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Via e-courts filing

Hon. Robert C. Wilson, J.S.C.
Bergen County Justice Center
10 Main Street, Room 215
Hackensack, NJ 07601

Re: Lacey, et al. v. Ruccione, et al.
Docket No. BER-L-5526-21
Our File No. T1210-001

Dear Judge Wilson:

Our Firm serves as Township Attorney for the Township of Teaneck and represents Douglas Ruccione ("Clerk Ruccione"), the Clerk of the Township of Teaneck in the above-captioned matter. Please accept this letter as Clerk Ruccione's sur-reply to Plaintiffs reply filed with the Court on September 6, 2021. In their reply brief, plaintiffs for the first time, attempt to compare their present situation to that of the Township of Manchester, who in 2011 conducted a referendum asking its citizens whether they wanted to move the date of the nonpartisan municipal elections from May to November. However, as with the balance of their arguments, plaintiffs gloss over the relevant differences between the instant matter and the Manchester referendum and, only see the end result. See Pl's. Reply at 8.

Significantly, the citizens of the Township of Manchester did not submit a petition to place the referendum question on the ballot, but rather, the Manchester Township Council initiated its own Ordinance and placed the question of the election date before the voters. That plaintiffs fail to grasp the significant differences between the process that they are

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attempting to utilize and the actions of the Manchester Township Council, is baffling. Even a cursory review of the Manchester Ordinance, attached to plaintiffs reply brief as Exhibit A, demonstrates that Manchester relied upon *N.J.S.A. 40:45-7.1*, the Uniform Nonpartisan Election Law and not *N.J.S.A. 40:69A-25.1*. Indeed, *40:69A-25.1* is not even mentioned in the body of the Ordinance, but only the title.

In the matter at bar, plaintiffs' reliance on the Manchester election date change is completely misplaced.¹ Further, it is readily apparent why plaintiffs are to desperately attempting to avoid the ordinance requirement. Had they followed the procedure set forth in *N.J.S.A. 40:69A-184*, et seq. for an imitated ordinance, they would not have had sufficient time to get the referendum on the ballot for November of 2021. So, instead of accepting that they had delayed too long and properly waiting until the next election cycle, plaintiffs are attempting an "end-run" around the applicable statute. This attempt to circumvent the required statutory process and exclude essential legislative and public input must not be countenanced by the Court.

Pursuant to *N.J.S.A. 40:69A-184*, et. seq, an initiated ordinance requires plaintiffs to first gather a sufficient number of petitions and then submit them for certification. Assuming that the petitions were properly filed, the municipal clerk must certify same and send the initiated ordinance to the governing body for consideration. Thereafter, the governing body

¹ Plaintiffs also continue to mistakenly compare their application to the case of *Jersey City Civic Comm. V. Netchert*. However, as with the Manchester referendum, the Jersey City ballot question was initiated by a council requested ordinance. As with Manchester, in the Jersey City matter there was an actual ordinance introduced and adopted by the governing body. That factual scenario is exactly what is contemplated by *N.J.S.A. 40:45-7.1* and *N.J.S.A. 40:69A-184*, et seq. which are the operative statutes when a municipality chooses to switch the date of its nonpartisan municipal elections from May to November. Only after a public hearing and the adoption of their own ordinance by the Jersey City Council, was the question of whether to change the municipal election date permitted to be submitted to the voters. This is the critical step disregarded by plaintiffs throughout this entire process.

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has twenty days to weigh in on the question to be submitted to the voters of and, when considering the ordinance is required to conduct a full discussion with the public through a public hearing regarding said question as provided for by *N.J.S.A. 40:69A-190*. Finally, there is also a ten-day “cooling off” period required before the question is “submitted to the voters.”

Clerk Ruccione has, from his initial Notice of Insufficiency, advised plaintiffs that the Uniform Nonpartisan Elections Law is the applicable statute and that an ordinance is required to be included pursuant to *N.J.S.A. 40:45-7.1* and *N.J.S.A. 40:69A-184*. Indeed, plaintiffs originally acknowledged such requirement when they prepared and submitted a draft ordinance along with a proposed petition for Defendant’s review in May 2021. See Def. Opp. at Exhibit 1. It was only after they consulted with legal counsel that they inexplicably switched to what they refer to as a “direct” petition. As plaintiffs did not even submit their “direct petition” until July 9, 2021, it is certainly clear that they would not have been able to get an initiated ordinance on the ballot for this year’s election. Thus, they have now chosen to take an illegal route in a blatant attempt to circumvent the requirement that the duly elected municipal council of Teaneck weigh in on the ballot question and that members of the public have a chance to be heard on same. Unfortunately, for plaintiffs the operative statutes do not permit this. For the foregoing reasons, plaintiffs’ Order to Show Cause must be denied.

Respectfully submitted,

/s/ John L. Shahdanian II, Esq.
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