relief as the Court may deem appropriate.

COUNT II

(Legal Fraud)

61. Plaintiffs repeat the allegations set forth in paragraphs 1 through 60 as if fully set forth herein.

62. Count Wiley resides at 1615 80th Street, North Bergen, New Jersey with his wife Beatriz Wiley.

63. On numerous occasions, Count Wiley materially misrepresented his residence as being 6010 Monroe Place, West New York, New Jersey, when he actually lived at 1615 80th Street, North Bergen, New Jersey.

64. Count Wiley knew or believed the representation was false.

65. Count Wiley intended for the voters of West New York to rely upon the falsity in order to elect him as Commissioner.

66. The registered voters living in West New York who participated in the 2011 West New York Municipal Election reasonably relied upon Count Wiley's false declarations.

67. As a result, Count Wiley was elected as Commissioner in West New York even though he was ineligible to hold that position due to his residence in North Bergen.

WHEREFORE, Plaintiffs demand judgment against Count Wiley:

- e. removing him from his position as an elected Commissioner in West New York;

- f. finding that he committed legal fraud against the voters in West New York;
- g. attorneys' fees and costs; and
- h. for such other and further relief as the Court may deem appropriate.

COUNT III

(Legal Fraud)

68. Plaintiffs repeat the allegations set forth in paragraphs 1 through 67 above as if fully set forth herein.

69. ELEC Forms D-1 and D-3 are required to be submitted by campaigns for municipal office and are publicly available for inspection.

70. Count Wiley materially misrepresented facts by certifying Beatriz Wiley resided at 1615 80th Street, North Bergen, New Jersey on various D-1 and D-3 Forms submitted to ELEC.

71. Count Wiley knew or believed such a representation was false when he so certified.

72. Count Wiley intended for the voters of Ward 4, District 5 in North Bergen to rely upon those false statements in order to elect Beatriz Wiley as a Democratic County Committeewoman.

73. The registered voters living in Ward 4, District 5 of North Bergen who participated in the Democratic Primary from 2011 through 2014 reasonably relied upon Count Wiley's false declarations.

74. As a result, Beatriz Wiley was elected as Democratic County Committeewoman for Ward 4, District 5 of North Bergen even though she was ineligible to hold that position due to her residence in West New York.

WHEREFORE, Plaintiffs demand judgment against Count Wiley:

- a. finding that he committed legal fraud against the voters of Ward 4, District 5 in North Bergen;
- b. attorneys' fees and costs; and
- c. for such other and further relief as the Court may deem appropriate.

COUNT IV

(Legal Fraud)

75. Plaintiffs repeat the allegations set forth in paragraphs 1 through 74 above as if fully set forth herein.

76. ELEC Forms D-1 and D-3 are required to be submitted by campaigns for municipal office and are publicly available for inspection.

77. Beatriz Wiley materially misrepresented facts by certifying she resided at 1615 80th Street, North Bergen, New Jersey on various D-1 and D-3 Forms submitted to ELEC.

78. Beatriz Wiley knew or believed such a representation was false when she so certified.

79. Beatriz Wiley intended for the voters of Ward 4, District 5 in North Bergen to rely upon those false statements in order to elect her as a Democratic County Committeewoman.

80. The registered voters living in Ward 4, District 5 of North Bergen who participated in the Democratic Primary from 2011 through 2014 reasonably relied upon Beatriz Wiley's false declarations.

81. As a result, Beatriz Wiley was elected as Democratic County Committeewoman for Ward 4, District 5 of North Bergen even though she was ineligible to hold that position due to her residence in West New York.

WHEREFORE, Plaintiffs demand judgment against Beatriz Wiley:

- a. removing her from her position as an elected Hudson County Democratic County Committeewoman;
- b. finding that she committed legal fraud against the voters of Ward 4, District 5 in North Bergen;
- c. attorneys' fees and costs; and
- d. for such other and further relief as the Court may deem appropriate.

COUNT V

(Civil Conspiracy to Commit Legal Fraud)

82. Plaintiffs repeat the allegations set forth in paragraphs 1 through 81 above as if fully set forth herein.

83. Count Wiley and Beatriz Wiley committed the unlawful act of legal fraud by misrepresenting Beatriz Wiley's address in order to elect her as Democratic County Committeewoman in North Bergen.

84. Count Wiley and Beatriz Wiley agreed with each other to commit legal fraud by misrepresenting Beatriz Wiley's address on documents submitted to ELEC.

85. The misrepresentation injured the registered voters who participated in the Democratic Primary elections from 2011 through 2014 by electing Beatriz Wiley as Democratic County Committeewoman even though she did not meet the residency requirements to hold such office.

86. Count Wiley and Beatriz Wiley falsely certifying Beatriz Wiley's address as 1615 80th Street, North Bergen, New Jersey is an overt act that resulted in the damaged caused to the voters in North Bergen.

WHEREFORE, Plaintiffs demand judgment against Count Wiley and Beatriz Wiley:

- a. removing Beatriz Wiley from her position as an elected Hudson County Democratic County Committeewoman;

- b. finding that Count Wiley and Beatriz Wiley conspired to commit legal fraud against the voters of Ward 4, District 5 in North Bergen;
- c. attorneys' fees and costs; and
- d. for such other and further relief as the Court may deem appropriate.

COUNT VI

(Improperly enrolling a child in a school district)

87. Plaintiffs repeat the allegations set forth in paragraphs 1 through 86 above as if fully set forth herein.

88. Count Wiley and/or Beatriz Wiley falsified the application for enrollment of I.W., J.W., or both by enrolling one child in the West New York school district and one child in North Bergen school district.

89. Count Wiley and/or Beatriz Wiley falsely swore on their child's enrollment application or otherwise improperly enrolled a student in a school district and are subject to civil and criminal penalties.

WHEREFORE, Plaintiffs seek judgment:

- a. ordering the WNY Board of Ed. and the NB Board of Ed. to produce the registration forms and supporting documentation filed by Count Wiley and/or Beatriz Wiley for their minor children I.W. and J.W. under seal for an in camera review by the Court;

- b. finding Count Wiley and Beatriz Wiley improperly registered a child in a school district;
- c. permitting the WNY Board of Ed. and/or the NB Board of Ed. to petition the Commissioner of Education for repayment of tuition expenditures;
- d. attorneys' fees and costs; and
- e. for such other and further relief as the Court may deem appropriate.

JURY DEMAND

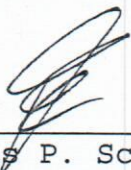
PLEASE TAKE NOTICE, that pursuant to Rule 4:35-1, Plaintiffs demand a trial by jury as to all issues.

DESIGNATION OF TRIAL COUNSEL

PURSUANT to Rule 4:5-1(c), the Court is hereby advised that Thomas P. Scrivo, Esq., is hereby designated as trial counsel in the above matter.

McELROY, DEUTSCH, MULVANEY &
CARPENTER, LLP
Attorneys for Plaintiffs,
Ernesto Vasquez and Gina Miranda-
Diaz

By:



Thomas P. Scrivo

Dated: April 2, 2015

RULE 4:5-1 CERTIFICATION

PURSUANT to Rule 4:5-1, the undersigned hereby certifies that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding and no other action or arbitration is contemplated. This party knows of no other party that should be joined at this time.

McELROY, DEUTSCH, MULVANEY &
CARPENTER, LLP
Attorneys for Plaintiffs,
Ernesto Vasquez and Gina Miranda-
Diaz

By: _____

Thomas P. Scrivo

Dated: April 2, 2015

CERTIFICATION OF NO CONFIDENTIAL PERSONAL IDENTIFIERS

Confidential personal identifiers have been redacted from any documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

McELROY, DEUTSCH, MULVANEY &
CARPENTER, LLP
Attorneys for Plaintiffs
Ernesto Vasquez and Gina Miranda-
Diaz

By: _____

Thomas P. Scrivo

Dated: April 2, 2015

VERIFICATION

I, Ernesto Vasquez, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am a registered voter in West New York and a Plaintiff in this action.

2. The allegations set forth in this Verified Complaint are true to the best of my personal knowledge except as to those allegations which are made upon information and belief.

3. As to the allegations made upon information and belief, I believe those to be true.

4. All documents appended as exhibits to the Verified Complaint are true and accurate copies of said documents.

~~_____
Name.~~

Ernesto Vasquez

Dated: April 2, 2015

RULE 1:4-4(c) CERTIFICATION

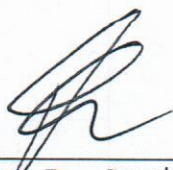
1. I certify that Ernesto Vasquez has acknowledged that he signed an electronic copy of his Verification and has transmitted same to me by electronic mail for service on the date listed below.

2. I further certify that I will obtain and retain an original signature page for these Verifications so that I can submit it to the Court in the future if the Court so requests.

I certify that the foregoing statements by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

McELROY, DEUTSCH, MULVANEY &
CARPENTER, LLP
Attorneys for Plaintiff

By: _____


Thomas P. Scrivo

Dated: April 2, 2015

VERIFICATION

I, Gina Miranda-Diaz, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am a registered voter in North Bergen and a Plaintiff in this action.

2. The allegations set forth in this Verified Complaint are true to the best of my personal knowledge except as to those allegations which are made upon information and belief.

3. As to the allegations made upon information and belief, I believe those to be true.

4. All documents appended as exhibits to the Verified Complaint are true and accurate copies of said documents.

Name:  _____

Dated: April 2, 2015

RULE 1:4-4(c) CERTIFICATION

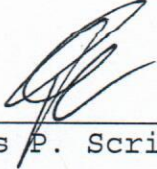
1. I certify that Gina Miranda-Diaz has acknowledged that she signed an electronic copy of her Verification and has transmitted same to me by electronic mail for service on the date listed below.

2. I further certify that I will obtain and retain an original signature page for these Verifications so that I can submit it to the Court in the future if the Court so requests.

I certify that the foregoing statements by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**McELROY, DEUTSCH, MULVANEY &
CARPENTER, LLP**
Attorneys for Plaintiff

By: _____


Thomas P. Scrivo

Dated: April 2, 2015