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Filed  
**December 8, 2020**  
Jeffrey R. Jablonski, P.J. Ch.

THOMAS A. DEGISE, individually and in his official capacity as County Executive for the County of Hudson, , ANTHONY VAINIERI, individually and in his official capacity as County Freeholder for the County of Hudson, ANTHONY ROMANO, individually and in his official capacity as County Freeholder for the County of Hudson, KENNETH KOPACZ, individually and in his official capacity as County Freeholder for the County of Hudson, ALBERT CIFELLI, individually and in his official capacity as County Freeholder for the County of Hudson, and CARIDAD RODRIGUES, individually and in her official capacity as County Freeholder for the County of Hudson,

Plaintiffs,

vs.

AMY TORRES, STACY GREGG, KASON LITTLE, MARISA BUDNICK, ANAND SARWATE, and JOHN DOES AND JANE ROES 1-20 (fictitious persons whose true identities are presently unknown),

Defendants.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION: HUDSON  
COUNTY

DOCKET NO.: C-179-20

CIVIL ACTION

**ORDER TO SHOW CAUSE WITH  
TEMPORARY RESTRAINTS  
PURSUANT TO *RULE 4:52***

**THIS MATTER** being brought to the Court by Chasan Lamparello Mallon & Cappuzzo, PC, attorneys for the Plaintiffs, seeking relief by way of temporary restraints pursuant to R. 4:52, based on the facts set forth in the Verified Complaint filed herewith; and it appearing that immediate and irreparable damage will probably result before notice can be given and a hearing held; and for good cause shown;

It is on this 8th day of December, 2020,

**ORDERED** that Defendants appear and show cause before the Superior Court of New Jersey, Hudson County, in Jersey City, New Jersey, on the 23rd day of December, 2020, at 11 o'clock in the a.m. or as soon thereafter as counsel can be heard, why an Order should not be issued preliminary enjoining and restraining Defendants from,

- A. Protesting/picketing in front of the private residence of County Executive Thomas A. DeGise, 402 New York Avenue, Jersey City, New Jersey 07307, and in front of the homes of any other Plaintiffs;
- B. As to Plaintiff DeGise, compelling the Defendants to protest/picket, if at all, in the area limited to the corner of New York Avenue and Congress Street in the City of Jersey City, New Jersey;
- C. As to the other Plaintiffs, compelling the Defendants to protest/picket, if at all, in the area not closer than 200 feet from the property line of the individual Plaintiff's residence;
- D. As to all Plaintiffs, that protesting or picketing, except from 7:00 p.m. to 8:00 p.m.;

- E. As to all Plaintiffs, protesting or picketing no more often than one (1) night every two (2) weeks;
- F. As to all Plaintiffs, having more than 10 people present during any protest or picket;
- G. As to all Plaintiffs, requiring that the local police department having jurisdiction and the Hudson County Sheriff's Office be notified at least 24 hours prior to the start of any protest; and
- H. Granting such other relief as the court deems equitable and just.

**IT IS FURTHER ORDERED** that pending the return date herein, the Defendants are temporarily enjoined and restrained from:

- A. Protesting/picketing <sup>immediately</sup> in front of the private residence of County Executive Thomas A. DeGise, 402 New York Avenue, Jersey City, New Jersey 07307, and in front of the homes of any other Plaintiff ;
- B. As to Plaintiff DeGise, compelling the Defendants to protest/picket, if at all, in the area limited to the corner of New York Avenue and Congress Street in the City of Jersey City, New Jersey;
- C. As to the other Plaintiffs, compelling the Defendants to protest/picket, if at all, in the area not closer than 200 feet from the property line of the individual Plaintiff's residence;
- D. As to all Plaintiffs, protesting or picketing, except from 7:00 p.m. to 8:00 p.m.;
- E. As to all Plaintiffs, protesting or picketing no more often than one (1) night every two (2) weeks;

- F. As to all Plaintiffs, having more than 10 people present during any protest or picket;
- G. As to all Plaintiffs, requiring that the local police department having jurisdiction and the Hudson County Sheriff's Office be notified at least 24 hours prior to the start of any protest; and
- H. Granting such other relief as the court deems equitable and just.

**IT IS FURTHER ORDERED** that:

1. The Defendants may move to dissolve or modify the temporary restraints herein contained on ~~two (2) days~~ <sup>1 day notice</sup> notice to the Plaintiffs' attorney.

2. A copy of this Order to Show Cause, Complaint, Brief and any supporting Certifications submitted in support of this application be served upon the Defendants or Defendants' counsel within 2 days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

3. The Plaintiffs must file with the court his/her/its proof of service of the pleadings on the Defendants no later than three (3) days before the return date.

4. Defendants shall file and serve a written response to this order to show cause and the request for entry of injunctive relief and proof of service by 12/14/2020.

The original documents must be filed with the Clerk of the Superior Court in the county listed above. A directory of these offices is available in the Civil Division Management Office in the county listed above and online at [njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://njcourts.gov/forms/10153_deptyclerklawref.pdf). You must send a copy of your opposition papers directly to Judge ~~Joseph~~ <sup>Jeffrey</sup> R. Jablonski, P.J.Ch., whose address is Brennan Courthouse, 583 Newark Avenue, Jersey City, New Jersey 07306. You must

also send a copy of your opposition papers to the Plaintiffs' attorney whose name and address appears above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$ \_\_\_\_ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.

5. The Plaintiffs must file and serve any written reply to the Defendants' order to show cause opposition by December 21, 2020. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge Jablonski.

6. If the Defendants do not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the Plaintiffs file a proof of service and a proposed form of order at least three days prior to the return date.

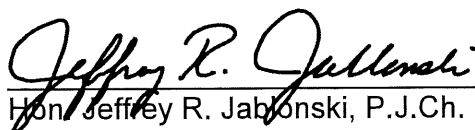
7. If the Plaintiffs have not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

8. Defendants take notice that the Plaintiffs have filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause; not counting the day you received it. These documents must be filed with the Clerk of the Superior Court in the county

listed above. A directory of these offices is available in the Civil Division Management Office in the county listed above and online at [njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://njcourts.gov/forms/10153_deptyclerklawref.pdf). Include a \$ \_\_\_\_\_ filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer to the Plaintiffs' attorney whose name and address appear above, or to the Plaintiffs, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at [njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://njcourts.gov/forms/10153_deptyclerklawref.pdf).

10. The court will entertain argument, but not testimony, on the return date of the order to show cause, ~~unless the court and parties are advised to the contrary no later than \_\_\_\_\_ days before the return date.~~

  
Hon. Jeffrey R. Jablonski, P.J.Ch.

Relief is granted for the attached reasons.

This application comes before this court upon the ex parte application of the Plaintiffs seeking certain affirmative and emergent relief under R. 4:52-1. This court has considered the verified complaint, the supporting certifications, and has reviewed the videos presented in support of this application. After considering the record created to date and guided by the principles governing these requests as established in Crowe v. DiGioia, 90 N.J. 126 (1982), this application for temporary is **granted**.

R. 4:52-1 permits a movant to seek emergent interlocutory injunctive relief by means of an order to show cause. The order to show cause, however, shall not

include any temporary restraints or other interim relief unless the defendant[s have] either been given notice of the application or consents thereto, or it appears from specific facts shown by affidavit or verified complaint that immediate and irreparable damage will probably result to the plaintiff before notice can be served or informally given and a hearing had hereon.

[R. 4:52-1(a)]

Procedurally, this court acknowledges that notice upon the defendants is an essential requirement of both procedural and substantive due process. However, the rule does provide that exceptions to that requirement. See Zukerman by Zukerman v. Piper Pools, Inc., 232 N.J. Super. 74, 83, (App. Div. 1989). This court recognizes that the defendants are individually-named in this suit, and contact information, to date, has not been provided these parties. Additionally, there is no indication that any of the defendants are currently represented by counsel. Consequently, this court

cannot convene a hearing following notice to all parties as would be required by the rule. Therefore, this court issues this written statement to provide the parties with the benefit of the court's reasoning following the Plaintiff's request.

Substantively, if immediate and irreparable damage will probably result before notice can be served, ex parte restraints are permitted. This court finds that unless the interim relief sought is entered, immediate and irreparable damage will result to justify the temporary relief sought.

Irreparable harm must be imminent, concrete, and non-speculative, and must be predicted to occur in the near, not distant, future. See Subcarrier Communications, Inc v. Day, 299 N.J. Super. 634 (App. Div. 1997); Coskey's Television & Radio Sales & Serv., Inc. v. Foti, 253 N.J. Super. 626 (App. Div. 1992). Here, as argued by the plaintiff, and corroborated by the certifications presented and supported by this court's review of the video evidence of the actions of the defendants, this court finds that the alleged harm meets this standard. The videos capture defendants using noise makers, megaphones, and musical instruments that are being used an extremely inconvenient hours in the middle of a residential neighborhood. Similarly, the protestors have allegedly used flashlights and lighting equipment and have written messages on the sidewalks abutting one plaintiff's home. The videos similar depict the residential neighborhood in which this conduct takes place. This court accepts the plaintiffs' counsel's representation that "the



neighborhood is characterized by two-family houses on small lots in close proximity. . . .” Consequently, the plaintiffs’ neighbors “with children will undoubtedly be impacted” by the what appears to be planned “nightly incessant and loud contact and actions.”

Additionally, on balance, this court notes that the restraints requested do not seek to prohibit the defendants’ constitutionally-protected activities, but only to establish a reasonable time, place and manner for that exercise, and since this court finds that the need to preserve the peaceful enjoyment of the plaintiffs’ residential neighborhoods outweighs the slight modification of the defendants’ First Amendment rights, that the temporary relief requested pending a full hearing on the application is justified.

Finally, this court, similarly, will permit, as is consistent with the rule, that the defendants have permission to move for the dissolution or modification of the restraints on 1 day’s notice to the plaintiffs. R. 4:52-1(a).