

Renée Steinhagen, Esq.  
New Jersey Appleseed Public Interest Law Center  
744 Broad Street  
Newark, New Jersey 07102  
(973) 735-0523

-and-

Richard D. Emery, Esq.  
Matthew Brinckerhoff, Esq.  
Eric Hecker, Esq.  
Emery Celli Brinckerhoff & Abady LLP  
75 Rockefeller Plaza, 20<sup>th</sup> Floor  
New York, New York 10019  
(212) 763-5000

Co-Counsel for Plaintiffs

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GREEN PARTY OF NEW JERSEY;  
NEW JERSEY CONSERVATIVE PARTY; and  
NEW JERSEY LIBERTARIAN PARTY, INC.,

Plaintiffs,

-vs-

STATE OF NEW JERSEY, DIVISION OF  
ELECTIONS; and STUART RABNER, in his  
official capacity as New Jersey Attorney  
General,

Defendants.  
-----X

SUPERIOR COURT OF NEW JERSEY  
MERCER COUNTY: CHANCERY  
DIVISION

Docket No. MER-C-

Civil Action

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiffs Green Party of New Jersey, New Jersey Conservative Party, and New  
Jersey Libertarian Party, Inc., by and through their attorneys, New Jersey Appleseed Public  
Interest Law Center and Emery Celli Brinckerhoff & Abady LLP, for their Complaint alleges as  
follows:

## NATURE OF THE ACTION

1. This case involves the unabashed and largely successful efforts by the two dominant political parties in New Jersey – the Democrats and the Republicans – to monopolize, as a matter of law and fact, the political stage and stifle any and all meaningful competition from alternative political parties.

2. The statutory requirement for obtaining official party recognition in New Jersey is the single most onerous and discriminatory in the nation. Not only must an alternative political party seeking official recognition obtain at least 10% of the total vote across the State – which itself is an extraordinary and difficult hurdle – but the 10% is measured by aggregating the results of *individual, district-specific* races for the New Jersey General Assembly. Because high-profile statewide races such as for Governor or President do not count for party recognition purposes, and because, as a practical matter, alternative political parties cannot field viable third-party candidates in all or even most local General Assembly races, New Jersey’s statutory requirement renders it nothing short of impossible for any alternative political party to secure official recognition.

3. Not surprisingly, no alternative political party has done so since 1920 – the year that the Democrats and Republicans amended New Jersey’s statutory definition of “political party” with the manifest intent of squelching then-growing political competition by alternative parties and solidifying their joint stranglehold on New Jersey politics.

4. The inability of alternative political parties to obtain official recognition in New Jersey has a variety of important consequences.

5. First, alternative parties have no administrative mechanism for securing placement on New Jersey's official party declaration forms (or for receiving acknowledgment in the prospective statewide data base), which the State uses to compile voter registration lists detailing the memberships of each officially recognized political party. Such voter membership lists, which were only made available to the recognized political parties free of charge prior to litigation in 2000, are indispensable tools for party development and growth, for they enable the parties to identify, communicate with, and raise funds from their established base. In 2000, this Court held in *Council of Alternative Political Parties v. State of New Jersey* (affirmed by the Appellate Division in 344 N.J. Super. 225 (2001)) that the State's failure to list on its official party declaration forms certain alternative parties that constituted common law political parties (such as the Green Party of New Jersey and the New Jersey Libertarian Party) was unconstitutional. However, the State still has not adopted any administrative or regulatory mechanism for identifying and including on party declaration forms additional alternative parties – such as the New Jersey Conservative Party, which unquestionably satisfies the common law definition of a political party, but which continues to be prejudiced by New Jersey's refusal to include it on party declaration forms.

6. More fundamentally, all of New Jersey's alternative political parties are severely prejudiced by the State's blatantly discriminatory campaign finance regime. New Jersey law treats established and legitimate alternative political parties such as the Plaintiffs herein like mere political action coalitions (officially, a "continuing political committee"), subjecting them to extremely burdensome campaign contribution and spending limits. In contrast, the Democrats and the Republicans – but only the Democrats and the Republicans – are exempted from these

stringent limits and are effectively permitted to receive significantly larger contributions from individuals and other entities than Plaintiffs are entitled to receive, and to give *unlimited* financial contributions to promote the candidates of their choice. This severe and artificial constraint on the ability of alternative political parties to receive significant contributions from potential supporters and then to provide significant financial support to their candidates makes it nothing short of impossible for them to compete meaningfully with the officially recognized parties.

7. New Jersey similarly discriminates against alternative political parties with respect to its lobbying rules. Alternative political parties seeking to engage government officials about issue-specific concerns must pay substantial lobbying registration fees and are subjected to onerous lobbying activity and financial reporting obligations. Not surprisingly, the Democrats and the Republicans have been expressly exempted from these very burdensome rules. This discriminatory treatment greatly hinders the ability of alternative parties not just to compete with the major parties, but to exercise their fundamental right to petition government officials with respect to their members' core political concerns on an equal basis.

8. New Jersey also discriminates against alternative political parties with respect to candidate nomination petitions in two crucial respects. First, the State arbitrarily requires that petition circulators must reside in the election district in which they are collecting signatures, thereby dramatically limiting the available pool of petition circulators to alternative parties. Second, the State requires that citizens signing nominating petitions on behalf of alternative political party candidates – but not Democrats or Republicans – must pledge that they will *actually vote* for the nominee in the election, thereby greatly discouraging citizens from

signing nominating petitions and rendering it dramatically more difficult for alternative political parties to place candidates on the ballot.

9. Each of these elements of New Jersey's pattern of discrimination against alternative political parties is unconstitutional, and each of them must be enjoined.

### **THE PARTIES**

10. Plaintiff Green Party of New Jersey is a not for profit corporation affiliated with the Green Party of the United States, which has been recognized by the Federal Election Commission as a National Committee of the Green Party. The Green Party of New Jersey is an established and legitimate political party. It is an association of people maintaining certain political principals or with regard to public policy, urging the adoption of such principles in government affairs through officers of like beliefs. It regularly runs candidates for public office under its label and banner in order to advance such beliefs. It has adopted by-laws and elects officers on an annual basis.

11. In 2003, the Green Party ran 51 candidates for state assembly and senate seats as well as local offices. In 2004, it ran four (4) candidates for the United States House of Representatives and five (5) for local office, and in 2005, the Green Party ran 15 candidates for the State Assembly and local offices in addition to its gubernatorial candidate, Matthew Thieke. In 2000, Ralph Nader, the Green Party candidate for President, received 94,554 votes in New Jersey or 2.97% of the statewide vote. The Green Party of New Jersey's mailing address is at P.O. Box 9802, Trenton, New Jersey 08650-9802.

12. Plaintiff New Jersey Libertarian Party was founded in 1973, and is

incorporated as a nonprofit corporation that is organized for political purpose. The New Jersey Libertarian Party is an established and legitimate political party. It is an association of people maintaining certain political principals or with regard to public policy, urging the adoption of such principles in government affairs through officers of like beliefs. It regularly runs candidates for public office under its label and banner in order to advance such beliefs. It has adopted by-laws and elects officers on an annual basis. It has run candidates for statewide office in every election since 1976. In 2002, it ran candidates for Senator and in 8 out of the 13 Congressional districts in New Jersey. Similarly, in 2004, it ran candidates for President and in 9 out of the 13 New Jersey Congressional districts. In 2006, it ran candidates for Senator and for 4 out of the 13 New Jersey Congressional districts. In 2005, Libertarian Party gubernatorial candidate Jeffrey Pawlowski received 15,417 votes, and the Party ran 7 candidates in 5 state assembly districts. In 1997, Libertarian candidate for Governor, Murray Sabrin, received 113,861 or 4.7% of the statewide vote. The New Jersey Libertarian Party's mailing address is at P.O. Box 56, Tennent, New Jersey 07763.

13. Plaintiff The New Jersey Conservative Party was founded in March 1992 as a grassroots organization. In 1993, the Conservative Party was incorporated as a nonprofit corporation, created its first state platform, and ran its first candidates for Governor, Legislature, and local offices. The New Jersey Conservative Party is an established and legitimate political party. It is an association of people maintaining certain political principals or with regard to public policy, urging the adoption of such principles in government affairs through officers of like beliefs. It regularly runs candidates for public office under its label and banner in order to advance such beliefs. It has adopted by-laws and elects officers on an annual basis. In 1995,

New Jersey Conservative candidates of Assembly in New Jersey received an aggregate total of 117,219 votes. On information and belief, that was the largest vote total for an alternative political party in an Assembly election. Since then, it has consistently run candidates for Congress and local offices. In 2004, it ran a candidate for U. S. Congress in the 5<sup>th</sup> Congressional District, and in 2005, the Conservative Party ran Thomas Phelan for the State Assembly in the 37<sup>th</sup> District. The New Jersey Conservative Party's official business address is 15 Terrace Road, Booton Twp., New Jersey 07005-9429.

14. Defendant State of New Jersey, Division of Elections is a division of the Department of Law & Public Safety and is responsible for the administration of all federal and state elections held in the State. The Division is located at 25 Market Street, Trenton , New Jersey 08625, and its duties include supplying materials for the holding of elections, certifying the results of elections, advising county clerks on the conduct of elections and preserving election records.

15. Defendant Stuart Rabner is the Attorney General of the State with his principal place of business at 25 Market Street, Trenton, New Jersey 08625. In his capacity as Attorney General, Mr. Rabner serves as the Chief Election Officer of the State of New Jersey, and he supervises the Department of Law and Public Safety's ten divisions including the Division of Elections. Mr. Rabner is sued in his official capacity.

16. At all times relevant to this complaint, Defendant Rabner acted under the color of state law and under the color of his authority as a public official of the State of New Jersey.

## THE FACTS

### **A. New Jersey's Onerous and Discriminatory Definition of Political Party**

17. New Jersey imposes the single most onerous and discriminatory burden for attaining official political party status of any State in the nation. Under New Jersey law, the State will not officially recognize a political party unless the party obtains at least 10% of all of the votes cast in the most recent elections for the New Jersey General Assembly:

“Political party” means a party which, at the election held for all of the members of the General Assembly next preceding the holding of any primary election held pursuant to this Title, polled for members of the General Assembly at least 10% of the total vote cast in this State.

N.J.S.A. 19:1-1.

18. First, New Jersey's requirement that a political party's candidates must obtain at least 10% of the total votes cast is unusually and unnecessarily severe. Thirty-nine (39) states impose a 5% or less requirement. Seven (7) of those states plus the District of Columbia do not base their recognition of political parties on the percentage of votes received in a particular election, seventeen (17) of the thirty-nine provide an alternative route “by petition” or “registration” of voters to achieve political party status, and thirteen (13) of the thirty-nine differentiate between major and minor political party status or acknowledge other political parties as either “political organizations” or “political bodies.”

19. New Jersey is one of only eleven (11) states to impose *above* a 5% requirement, and of those eleven, it is only one of two states (the other being Virginia) that does not provide an alternative method to secure political party status. Of the 11 states, six (6) permit the formal recognition of minor parties (including 1 political organization and 1 political body),



three (3) provide an alternative route “by petition” or “registration” to achieving party status (including Nevada that confers major party status based solely on registration or petition), and Alabama permits the development of a political party on the county level.

20. Second, and even more importantly, New Jersey is the *only* State in the nation that solely bases the strength of its political parties on the percentage of votes received in *district-based* races for the General Assembly, as opposed to *statewide* races such as Governor or President. Although Hawaii permits a political party to qualify if it has 2% of all votes cast for the offices of state senate and state representative combined, it also permits a party to achieve political party status if it garners 10% of any statewide election. As a practical matter, it is impossible for any party to obtain 10% of all of the votes cast in General Assembly races unless the party is running candidates *in most if not all of the individual General Assembly races in each district*. For the Democrats and the Republicans – who routinely run candidates in each individual General Assembly district – this requirement is a non-issue. For alternative political parties such as the Plaintiffs herein, this requirement is impossible to satisfy.

21. Of the forty-two (42) States that base their recognition of political parties on the percentage of votes received in a particular election, forty-one (41) use a statewide election, such as an election for Governor, to measure the percentage of votes necessary for official political party recognition. New Jersey is the *only* State in the nation that uses the percentage of votes obtained in *district-based* races as the sole measure of strength necessary for official political party recognition.

22. Together, these two independent requirements – the 10% requirement, and the requirement that the 10% be obtained in district-based rather than statewide elections – in

addition to the failure to acknowledge major and minor parties, makes New Jersey's rule for official party recognition the single most onerous and discriminatory in the nation.

23. This is no accident. To the contrary, the two officially recognized political parties in New Jersey – the Democrats and the Republicans – which together control the legislative process in New Jersey, have intentionally set the bar for qualifying for official party status artificially and unnecessarily high in order to stifle competition by frustrating the organization, development, and growth of alternative political parties such as the Plaintiffs herein.

24. Until the late nineteenth century, all political parties competed on an equal playing field with the Democrats and the Republicans. In 1890, however, the New Jersey Legislature enacted the Werts Act, which defined political parties as those that received at least 5% of the votes for the State Assembly in any particular district. The intent of the Werts Act was, at least in part, to make it more difficult for alternative political parties to compete with the Democrats and the Republicans in New Jersey.

25. Between 1890 and 1920, the percentage of votes required for political party status varied between two and five percent *in any given district*. A statewide standard was not imposed. By the second decade of the twentieth century, several alternative political parties were receiving in the neighborhood of 5% of certain districts and the statewide vote. In 1920, therefore, the New Jersey Legislature raised the requirement for official party recognition to 10% of the votes cast in all General Assembly elections. On information and belief, the Legislature – which was controlled by the Democrats and the Republicans – raised the bar in 1920 in order to stifle competition by alternative political parties such as the Plaintiffs herein.

26. Since 1920, *no* alternative political party has *ever* qualified for official party status in New Jersey. New Jersey is the *only* State in the nation that has not officially recognized a third political party since 1920, and the *only* State in the nation that has not recognized a qualified third political party in the last decade.

27. That New Jersey has not recognized a third political party for the past seventy-six years confirms unmistakably that its 10% district-based recognition requirement is by far the most onerous and discriminatory in the nation.

**B. Notwithstanding New Jersey's Onerous and Discriminatory Statutory Definition of a Political Party, Plaintiffs Plainly Qualify As Political Parties Under the Common Law**

28. Under New Jersey law, a political party is defined as follows:

A political party is an association of persons sponsoring ideas of government, or maintaining certain political principles or beliefs in the public policies of the government, and its purpose is to urge the adoption and execution of such principles in government affairs through officers of like beliefs.

*Rogers v. State Comm. of the Republican Party*, 96 N.J. Super. 265 (Law Div. 1967).

29. There is no question that each Plaintiff herein qualifies as a political party under this common law definition. Indeed, in *Council of Alternative Political Parties v. State of New Jersey*, 344 N.J. Super. 225 (App. Div. 2001), the New Jersey Appellate Division affirmed the trial court's specific findings that Green Party of New Jersey and the New Jersey Libertarian Party qualify as common law political parties entitled to have their supporters formally affiliate with the party on the official registration rolls.

30. In the *Council of Alternative Political Parties* litigation, the State of New

Jersey expressly stipulated that the Green Party of New Jersey and the New Jersey Libertarian Party have “self-determined internal organizations and meetings and/or conventions”; “are actively engaged in the electoral process in New Jersey in a variety of ways”; and, to varying degrees, have enjoyed success at the polls.

31. Based in part on the State’s stipulation, the trial court in the *Council of Alternative Political Parties* litigation expressly found that these parties “are identifiable political entities; possess ideological agendas; engage in political activity, including issue advocacy, fundraising and campaigning; run candidates for various Federal and State offices; and represent the interests and concerns of like-minded voters, albeit in lesser numbers [than the officially recognized political parties.]” The trial court concluded and held that these parties have “been successful in garnering a sufficient modicum of political support,” have demonstrated “that they are meaningful institutions capable of organizing political discourse and advancing issues and interests that give politics weight,” and “have satisfied well recognized levels of seriousness and continuity.”

32. Although the New Jersey Conservative Party was not a plaintiff in the *Council of Alternative Political Parties* litigation, there is no question that it likewise readily satisfies the common law definition of a political party. The New Jersey Conservative Party was founded in March 1992 as a grassroots organization. In 1993, the New Jersey Conservative Party was incorporated, created its first state platform, and ran its first candidates for Governor, Legislature, and local offices. In 1994, the NJ Conservative Party created its first national platform and ran candidates for Congress and local offices in New Jersey.

33. In 1995, the New Jersey Conservative Party candidates for Assembly in

New Jersey received an aggregate total of 117,219 votes. On information and belief, that was the largest vote total for an alternative party in an Assembly election. In 1996, the New Jersey Conservative Party ran Richard J. Pezzullo as its candidate for United States Senate and ran nine candidates for Congress and a number of local candidates. In 1997, the New Jersey Conservative Party ran Mr. Pezzullo as its candidate for Governor, and he received 35,063 votes. The Conservative Party also ran a number of State Senate, Assembly, and local candidates. In 1998, the NJ Conservative Party ran ten candidates for Congress, a candidate for General Assembly and a number of local candidates. In 1999, the New Jersey Conservative Party ran twenty-five candidates for Assembly. In 2000, it ran one candidate for U.S. Senate and six candidates for the House of Representatives. In 2001, the New Jersey Conservative Party ran Michael Koontz for Governor, one candidate for the Senate and three candidates for general assembly. Most recently, in 2004 the New Jersey Conservative Party ran Thomas Phelan for Congress in the 5<sup>th</sup> District, and again in 2005, for the New Jersey Assembly in the 37<sup>th</sup> District.

34. The New Jersey Conservative Party is a political party insofar as it is an association of people maintaining certain political principles or beliefs with regard to public policy, urging the adoption of such principles in governmental affairs through officers of like beliefs, and regularly running candidates for public office under its label and banner in order to advance these beliefs. The New Jersey Conservative Party advocates for election law reforms, educational reforms, allowing the electorate to resolve the issue of abortion, the downsizing of government, health care reforms, the right to bear arms, and a strong criminal justice system. The New Jersey Conservative Party has adopted By-laws and elects officers on an annual basis.

**C. Despite a Prior Injunction By This Court, New Jersey Continues to Discriminate Against Alternative Political Parties, Including the New Jersey Conservative Party, With Respect to the Provision of Party Affiliation Lists**

35. The State of New Jersey affords every voter in the State the opportunity to declare his or her party affiliation by filing a “Political Party Affiliation Declaration Form,” and most recently to make such declaration on the voter registration form. Each of New Jersey’s twenty-one counties uses such party declaration and registration forms to compile and maintain computerized voter registration databases indicating the party affiliation of each registered voter in the county. Each county also produces lists containing the names of all of the registered voters who have identified themselves as affiliated with a given party.

36. These voter registration lists are made available for purchase by the public for a nominal charge. Pursuant to N.J.S.A. 19:31-18.1(a), officially recognized political parties are provided these voter registration lists free of charge.

37. Prior to 2000, New Jersey’s party declaration forms did not permit voters to declare their affiliation with alternative political parties that have not attained official party status under Title 19. Rather, party declaration forms only permitted voters to identify themselves as Democrats, Republicans, or independents.

38. Consequently, prior to 2000, the State of New Jersey compiled voter registration lists identifying every voter who had declared himself or herself to be a Democrat or a Republican, and the State of New Jersey provided such voter registration lists, free of charge, to the two officially recognized parties. However, the State of New Jersey did not compile or disseminate any lists of voters who had declared themselves affiliated with alternative political parties.

39. This practice unconstitutionally burdened alternative political parties by substantially hindering their ability to compete with the two officially recognized political parties. Voter registration lists are crucial to the ability of a party to identify, locate, organize, and solicit its members. By depriving alternative political parties of access to politically vital information, their ability to draw support from their established party base – the key to party organization, growth, and, ultimately the achievement of official party recognition status – was fundamentally and unfairly undermined. There was no legitimate justification for the State’s practice of compiling party affiliation lists for the two official political parties but not for alternative political parties such as the Plaintiffs herein.

40. In 2001, this practice was declared unconstitutional in the *Council of Alternative Political Parties* litigation. The trial court held, and the Appellate Division subsequently affirmed, that the State’s party affiliation scheme unconstitutionally discriminated against alternative political parties. The court ordered the State of New Jersey to revise its party declaration forms to enable voters to identify themselves not just as Democrats, Republicans, or independents, but also as members of the alternative political parties that were plaintiffs in that litigation, including the Green Party of New Jersey and the New Jersey Libertarian Party.

41. Because the New Jersey Conservative Party was not a plaintiff in the *Council of Alternative Political Parties* litigation, the court did not specifically order the State to include the New Jersey Conservative Party on its party declaration forms. However, the court did hold that it was the State’s “responsibility” to “define the specifics for regulating which [additional] political organizations” were sufficiently robust to be entitled to designation on official party declaration forms.

42. Subsequent to the *Council of Alternative Political Parties* litigation, the New Jersey Conservative Party has petitioned the State of New Jersey for inclusion on official party declaration forms. The State has, without justification, refused to do so. Indeed, the State has not even attempted to explain its unjustified refusal to include the New Jersey Conservative Party on its party declaration forms.

43. New Jersey's refusal to include the New Jersey Conservative Party on its party declaration forms is unconstitutional and should be enjoined. As discussed above, the New Jersey Conservative Party plainly qualifies as a common law political party. The State's ongoing failure to afford the New Jersey Conservative Party access to information regarding the identity of its members unlawfully undermines its ability to compete with other political parties.

44. New Jersey's failure to "define the specifics for regulating which political organizations" were sufficiently robust to be entitled to designation on official party declaration forms must also be remedied. The failure of the State to issue regulations or set up an administrative system that specifies which parties are qualified to have their supporters declare their affiliation to that party on the registration rolls, and what the party has to do to maintain such status has adversely affected the integrity of the electoral system to the detriment of the Plaintiffs and their supporters insofar as legitimate common law political parties are not listed on the party declaration forms, and other political groupings that no longer exist or do not run candidates in New Jersey do appear.

**D. New Jersey's Campaign Finance Scheme Unlawfully Discriminates Against Alternative Political Parties**

45. Pursuant to N.J.S.A. 19:5-2, -4, officially recognized political parties can



create state, county, or municipal political party committees that are entitled to give unlimited financial contributions (except as modified by N.J.A.C. 19:25-11.7 pertaining to contributions by county political party committees) to promote the candidates of their choice.

46. Alternative political parties such as the Plaintiffs herein, in contrast, cannot establish political party committees and are only permitted to organize as “continuing political committees” to “aid or promote the candidacy of an individual, or the candidacies of individuals, for elective office.” N.J.S.A. 19:44A-3(n)(2).

47. As continuing political committees, alternative political parties are only able to contribute up to \$7,200 per year to a candidate pursuant to N.J.S.A. 19:44A-11.3(b)(1).

48. The two officially recognized political parties, on the other hand, are allowed to give *unlimited* contributions to their candidates through their state and municipal party committees. The two officially recognized political parties are limited only in their ability to make contributions to candidates through their county party committees. N.J.A.C. 19:25-11.7.

49. Furthermore, an individual can contribute up to \$25,000 per year to an officially recognized party's state committee, and such a state committee can receive up to \$72,000 per year from its national committee. N.J.S.A. 19:44A-11.4(a)(2). The national committee of an officially recognized political party can additionally contribute up to \$37,000 per year to a county committee (as can an individual) and \$7,200 per year to a municipal committee (as can an individual).

50. In contrast, an individual can only contribute \$7,200 per year to a continuing political committee – *i.e.*, to an alternative political party – and a continuing political committee can only receive \$7,200 per year from its national committee.

51. In addition, pursuant to N.J.A.C. 19:25-4.5(c), no officer of an alternative political party or other person involved in the management of that party's campaign funds may stand as a candidate. Similar restrictions do not apply to persons who manage or control municipal, county, or state political party committees.

52. These severe campaign finance restrictions imposed on alternative political parties – but not on the two officially recognized political parties – substantially inhibit the ability of alternative political parties and their members to support their candidates of choice, to coordinate election activities that are directed towards electing their candidates of choice, to communicate through commercial media to the public on behalf of those candidates, and to effectively promote their candidates' ideas within the electoral arena.

53. On information and belief, no other state's campaign finance laws discriminate and burden common law political parties such as Plaintiffs as severely as New Jersey's statutory scheme. This is the case due to other states' more liberal definitions of qualified political parties, their recognition of minor parties, their provision of alternative methods for achieving political party status or the fact that their campaign finance schemes place no limits on contributions to candidates or political parties. For example, although Virginia confers political party status only on parties that secure *10%* of the vote cast for any *statewide* office (with no alternative route by petition or registration), it imposes no limits on contributions to candidates or political parties and thus does not discriminate against political parties that do not qualify for party status for other electoral purposes.

54. There is no legitimate justification for the State's discriminatory treatment of alternative political parties, relative to officially recognized political parties, with respect to

campaign finance restrictions.

**E. New Jersey Imposes Excessive and Unduly Burdensome “Lobbying” Requirements on Alternative Political Parties**

55. Under New Jersey law, alternative political parties must pay fees and abide by onerous lobbying rules from which formal political parties have been specifically exempted

56. Section 19:25-20 of the New Jersey Administrative Code, which regulates legislative and executive lobbying, imposes substantial duties and requirements on alternative political parties seeking to lobby government entities. In addition to a \$325 annual registration fee, alternative political parties seeking to lobby government entities must submit detailed reports relating to their lobbying activities, including detailed disclosures of all of their lobbying activities and detailed disclosure of all financial transactions relating to their lobbying efforts.

57. The officially recognized political parties, on the other hand, together with their state and local committees, are specifically exempted from these onerous requirements.

N.J.A.C. 19:25-20.3(a)(4).

58. Alternative political parties such as the Plaintiffs herein are substantially and unduly burdened by the excessive lobbying duties and requirements to which they are subjected under New Jersey law. Such requirements substantially hinder their ability to have their voices heard by government entities regarding political issues that are of paramount importance to them and to their members.

59. There is no legitimate justification for the State's discriminatory treatment of alternative political parties, relative to officially recognized political parties, with respect to lobbying duties and requirements.

**F. New Jersey Impedes the Ability of Alternative Political Parties to Run Candidates By Requiring That Petition Circulators Must Live In-District**

60. N.J.S.A. 19:13-7, entitled “Certification of Petition,” provides that:

“Before any petition shall be filed, at least one of the voters signing the same shall make oath before a duly qualified officer that the petition is made in good faith, that the affiant saw all the signatures made thereto and verily believes that the signers are duly qualified voters.”

61. Thus, only voters who have themselves duly signed a petition are authorized to verify the signatures of others signing the same petition. Because only district residents can lawfully sign a petition in the first instance, N.J.S.A. 19:13-7 works to confine the pool of potential petition circulators solely to district residents.

62. New Jersey residents of election districts outside of the district in which petition signatures are gathered are prohibited from circulating a petition or gathering petition signatures.

63. Similarly, residents from states other than New Jersey are also prohibited from circulating a petition or gathering petition signatures.

64. This in-district petition circulation requirement substantially impedes the ability of alternative political parties to place their candidates on the ballot because it severely limits the available pool of petition circulators. Because alternative political parties have fewer members and resources than the Democrats and Republicans – and therefore have substantially less ability to find a volunteer circulator residing in each individual district – the in-district circulation requirement disproportionately burdens alternative political parties relative to the Democrats and Republicans.

**G. New Jersey Discriminates Against Alternative Political Parties By Requiring Persons Signing Nominating Petitions for Members of Alternative Political Parties to Pledge Themselves to Vote for the Candidate Being Nominated**

65. N.J.S.A. 19:13-4 sets forth the required contents of nominating petitions for general elections. Among other things, this statute requires persons signing a nominating petition for a general election to “pledge themselves to support *and vote for* the persons named” in the petition (emphasis added). In other words, in order to sign a nominating petition for a general election, it is not enough for a citizen to affirm that he or she believes that the candidate is worthy of being placed on the ballot; the citizen must go so far as to make a public pledge that he or she will *actually vote* for the candidate seeking placement on the ballot.

66. The same is not true for nominating petitions for primary elections. N.J.S.A. 19:23-7 merely requires persons signing a nominating petition for a primary election to state that they “*indorse* the person or persons named in their petition as candidate or candidates for nomination for the office or offices therein named” (emphasis added). To sign a nominating petition for a primary election, a citizen need only “indorse” the candidate for “nomination.” The citizen need not pledge to *actually vote* for the candidate.

67. As a functional matter, to draw a distinction between the requirements for a primary nominating petition and the requirements for a general election nominating petition is to impose differential and discriminatory requirements upon alternative political parties compared to the Democrats and the Republicans. This is so because alternative political parties by definition do not run candidates in primaries; the Democrats and Republicans, on the other hand, by definition need not nominate candidates for inclusion on general election ballots because they have conducted primaries. Accordingly, the requirement that persons signing a

nominating petition must pledge to actually vote for the candidate being nominated applies exclusively to candidates from alternative political parties and does not apply at all to the Democrats or the Republicans.

68. This differential treatment has a profound impact on the ability of alternative political party candidates to secure a place on a general election ballot. Citizens who believe a candidate is worthy of inclusion on the ballot, but who are not prepared to actually vote for the candidate, are prohibited from signing a nominating petition. Many or most citizens have not made up their mind about which candidate they will vote for when the nominating petitions are circulated months before the election. Even those citizens who have made up their mind and do plan to actually vote for the candidate in question may well be unwilling to pledge to do so publicly – especially when it comes to alternative political party candidates, who are more likely than Democrats or Republicans to espouse ideas that are outside of the mainstream.

**COUNT I**

(By Plaintiff New Jersey Conservative Party)

69. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

70. By refusing to include the New Jersey Conservative Party on official party declaration forms, the State of New Jersey has deprived the New Jersey Conservative Party of its rights to free speech, free association, equal protection, and due process of law guaranteed by the First and Fourteenth Amendments to the United States Constitution.

**COUNT II**

(By Plaintiff New Jersey Conservative Party)

71. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

72. By refusing to include the New Jersey Conservative Party on official party declaration forms, the State of New Jersey has deprived the New Jersey Conservative Party of its rights to equal protection and due process of law guaranteed by Article I, Paragraph 1 of the New Jersey Constitution, and of its right to free speech and free association guaranteed by Article I, Paragraphs 6 and 18 of the New Jersey Constitution.

**COUNT III**

(By All Plaintiffs)

73. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

74. N.J.S.A. 19:5-2, -4 and 19:44A-10.1(a), which prohibit alternative political parties from giving unlimited contributions to their candidates of choice through state,

county, and municipal committees but allow the two officially recognized political parties to do so, and establish a scheme that discriminates against Plaintiffs with respect to their ability to raise money from individuals and the public generally relative to the amounts permitted to be raised by the recognized political parties, deprive Plaintiffs of their rights to free speech, free association, equal protection, and due process of law guaranteed by the First and Fourteenth Amendments to the United States Constitution.

**COUNT IV**  
(By All Plaintiffs)

75. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

76. N.J.S.A. 19:5-2, -4 and 19:44A-10.1(a), which prohibit alternative political parties from giving unlimited contributions to their candidates of choice through state, county, and municipal committees but allow the two officially recognized political parties to do so, and establish a scheme that discriminates against Plaintiffs with respect to their ability to raise money from individuals and the public generally relative to the amounts permitted to be raised by the recognized political parties, deprive Plaintiffs of their rights to equal protection and due process of law guaranteed by Article I, Paragraph 1 of the New Jersey Constitution, and of their rights to free speech and free association guaranteed by Article I, Paragraphs 6 and 18 of the New Jersey Constitution.

**COUNT V**  
(By All Plaintiffs)

77. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully



set forth herein.

78. N.J.A.C. 19:25-20, which imposes severe and unduly burdensome requirements on alternative political parties seeking to lobby government entities, but which exempts officially recognized political parties from such requirements, deprives Plaintiffs of their rights to free speech, free association, equal protection, and due process of law guaranteed by the First and Fourteenth Amendments to the United States Constitution.

**COUNT VI**  
(By All Plaintiffs)

79. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

80. N.J.A.C. 19:25-20, which imposes severe and unduly burdensome requirements on alternative political parties seeking to lobby government entities, but which exempts officially recognized political parties from such requirements, deprives Plaintiffs of their rights to equal protection and due process of law guaranteed by Article I, Paragraph 1 of the New Jersey Constitution, and of their rights to free speech and free association guaranteed by Article I, Paragraphs 6 and 18 of the New Jersey Constitution.

**COUNT VII**  
(By All Plaintiffs)

81. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

82. N.J.S.A. 19:13-7, provides that: "Before any petition shall be filed, at least one of the voters signing the same shall make oath before a duly qualified officer that the petition

is made in good faith, that the affiant saw all the signatures made thereto and verily believes that the signers are duly qualified voters.”

83. Thus, only voters who have themselves duly signed a petition are authorized to verify the signatures of others signing the same petition. Because only district residents can lawfully sign a petition in the first instance, N.J.S.A. 19:13-7 works to confine the pool of potential petition circulators solely to district residents.

84. New Jersey residents are prohibited from circulating petitions or gathering petition signatures in election districts outside of their district of residence.

85. Residents from states other than New Jersey are prohibited altogether from circulating a petition or gathering petition signatures.

86. The act of gathering petition signatures is “core political speech” under the First Amendment.

87. By severely limiting the pool of potential petition circulators through its to in-district resident requirement, N.J.S.A. 19:13-7 unduly burdens and interferes with the First Amendment rights of petition proponents, including plaintiffs.

88. N.J.S.A. 19:13-7 substantially restricts and inhibits plaintiffs, indeed all petition proponents, from engaging in political dialogue with voters and thus disseminating their message.

89. N.J.S.A. 19:13-7 violates plaintiffs’ First and Fourteenth Amendment rights.

**COUNT VIII**  
(By All Plaintiffs)

90. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

91. New Jersey residents are prohibited from circulating petitions or gathering petition signatures in election districts outside of their district of residence.

92. Residents from states other than New Jersey are prohibited altogether from circulating a petition or gathering petition signatures.

93. The act of gathering petition signatures is “core political speech” under the free speech and petition clauses of the New Jersey Constitution. Article I, Paragraphs 6 and 18 of the New Jersey Constitution.

94. By severely limiting the pool of potential petition circulators through its to in-district resident requirement, N.J.S.A. 19:13-7 unduly burdens and interferes with the free speech and petition rights of petition proponents, including plaintiffs.

95. N.J.S.A. 19:13-7 substantially restricts and inhibits plaintiffs, indeed all petition proponents, from engaging in political dialogue with voters and thus disseminating their message.

96. N.J.S.A. 19:13-7 deprives Plaintiffs of their rights to equal protection and due process of law guaranteed by Article I, Paragraph 1 of the New Jersey Constitution, and of their right to free speech and free association guaranteed by Article I, Paragraphs 6 and 18 of the New Jersey Constitution.

**COUNT IX**  
(By All Plaintiffs)

97. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

98. N.J.S.A. 19:13-4 requires persons signing a nominating petition for a general election to “pledge themselves to support *and vote for* the persons named” in the petition (emphasis added).

99. N.J.S.A. 19:23-7, in contrast, merely requires persons signing a nominating petition for a primary election to state that they “*indorse* the person or persons named in their petition as candidate or candidates for nomination for the office or offices therein named” (emphasis added).

100. Because alternative political parties by definition do not run candidates in primaries, and because the Democrats and Republicans by definition need not nominate candidates for inclusion on general election ballots, the requirement that persons signing a nominating petition must pledge to actually vote for the candidate being nominated applies exclusively to candidates from alternative political parties and does not apply at all to the Democrats or the Republicans.

101. This differential treatment has a profound impact on the ability of alternative political party candidates to secure a place on a general election ballot.

102. N.J.S.A. 19:13-4 imposes disproportionate, discriminatory, and unequal burdens upon alternative political party candidates.

103. N.J.S.A. 19:13-4 unduly burdens and interferes with the First Amendment rights of alternative political party candidates and upon the citizens they solicit for nomination

petition signatures.

104. N.J.S.A. 19:13-4 violates Plaintiffs' rights under the First and Fourteenth Amendments.

**COUNT X**  
(By All Plaintiffs)

105. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

106. N.J.S.A. 19:13-4 requires persons signing a nominating petition for a general election to "pledge themselves to support *and vote for* the persons named" in the petition (emphasis added).

107. N.J.S.A. 19:23-7, in contrast, merely requires persons signing a nominating petition for a primary election to state that they "*indorse* the person or persons named in their petition as candidate or candidates for nomination for the office or offices therein named" (emphasis added).

108. Because alternative political parties by definition do not run candidates in primaries, and because the Democrats and Republicans by definition need not nominate candidates for inclusion on general election ballots, the requirement that persons signing a nominating petition must pledge to actually vote for the candidate being nominated applies exclusively to candidates from alternative political parties and does not apply at all to the Democrats or the Republicans.

109. This differential treatment has a profound impact on the ability of alternative political party candidates to secure a place on a general election ballot.

110. N.J.S.A. 19:13-4 imposes disproportionate, discriminatory, and unequal burdens upon alternative political party candidates.

111. N.J.S.A. 19:13-4 unduly burdens and interferes with the First Amendment rights of alternative political party candidates and upon the citizens they solicit for nomination petition signatures.

112. N.J.S.A. 19:13-4 deprives Plaintiffs of their rights to equal protection and due process of law guaranteed by Article I, Paragraph 1 of the New Jersey Constitution, and of their right to free speech and free association guaranteed by Article I, Paragraphs 6 and 18 of the New Jersey Constitution.

### **RELIEF REQUESTED**

WHEREFORE, Plaintiffs demand that judgment be awarded in their favor as follows:

1. An order declaring that the State's failure to include the New Jersey Conservative Party on official party declaration forms violates the United States and New Jersey Constitutions;
2. An order enjoining Defendants to include the New Jersey Conservative Party on official party declaration forms;
3. An order enjoining Defendants to devise and promulgate appropriate procedures for certifying additional alternative political parties for inclusion on official party declaration forms and for maintaining such status;
4. An order declaring that N.J.S.A. 19:1-1 is unconstitutional as applied through N.J.S.A. 19:5-2, -4, N.J.S.A. 19:44A-10.1(a), and N.J.A.C. 19:25-20 and that Plaintiffs

must be treated as political parties for purposes of New Jersey's campaign finance and lobbying rules and regulations;

5. An order enjoining Defendants from enforcing N.J.S.A. 19:5-2, -4, N.J.S.A. 19:44A-10.1(a), or N.J.A.C. 19:25-20 against Plaintiffs as "continuing political committees";

6. An order declaring that N.J.S.A. 19:13-7 violates the United States and New Jersey Constitutions;

7. An order enjoining Defendants from enforcing N.J.S.A. 19:13-7;

8. An order declaring that N.J.S.A. 19:13-4 violates the United States and New Jersey Constitutions;

9. An order enjoining Defendants from enforcing N.J.S.A. 19:13-4;

10. An order awarding Plaintiffs the costs of suit and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988 and the New Jersey Constitution; and

11. An order directing such other and further relief as the Court may deem just and proper.

Dated: October \_\_, 2006  
Newark, New Jersey

NEW JERSEY APPLESEED PUBLIC  
INTEREST LAW CENTER

By: \_\_\_\_\_  
Renée Steinhagen

744 Broad Street, Suite 1600  
Newark, New Jersey 07102  
(973) 824-2999

EMERY CELLI BRINCKERHOFF  
& ABADY LLP

By: \_\_\_\_\_  
Richard D. Emery  
Matthew Brinckerhoff  
Eric Hecker

75 Rockefeller Plaza, 20<sup>th</sup> Floor  
New York, NY 10019  
(212) 763-5000

Attorneys for Plaintiffs



DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of R. 4:25-4, the Court is advised that Eric Hecker, Esq. and Renée Steinhagen, Esq. are hereby designated trial counsel on behalf of Plaintiffs.

Dated: October \_\_, 2006

\_\_\_\_\_  
RENEE STEINHAGEN, ESQ.

CERTIFICATION UNDER T. 4:5-1(B)(2)

I hereby certify to the best of my knowledge and as advised by Plaintiffs that no other parties should be joined in this action. After *Council of Alternative Political Parties v. State of New Jersey*, 344 N.J. Super. 225 (App. Div. 2001) was decided, the Intervenor New Jersey Republican State Committee represented to the Court that it was withdrawing as intervenor with respect to the issues then remaining in the case – issues that are now raised in this Complaint for the first time since the previous action was dismissed without any further adjudication. Similarly, the Intervenor New Jersey Democratic State Committee represented to me that it was not interested in retaining its intervenor status in an action where Plaintiffs challenged their unequal status under the campaign finance and lobbying registration and reporting laws.

I further certify that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding nor do I have knowledge of any contemplated action or arbitration proceeding.

Dated: October \_\_, 2006

\_\_\_\_\_  
RENEE STEINHAGEN, ESQ.