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LEAGUE OF WOMEN VOTERS OF
NEW JERSEY, SCOTT COLBY, ADA
DRAESEL, and HEATHER
ROBERTSON,

Plaintiffs,

v.

**SUPERIOR COURT OF
NEW JERSEY
CHANCERY DIVISION
MERCER COUNTY**

Civil Action

THE OCEAN COUNTY BOARD OF
ELECTIONS and GEORGE GILMORE,
in his capacity as Chairman of the
Ocean County Board of Elections,

Defendants.

**BRIEF IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE
WITH TEMPORARY RESTRAINTS**

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PRELIMINARY STATEMENT

On the eve of the upcoming election, the Ocean County Board of Elections sent letters to a targeted group of Bay Head voters, threatening to disenfranchise them if they did not comply with a series of invasive and onerous tasks. The list of targeted voters was compiled not by county election officials, but by Dennis Shaning, the President of the Bay Head Republican Party. Shaning purportedly identified voters who receive their tax bills at mailing addresses outside of Bay Head, removed all registered Republicans from the list, and forwarded the list to the Ocean County Board of Elections, noting that he felt the voters should not be casting ballots in Bay Head. George Gilmore, chair of the Ocean County Board of Elections, acted on the list right away—never mind that it targeted only Democrats and unaffiliated voters and never mind that a tax bill mailed to an address other than where the voter is registered cannot invalidate that voter’s residency for voting purposes. Gilmore’s letter to those voters requires them to jump through several hoops, including completing an extensive “Domicile Questionnaire,” or else face a challenge to their right to vote. Even those who complete the questionnaire are required to appear in person at a public meeting of the Board of Elections to defend their voting rights.

This targeted mass voter challenge process constitutes prohibited voter intimidation, in violation of the recently enacted John R. Lewis Voter

Empowerment Act of New Jersey (“NJVEA”), and offends both the equal protection guarantee and the right to vote enshrined in the New Jersey Constitution. Plaintiffs the League of Women Voters of New Jersey and three individual voters are seeking temporary restraints to halt the unlawful process. If the Court does not act, Defendants’ scheme stands to become a blueprint for abusing challenge laws to silence or chill disfavored voters on baseless grounds.

The NJVEA’s anti-intimidation provision—effective as of August 15, 2026—proscribes threats and conduct that could cause voters to refrain from participating in the democratic process. Defendants’ actions are a paradigmatic example. The Board’s letters not only directly threatened to disenfranchise the recipients, but, in saddling them with arduous administrative obligations and inducing them to appear in public to justify their eligibility, the letters communicated that the recipients were under intense legal scrutiny and that their rights were in peril. A reasonable voter might well choose to opt out to avoid the overt and implied risks. This type of coercion is inimical to a functioning democracy.

The Board’s conduct is also discriminatory. The New Jersey Supreme Court’s landmark *Worden* decision confirms that subjecting certain voters “as a class to questioning beyond all other applicants” is unconstitutional. 61 N.J. 325, 348 (1972). That is exactly what the Board did here. It subjected Democratic

and unaffiliated voters who receive their tax bills at mailing addresses outside of Bay Head to a gauntlet of questions to justify their registration under threat of disenfranchisement. Similarly situated Republicans were entirely spared.

As well they should be: Subjecting voters to the severe burdens the Board imposed here, mere weeks before a major election, violates the state constitutional right to vote. This would be true even if the Board applied the burdens uniformly to voters of all political associations. The Board has demanded that the targeted voters in short order complete a questionnaire with sixteen numbered questions encompassing over thirty distinct requests for personal information, including four requests for documentation. It has also asked voters to attend a meeting in the middle of the workday to provide additional information for the Board's consideration. Otherwise, the Board has warned, the voters could lose their right to vote. These burdens serve no legitimate governmental interest, because the fact that the targeted voters allegedly receive their tax bills at addresses that differ from their registered voting addresses is an utterly benign fact and spurious basis for challenging a voter's eligibility.

This Court should issue appropriate restraints to preserve the status quo and protect the rights of Bay Head voters.

FACTUAL BACKGROUND

I. Ocean County officials imposed onerous and unnecessary burdens on targeted voters that threaten to deter them from voting in the upcoming election.

Between August 21 and September 1, 2026, Dennis J. Shaning, president of the Bay Head borough council and president of the Bay Head GOP, sent a letter to the Ocean County Board of Elections and its chairman, George Gilmore (hereinafter, the “Shaning Letter”). *See* Ex. A. The letter was printed on the Bay Head GOP’s official letterhead, and it listed both of his titles—“Bay Head Council President” and “Bay Head GOP President”—under his signature. *Id.*

The Shaning Letter asserted that 39 unaffiliated and Democratic registered voters in Bay Head—listed in a table appended to the letter, *see* Ex. A at 2—“should not be voting in Bay Head.” *Id.* at 1. The only evidence provided for this assertion was that “these individuals have their tax bills [] sent to addresses outside of Bay Head.” *Id.* Shaning requested that the Board “look[] into this matter and remov[e] any individuals not found to be eligible to vote in Bay Head removed from the voter rolls here.” *Id.*

The table attached to the Shaning Letter exclusively listed Democrats and unaffiliated voters. *Id.* at 2. Presumably, Shaning had omitted all Republicans.

Gilmore—the chair of both the Ocean County Board of Elections and the Ocean County Republican Party—later publicly called this targeting “unsurprising.”¹

Shortly after receiving the Shaning Letter, Gilmore sent out letters on behalf of the Ocean County Board of Elections, on or around September 15, 2026, to the voters Shaning identified (hereinafter, the “Gilmore Letters”). Ex. B. The letters state that “[a] question has arisen regarding your domicile or residence as it relates to your right to vote in Ocean County.” *Id.* The letters threaten recipients—including Voter Plaintiffs—with disenfranchisement if they cannot prove to the satisfaction of the Ocean County Board of Elections that they are eligible to vote in Bay Head, despite already being registered to vote in Bay Head. *Id.*

The Gilmore Letters impose several burdens on the targeted voters. The Gilmore Letters instructed the voters that to preserve their right to vote they must: (1) establish their legal domicile by completing a “Domicile Questionnaire,” containing over two-dozen questions and demands, by September 30; (2) confirm their attendance at an upcoming meeting of the Board

¹ Dana DiFilippo, *Civil Liberties Group Clashes with GOP Election Chief over Voter Challenge*, N.J. Monitor (Sep. 29, 2026, at 17:58 ET), <https://newjerseymonitor.com/2026/09/29/ocean-county-gop-election-challenge/> [<https://perma.cc/9PMW-4GCF>].

of Elections by October 9; and (3) attend a public meeting on October 13 to prove their eligibility.²

The Domicile Questionnaire demands that voters provide a copy of their latest state and federal tax returns. Ex. C. It demands voters provide a copy of their latest homestead tax rebate form. *Id.* It demands voters provide the address listed on their boat registration. *Id.* It demands voters provide the names and addresses of the schools each of their children has attended. *Id.* And it makes dozens of other requests for sensitive or personal information. *Id.* All the while, the Gilmore Letters afford each voter approximately two weeks to answer each request in writing, provide documentation, and mail the Questionnaire back to the Board of Elections. Ex. B.

The Gilmore Letters then state that the Board “will review your Domicile Questionnaire, submitted documents and written statements to determine your eligibility to vote in Ocean County” at a meeting scheduled on October 13, 2026. *Id.* They further ask recipients “to attend this meeting and provide any additional information for their consideration,” and to confirm such attendance or intention to participate by phone by October 9, 2026. Otherwise, the Board’s

² The Board’s meeting is statutorily required to be “open and public.” N.J.S.A. 19:6-28. Notably, October 13, 2026 is the deadline to register to vote for the November 2026 election in New Jersey. *See* N.J.S.A. 19:31-6.3.

letter warns, the recipients’ “right to vote may be challenged for the November 3, 2026 General Election and future elections.” Gilmore has publicly stated that the Board of Elections is prepared to make recipients of his letters cast provisional ballots, which require further verification before they are counted and may be rejected if the Board determines that the voter is not entitled to vote. *See* N.J.S.A. 19:53C-13.³

Finally, the Gilmore Letters provide recipients with an easy way out of this onerous process: simply forfeiting their right to vote in Bay Head. Instead of completing the 30-part Domicile Questionnaire and attending the October 13 meeting, recipients are provided with a Letter of Removal in order “to be removed as a registered voter in Ocean County.” Ex. D.

II. Plaintiffs are harmed by the Board’s demanding and intimidating eleventh-hour process.

Plaintiffs are three registered Bay Head voters who were listed in the Shaning Letter, and the League of Women Voters of New Jersey.

Scott Colby is a full-time resident of and lawfully registered voter in Bay Head, New Jersey—the town where he grew up, went to school, and met his wife. Ex. F (Certification of Scott Colby (“Colby Cert.”)) ¶¶ 3–4. After moving

³ Lia Opperman, *Jersey Shore Voter Challenge Unfairly Targeted Democrats and Independents, ACLU Says*, NJ.com (Oct. 3, 2026, at 8:47 ET), <https://www.nj.com/news/2026/10/jersey-shore-voter-challenge-unfairly-targeted-democrats-and-independents-aclu-says.html>.

to Madison, New Jersey for several years, he and his wife returned to Bay Head full-time late last year to begin their retirement. *Id.* ¶ 5. They made their Bay Head home their official residence and have updated the address associated with their tax filings, drivers licenses, bank accounts, insurance policies, and voter registration cards accordingly. *Id.* ¶¶ 6–7.

When Mr. Colby and his wife first received the Gilmore Letters, they were simultaneously dismayed and indignant; they could not believe anyone was questioning the depth of their connection to Bay Head. *Id.* ¶ 10. Nevertheless, driven by a determination to vote on November 3, 2026, they both went through the process of completing the Domicile Questionnaire. *Id.* ¶¶ 11–12. Mr. Colby felt uncomfortable handing his tax returns over to the Board of Elections and had to devise a way to redact his returns before submitting them to the Board. *Id.* ¶ 13.

Despite completing the Domicile Questionnaire and planning to attend the October 13, 2026 meeting, *id.* ¶¶ 12, 14, Mr. Colby remains uncertain that he will be allowed to vote in the November general election, *id.* ¶ 15. Mr. Colby also knows personally other recipients of the Gilmore Letters who either do not have the time to comply with its demands, *id.* ¶ 16, or who are now too fearful to even attempt to vote in the upcoming November election, *id.* ¶ 17.

Ada Draesel is an 84-year-old full-time resident of and lawfully registered voter in Bay Head, New Jersey. Ex. G (Certification of Ada Draesel (“Draesel Cert.”)) ¶¶ 3–4. She has owned a home in Bay Head for 53 years and lived full-time in Bay Head for nearly 25 years. *Id.* ¶ 5. During this time, she has become deeply embedded in the community, particularly through her involvement at All Saints Bay Head church. *Id.* ¶ 6. Ms. Draesel’s tax forms are delivered to her daughter and son-in-law’s home in Concord, Massachusetts because they help her manage her finances. *Id.* ¶ 7.

When Ms. Draesel first received the Gilmore Letters, she was “confused and nervous.” *Id.* ¶ 9. Unable to understand the Board’s demands and overwhelmed by the number of forms and document requests, she handed the letter and the Domicile Questionnaire to her son-in-law. *Id.* ¶¶ 9–10. She felt she could not complete the required tasks herself. *Id.* Ms. Draesel is also unable to attend the Board’s meeting on October 13. *Id.* ¶ 11.

In the time since initially receiving the Board’s letter, Ms. Draesel has received another half dozen or so copies of the same materials in the mail. *Id.* ¶ 13. She feels like she is being “harassed.” *Id.* Moreover, on October 6, 2026, Ms. Draesel received a call from the Ocean County Board of Elections asking her for personal information. *Id.* ¶ 14. Ms. Draesel felt “uneasy” about this call and decided she would “not ... pick up if they call again.” *Id.* While Ms. Draesel

deeply values her right to vote in Bay Head, where she has voted for decades, *id.* ¶ 15, she believes her ability to exercise her franchise this coming November is now at risk. *Id.* ¶¶ 12, 15.

Heather Robertson is a 57-year-old full-time resident of and lawfully registered voter in Bay Head, New Jersey. Ex. H (Certification of Heather Robertson (“Robertson Cert.”)) ¶ 3. She has lived in Bay Head for 24 years. *Id.* ¶ 4. Ms. Robertson is deeply involved in the Bay Head community and has served on both the town’s planning board and environmental commission. *Id.* ¶ 6. She also owns a small business in town. *Id.* ¶ 7.

When Ms. Robertson first received the Board’s letter, she was taken aback. *Id.* ¶ 14. She found the language of the letter, which did not make clear the basis upon which her eligibility was being challenged, very aggressive. *Id.*

Ms. Robertson is passionate about voting in Bay Head. *Id.* ¶ 11. She chose to complete the Board’s Domicile Questionnaire out of fear that she could lose her right to vote if she did not. *Id.* ¶ 15. She searched through troves of documents, and copied them to submit to the Board. *Id.* ¶¶ 16–17. She even copied her dog’s prescriptions to prove to the Board that Bay Head is her home. *Id.* ¶ 18.

Ms. Robertson plans to go to her polling location on November 3, 2026 but still fears that she might not be able to vote and may be forced to vote on a

provisional ballot. *Id.* ¶ 21. She has seen other people forced to vote provisionally before and is not sure whether their votes are actually counted. *Id.* She perceives the process for voting provisionally to be more burdensome than the normal voting process. *Id.*

While Ms. Robertson is not affiliated with any political party, she personally knows similarly situated Republicans in Bay Head who have their tax bills sent to other towns but did not receive the Gilmore Letters. *Id.* ¶ 23.

The League of Women Voters of New Jersey (“LWVNJ” or the “League”) is a nonpartisan statewide non-profit organization that was founded in Newark in April 1920. Ex. E (Certification of Jessica Burns (“Burns Cert.”)) ¶ 5. The League and its 1,597 members are “dedicated to helping the people of New Jersey exercise their right to vote as protected by the law.” *Id.* ¶¶ 6–7. Its mission is to ensure voting access, empower voters, and defend democracy. *Id.* ¶ 8. During every election cycle, the League offers nonpartisan voter registration assistance at naturalization ceremonies, conducts voter-registration drives, educates incarcerated and formerly incarcerated individuals about their voting rights, and works with high schools and universities to register young voters. *Id.*

The League’s voter engagement efforts can only be successful if eligible New Jerseyans trust that they will not be improperly challenged or

disenfranchised. *Id.* ¶ 9. Their work is also inhibited by voter confusion, as well as burdensome and complex voting and registration procedures. *Id.* ¶¶ 10–11.

The League believes that, “[i]f the Ocean County Board of Election’s public challenge process is allowed to go forward, election officials and private actors across the state will see a green light to engage in similar tactics to dissuade or prevent voters from registering or casting ballots based on their party affiliation or other reasons.” *Id.* ¶ 12. Additionally, the League believes that its members who receive their tax bills at addresses separate from their registered addresses, or who have political affiliations that don’t align with views that predominate among local officials, will be particularly chilled. *Id.* ¶13.

For each of these reasons, “[t]hese members, and indeed all LWVNJ members, have reason to fear violations of their voting rights if the challenge process is not stopped.” *Id.*

LEGAL STANDARD

Temporary and preliminary relief is appropriate where the moving party establishes: “(1) a likelihood of success on the merits; (2) irreparable harm; (3) a showing that on balance the harm to the moving party is greater than the harm to the party to be restrained; and (4) the public interest will not be harmed.” *In re Newark*, 469 N.J. Super 366, 387 (App. Div. 2021) (summarizing traditional factors originating in *Crowe v. De Gioia*, 90 N.J. 126, 132–36 (1982)). Courts

take a less rigid view of the *Crowe* factors when injunctive relief is “designed to preserve the status quo.” *Waste Mgmt. of N.J., Inc. v. Morris Cnty. Mun. Utils. Auth.*, 433 N.J. Super. 445, 453 (App. Div. 2013) (quotation omitted). Courts also “recognize[] the important role the public interest plays when [it is] implicated” and have held that, “in the exercise of their equitable powers, courts may, and frequently do, go much farther both to give and withhold relief in furtherance of the public interest than they are accustomed to go when only private interests are involved.” *Id.* at 454 (citation modified).

Broadly, “[t]he power to impose restraints pending the disposition of a claim on its merits is flexible; it should be exercised ‘whenever necessary to subserve the ends of justice[.]’” *Id.* at 453 (quoting *Christiansen v. Loc. 680 of Milk Drivers & Dairy Emps. of N.J.*, 127 N.J. Eq. 215, 219 (1940)). Justice demands the temporary restraints sought here to preserve the status quo and protect the rights of Bay Head voters.

ARGUMENT

Plaintiffs are likely to succeed on their claims. Defendants’ actions against unaffiliated and Democratic registered voters in Bay Head, New Jersey, mere weeks before a major election, threaten to discourage them from taking part in the November 2026 general election. Moreover, that Defendants’ actions here target unaffiliated and Democratic voters, and impose upon them onerous

burdens not imposed on others, violates the constitutional guarantee of equal protection. Finally, Defendants’ actions on their own terms place an undue and unjustified burden on the fundamental right to vote. Because Plaintiffs will suffer irreparable harm absent temporary restraints, and the balance of equities and the public interest both favor granting relief, the Court should order that relief before Defendants deprive voters of their opportunity to participate in the upcoming election.

I. Plaintiffs are likely to succeed on their claim that the Defendants engaged in voter intimidation in violation of the NJVEA.

Enacted in July 2026, the John R. Lewis Voter Empowerment Act of New Jersey aims to “encourage participation in the elective franchise by all eligible voters to the maximum extent.” *See* A. 1715 (2026) (“NJVEA”), § 2(a)(1).⁴ Correspondingly, the NJVEA forbids “intimidation, deception, violence or restraint, or obstruction that affects the right of voters to vote.” *Id.* § 15(a). And the NJVEA prohibits any person from “inflict[ing] or threaten[ing] to inflict any injury, damage, harm or loss, or in any other manner practices intimidation that causes or will reasonably have the effect of causing any person to vote or refrain

⁴ Although the NJVEA was enacted in July 2026, and most of its provisions are effective as of August 2026, including the provisions relevant here, it has not yet been codified in the New Jersey Statutes. Thus, Plaintiffs reference the final text of the Act itself. For the Court’s convenience, Plaintiffs reproduce the text of cited provisions in their Complaint filed herewith.

from voting in general or for or against any particular person.” *Id.* § 15(b)(1).⁵

Defendants’ actions here violate that prohibition.

Intimidating threats “need not be one of violence or bodily harm,” and may include, “[f]or example, threats of economic harm, legal action, dissemination of personal information, and surveillance . . . depending on the circumstances.” *Nat’l Coal. on Black Civic Participation v. Wohl*, 498 F. Supp. 3d 457, 477 (S.D.N.Y. 2020) (interpreting 52 U.S.C. § 10307(b)).⁶ Thus, in the context of the NJVEA’s anti-intimidation provision, “threats and intimidation include messages that a reasonable recipient familiar with the context of the message would interpret as a threat of injury tending to deter individuals from exercising their voting rights.” *Id.*

The Gilmore Letters do exactly that, “threaten[ing] to inflict . . . loss” by warning voters that failure to sufficiently comply with the Board’s extensive

⁵ The NJVEA, like all New Jersey statutes, is to be construed liberally “in favor of the enfranchisement of voters.” *Afran v. County of Somerset*, 244 N.J. Super. 229, 232 (App. Div. 1990); *see also* NJVEA § 2(b) (providing that “any provision of State law . . . shall be construed liberally in favor of . . . protecting the right to cast a [valid] ballot,” ensuring eligible voters “are not impaired in being registered” to vote, preventing “unlawful discrimination in voting,” and “making the fundamental right to vote more accessible to eligible voters”).

⁶ Although the NJVEA provides broader protections, the analogous anti-intimidation provision in the federal Voting Rights Act may provide instructive guidance. *Cf. Dixon v. Rutgers*, 110 N.J. 432, 442 (1988) (drawing upon “standards developed under related federal anti-discrimination provisions in Title VII of the Civil Rights Act of 1964” to interpret state anti-discrimination law).

demands may endanger their right to vote in “the November 3, 2026 General Election and future elections.” Ex. B. The sum of Defendants’ demands and threats—including, the substantial procedural burden imposed on voters, the high risk of public exposure, and a reasonable fear of legal consequences—could reasonably deter a voter from exercising their right to vote. *See Wohl*, 498 F. Supp. 3d at 477.

Courts have recognized that reasonable “[v]oters might be intimidated, confused, or even discouraged from voting upon receiving notice that their right to vote . . . has been challenged.” *Democratic Nat’l Comm. v. Republican Nat’l Comm.*, 671 F. Supp. 2d 575, 611 (D.N.J. 2009) (“*DNC v. RNC*”) (quoting *Mont. Democratic Party v. Eaton*, 581 F. Supp. 2d 1077, 1079 (D. Mont. 2008)), *aff’d*, 673 F.3d 192 (3d Cir. 2012); *see also Democratic Nat’l Comm. v. Republican Nat’l Comm.*, No. 18-1215, 2019 WL 117555, at *1 (3d Cir. Jan. 7, 2019) (recognizing history of partisan voter intimidation in New Jersey). And unlike in *DNC v. RNC*, where the court identified the intimidating effects of private partisan actors in individual elections, *id.* at 580, the Gilmore Letters threaten a “challeng[e]” to the “right to vote . . . for . . . future elections” as well. Ex. B; *cf. Nat’l Rifle Ass’n of Am. v. Vullo*, 602 U.S. 175, 189–91 (2024) (recognizing that “word choice and tone; [] the existence of regulatory authority;” perceptions

of “threat”; and, reference “to adverse consequences” may render government speech an unconstitutional coercive threat).

A confluence of factors here aggravates the seriousness of Defendants’ threats: Defendants’ demands come through an official governmental medium. *See* Ex. B (warning of loss of voting rights on county letterhead and requesting recipients attend formal Board meeting to defend voting rights); *cf.* *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 62, 64 (1963) (finding notices on official stationery coercive despite language thanking the recipient). Defendants’ formal statutory role, which the Gilmore Letters invoke, positions them to follow through on the threat. *See* Ex. B (invoking Board’s “capacity as the County’s Commissioner of Registration”); *cf.* N.J.S.A. 19:31-2 (providing duties for commissioner of registration). Finally, the stakes for each recipient could not be higher, as Defendants’ demands implicate their right to vote in Bay Head for the upcoming election *and* all future elections. *See* Ex. B (warning of challenge to right to vote for “future elections” and characterizing matter as “extremely significant”); *see also N.J. Democratic Party, Inc. v. Samson*, 175 N.J. 178, 187 (2002) (quoting *Gangemi v. Rosengard*, 44 N.J. 166, 170 (1965)) (“[T]he right to vote . . . is the citizen’s sword and shield . . . [and] the keystone of a truly democratic society.” (quotations omitted)).

Although framed in conditional terms, the Gilmore Letters hardly offer recipients any meaningful options. Recipients could comply partially or refuse entirely, and thus risk challenges to their right to vote, *see* Ex. B; comply fully with the Board’s excessive demands, including by completing the Domicile Questionnaire and attending the Board’s meeting, and hope they are still permitted to vote, *see* Exs. B–C; or, they could affirmatively forfeit their right to vote by completing a “Letter of Removal.” Ex. B; *see also* Ex. D; *cf. United States v. Kosma*, 951 F.2d 549, 554 n.8 (3d Cir. 1991) (recognizing that “conditional [threats] could still be considered true threats”). In all instances, even the most diligent voter is forced to weigh equally harsh options, all of which could reasonably cause them to refrain from voting.

Voter Plaintiffs’ sworn statements bear out the intimidating nature of Defendants’ actions here. Mr. Colby felt as though he had “no choice” but to comply with the burdensome Domicile Questionnaire and attend the Board’s public meeting; otherwise, he did not trust that he would be allowed to vote in the upcoming election. Colby Cert. ¶¶ 11, 14; *see also id.* ¶ 16 (explaining that other recipients “feel forced to effectively forfeit their right to vote this November”). And despite attempting to comply, he still fears that additional hurdles may be placed before him if he tries to vote in the upcoming election. *Id.* ¶ 15. Ms. Draesel remains “confused and nervous,” entirely unsure whether

her right to vote has been or will be forfeited because she cannot attend the Board’s meeting and could not comply with the questionnaire on her own. Draesel Cert. ¶¶ 9, 11-12. Finally, Ms. Robertson was taken aback by the “aggressive” language of the Gilmore Letters and, despite attempting to comprehensively comply with the Board’s demands, she worries she will face additional barriers when attempting to vote in the upcoming election this November. Robertson Cert. ¶¶ 14, 21. Of course, those voters most intimidated by the Gilmore Letters are also those least likely to participate in a public lawsuit against Defendants, *see also* Colby Cert. ¶ 17; Voter Plaintiffs’ bravery in stepping forward does not diminish the intimidating nature of Defendants’ conduct.

Finally, the Gilmore Letters do not place voters in this position in a vacuum. Instead, this comes amid a national and local environment rife with heated claims about alleged voter fraud.⁷ And the Gilmore Letters are vague and menacing; they do not specify why “[a] question has arisen” as to the recipients’ eligibility but emphasize the “extremely significant” nature of the inquiry. *See* Ex. B. A reasonable voter might fear that they had or could become the target

⁷ *See, e.g.*, Shannon Bond, Jenna McLaughlin & Audrey Nguyen, *In Primetime Speech, Trump Doesn’t Provide Evidence for Illegal Voting*, NPR (July 16, 2026, at 23:43 ET), <https://www.npr.org/2026/07/16/nx-s1-5896448/trump-election-address> [<https://perma.cc/HE29-T28D>].

of a criminal investigation, however unjustified. Even a voter with complete confidence that they had not broken the law could interpret the letter as threatening some form of legal jeopardy based on manufactured, misinformed, or otherwise baseless allegations. *See DNC v. RNC*, 671 F. Supp. 2d at 611 (quoting *Eaton*, 581 F. Supp. 2d at 1079). (“One can imagine the mischief an immature political operative could inject into an election cycle were he to use the statutes not for their intended purpose of protecting the integrity of the people’s democracy, but rather to execute a tawdry partisan ploy.”). Here, the Court must protect the integrity of elections in Ocean County and enforce the statutory protections of the NJVEA against Defendants’ threatening demands to eligible Bay Head voters.

II. Plaintiffs are likely to succeed on their state constitutional claims.

A. Defendants’ actions discriminate against the targeted voters in violation of their equal protection rights.

The New Jersey Supreme Court has construed the “expansive language” of Article I, Paragraph 1 of the State Constitution as embracing the “fundamental guarantee” that “every person shall be entitled to the equal protection of the laws.” *Lewis v. Harris*, 188 N.J. 415, 442 (2006). Correspondingly, the Constitution prohibits “injustice and . . . the unequal treatment of those who should be treated alike.” *Id.* (quoting *Greenberg v. Kimmelman*, 99 N.J. 552, 568 (1985)). In many instances, New Jersey courts have construed Article I’s

guarantee of equal protection “more expansively” than its “federal counterpart.” *UAW v. N.J. Governor Philip Murphy*, 483 N.J. Super. 414, 442 (App. Div. 2026) (collecting cases). This follows from New Jersey’s “robust tradition of at times affording greater independent constitutional protection to persons in this State and not analyzing state constitutional claims in ‘lockstep’ with federal precedents.” *Id.* (collecting cases).

When a practice challenged on equal protection grounds does not “apply evenhandedly to similarly situated people,” New Jersey courts apply a test which “involves the weighing of three factors: the nature of the right at stake, the extent to which the challenged statutory scheme restricts that right, and the public need for the statutory restriction.” *Lewis*, 188 N.J. at 443. Under this approach, each equal protection claim “is examined ‘on a continuum that reflects the nature of the burdened right and the importance of the governmental restriction.’” *Id.* (quoting *Sojourner A. v. N.J. Dep’t. of Hum. Servs.*, 177 N.J. 318, 333 (2003)). As such, “the more personal the right, the greater the public need must be to justify governmental interference with the exercise of that right.” *Lewis*, 188 N.J. at 443 (quoting *George Harms Constr. Co. v. N.J. Tpk. Auth.*, 137 N.J. 8, 29 (1994)).

The right to vote is fundamental and unquestionably personal. The New Jersey Constitution enshrines an affirmative right to vote. *N.J. Const.* art. II, § 1,

¶ 3(a). Indeed, it devotes an entire article to elections and suffrage. *See generally* N.J. Const. art. II. In view of the “exalted position” the right to vote occupies in our state constitution, *In re Att’y Gen.’s “Directive on Exit Polling: Media & Non-Partisan Pub. Int. Grps.”*, issued July 18, 2007 (A–47–08), 200 N.J. 283, 302 (2009), the New Jersey Supreme Court has recognized that burdens on that right must satisfy the most exacting form of scrutiny. Adopting the standard “in its broadest aspects,” the New Jersey Supreme Court stated in its landmark *Worden v. Mercer County Board of Elections* decision that voting restrictions “must be stricken unless a compelling state interest to justify the restriction is shown.” 61 N.J. 325, 346, 294 A.2d 244 (1972); *see In re Absentee Ballots Cast by Five Residents of Trenton Psychiatric Hosp.*, 331 N.J. Super. 31, 38 (App. Div. 2000) (“As with all fundamental rights, there can be no interference with an individual’s right to vote” unless the interference can withstand strict scrutiny review).

In *Worden*, the New Jersey Supreme Court deemed it unconstitutional to put obstacles in the way of some voters while sparing similarly situated others. 61 N.J. at 348. There, college students living on campus and seeking to register to vote in their college communities were “subjected as a class to questioning beyond all other applicants, including applicants who were freely registered though their situations indicated that they were comparably short[-]term

residents of their communities.” *Id.* The Court held that, in conducting this selective questioning, Mercer County election officials “improperly discriminated against” the students. *Id.* The injury called for “broad judicial relief.” *Id.*

The voters here have suffered this type of discrimination twice over. Not only were they singled out for receiving their tax bills at a mailing address outside Bay Head, but they were further targeted for being registered as Democrats or unaffiliated. *See* Ex. A. For both arbitrary reasons, they face “questioning beyond all other applicants.” If they did not use different addresses for their tax bills, or if they used different addresses for their tax bills but happened to be Republicans, Defendant would not require them to jump through burdensome administrative hoops to justify their Bay Head registration under threat of disenfranchisement.

There is no public need for this kind of discrimination. For one, domicile is an “expansive concept” that is construed “broadly and flexibly” for purposes of voting, *In re Kriso*, 276 N.J. Super. 337, 341 (App. Div. 1994), and “part-time residency and other continuing, substantial connections” are “sufficient . . . for the purpose of voting,” *id.* When a person has more than one residence, “he, and he alone, can decide” where his political “interests” are more important to him, and there is no basis for the State to “decide for any voter that he ought to

vote from one abode rather than another.” *Worden*, 61 N.J. at 349–50, 294 A.2d 928 (Weintraub, C.J., concurring). The voter registration process, which requires registrants to provide their home address and swear to its accuracy, is sufficient to ensure that voters cast ballots only where they are eligible. *See* N.J.S.A. 19:31-6.4. And, of course, there is no basis to subject Democratic and unaffiliated voters to greater suspicion and scrutiny than Republican voters. This type of disparate treatment can only be the product of improper political motives.

A decision by the Ninth Circuit presents a striking parallel, finding a similar voter challenge process unconstitutional under the federal constitutional equal protection clause. In *Charfauros v. Bd. of Elections*, fifteen working days before an election, the President of the Democratic Party of Rota (part of the Northern Mariana Islands) wrote to the Board of Elections to challenge the voting qualifications of approximately twenty registered Republicans on the basis that they did not, according to the Democratic Party President, have a bona fide residence on Rota. 249 F.3d 941, 945 (9th Cir. 2001). The Board relied “almost exclusively on the testimony of . . . the President of the Democratic Party.” *Id.* at 953. In fact, in response to the Democratic Party President’s letter, the Board of Elections “changed the rules of the game in midstream by implementing a new procedure for hearing and adjudicating pre-election voter

eligibility challenges.” *Id.* at 945. The Board proceeded to send letters informing targeted voters that their eligibility was in question and that a hearing would be held to determine their eligibility shortly before the election. *Id.*

The Ninth Circuit held that the voter challenge process violated the fundamental right to vote and equal protection guarantees under the U.S. Constitution. *See id.* at 953. According to the Ninth Circuit, the Board’s actions created two classes of voters—Democrats and Republicans—and treated the two classes differently. *Id.* at 945. After the Democratic Party President’s initial challenges, the Rota Board of Elections also allowed the Republican Party to submit challenges to the qualifications of Democratic voters. *Id.* Even so, the Democratic Party President’s challenges to the eligibility of Republican voters were considered and acted on by the Board *before* the election, and the Republican Party’s challenges to the eligibility of Democratic voters were considered *after* the election. *Id.* The Court determined that “the means chosen to protect the state’s compelling interest of ensuring all voters were bona fide Rota residents were neither necessary nor narrowly tailored[.]” *Id.* at 953.

This Court should apply the same sound reasoning here and hold that Defendants’ conduct unconstitutionally discriminated against the targeted voters in violation of the New Jersey Constitution’s guarantee of equal protection.

B. Defendants’ actions impose an undue burden on targeted voters’ fundamental right to vote.

The right to vote is “precious and fundamental.” *Worden*, 61 N.J. at 346. “[T]he exercise of th[is] basic right of suffrage . . . [is] of the very essence of our democratic process,” *Gangemi v. Berry*, 25 N.J. 1, 12 (1957), and “the bedrock upon which the entire structure of our system of government rests,” *Afran*, 244 N.J. Super. at 232. Correspondingly, the New Jersey Constitution guarantees the right to vote to “[e]very citizen of the United States, of the age of 18 years, who shall have been a resident of this State and of the county in which he claims his vote.” *N.J. Const.* art. II, § I, ¶ 3(a). And New Jersey courts “carefully and meticulously scrutinize[] efforts to restrict it.” *Worden*, 61 N.J. at 346.

The right to vote’s prominent and positive articulation in our state constitution also underpins a singularly robust “democracy canon” of statutory construction, which requires courts to construe laws liberally to effectuate the overriding public policy in favor of voter enfranchisement. *See Afran*, 244 N.J. Super. at 232-35 (interpreting durational residency requirements to permit a voter who moves within 30 days of an election to vote provisionally in the last district where they were registered because “the State Constitution speaks to enfranchisement, not disenfranchisement”). “This canon of construction is indeed so critical to the preservation of our democratic institutions that it has

been applied to the state constitution itself.” *Id.* at 232 (citing *Gangemi v. Berry*, 25 N.J. at 12). As a result, “the evolution of the organic law of this State has taken an undeviating path towards liberalization of the voting right.” *Id.*

Thus, New Jersey courts have long recognized that “there can be no interference with an individual’s right to vote, ‘unless a compelling state interest to justify the restriction is shown.’” *In re Absentee Ballots Cast by Five Residents of Trenton Psychiatric Hosp.*, 331 N.J. Super. at 38 (quoting *Worden*, 61 N.J. at 346). Where a burden on the right to vote operates differently against “similarly situated citizens,” *Rutgers Univ. Student Assembly v. Middlesex Cnty. Bd. of Elections*, 446 N.J. Super. 221, 234 (App. Div. 2016) (citing *Worden*, 61 N.J. at 348), or directly interferes with voters’ “ability to exercise their right to vote,” *In re Malinowski*, 481 N.J. Super. 128, 150 (App. Div. 2025) (citing *Worden*, 61 N.J. at 346-48), the state interest justifying the burden must be exceedingly persuasive.

The burden imposed on the voting rights of recipients of the Gilmore Letters is severe. To defend their franchise in the upcoming November 3, 2026 general election, these otherwise eligible and registered Bay Head voters must: (1) complete by September 30, 2026 the 30-part Domicile Questionnaire, including 4 document requests; (2) confirm by October 9, 2026 their attendance at the Board’s October 13, 2026 meeting; and (3) attend that public meeting on

October 13, 2026 to defend their right to vote in person to the Board’s satisfaction. *See* Ex. B. Completing the Domicile Questionnaire requires significant time and effort, including: searching through and copying personal documents, *see, e.g.*, Robertson Cert. ¶¶ 16–17, and navigating how to balance satisfying the Board’s demands with one’s own privacy concerns, *see, e.g.*, Colby Cert. ¶ 13. Then, attending the Board’s meeting on October 13 imposes a burden, particularly because the meeting is scheduled for the early afternoon on a workday, *see, e.g.*, Robertson Cert. ¶ 22, and may conflict with existing and immovable plans, *see, e.g.*, Draesel Cert. ¶ 11. Failure to sufficiently comply with the Board’s demands, however, risks depriving Voter Plaintiffs, as well as other recipients of the Gilmore Letters, of the opportunity to vote in the upcoming November 2026 election.

The targeted voters’ progress toward completing these requirements proves their burdensome nature. By the deadline on September 30, 2026, only 13 voters had returned completed Domicile Questionnaires; Defendants had sent the Domicile Questionnaires to more than three dozen voters.⁸ Many were likely unable respond due to confusion, *see, e.g.*, Draesel Cert. ¶ 9 (“I was totally

⁸ Steve Janowski, *ACLU-NJ Threatens Lawsuit over Ocean County Voter Challenges*, Jersey Vindicator (Sept. 30, 2026), <https://jerseyvindicator.org/2026/09/30/aclu-nj-threatens-lawsuit-over-ocean-county-voter-challenges/> [<https://perma.cc/P5D5-7Y66>].

dumbfounded. I had no idea what it meant. I remember there were a lot of documents and forms. I was confused and nervous”), employment-related obligations, or other personal responsibilities, *see* Colby Cert. ¶ 17. *See also* *Fish v. Schwab*, 957 F.3d 1105, 1131 n.8 (10th Cir. 2020) (finding bureaucratic process that is so “onerous” as to “lead would-be voters to give up” constituted a “significant burden on the right to vote” (quoting *League of Women Voters of the U.S. v. Newby*, 838 F.3d 1, 13 (D.C. Cir. 2016))).

The timing of the Board’s actions augments the burden they pose. Pursuant to the Gilmore Letters, voters who failed to return their Domicile Questionnaires or who fail to adequately defend their right to vote to the satisfaction of the Board at the meeting on October 13, 2026 face potential removal from Ocean County’s voter rolls. *See* Ex. B. Because New Jersey’s voter registration deadline for the November 3, 2026 general election coincides with the date of the Board’s meeting (i.e., October 13, 2026), *see* N.J.S.A. 19:31-6.3, voters removed in this manner are likely to be unable to re-register to vote in *any* New Jersey county for the November 2026 general election. Such voters are thus likely to effectively lose their ability to exercise their right to vote altogether in the upcoming November election—the ultimate burden on the right to vote. Thus, even if the procedures mandated by the Board were only marginally burdensome in isolation, the timing of their implementation here

renders the magnitude of the burden they pose exceedingly severe. *See Afran*, 244 N.J. Super. at 236 (holding that, while “a voter who moves can certainly be required to re-register whether he moves within or without the same county,” voters “cannot be required to re-register as a condition of continuing to exercise his franchise rights during that period of time in which registration is ineffective to secure those rights”).

Imposing this severe burden on the targeted voters’ rights serves no legitimate governmental interest, including any purported interest in “preventing fraudulent voting.” *Worden*, 61 N.J. at 346. The mailing address of a voter’s tax bill represents a spurious basis upon which to challenge a voter’s eligibility. Legally, the concept of voting domicile in New Jersey is “expansive.” *In re Kriso*, 276 N.J. Super at 341. It expressly contemplates that a voter’s domicile may differ from his tax registration address. *See In re Nov. 2, 2010 Gen. Election for Off. of Mayor in Borough of S. Amboy, Middlesex Cnty.*, 423 N.J. Super. 190, 207 (App. Div. 2011) (establishing the “residence from which tax returns are filed” as being just one among *many* factors “relevant in determining domicile” for voting purposes). And functionally, a voter’s tax address may, at a given point in time, differ from their voter registration address for any number of innocuous reasons, including a recent move, *see Colby Cert.* ¶ 8, or because a relative helps manage one’s tax bills, *see Draesel Cert.* ¶ 7.

Absent any legitimate government interests that are actually furthered by the burdensome process imposed here, Defendants' actions violate the New Jersey Constitution's protections of the right to vote. *Cf. Eakin v. Adams Cnty. Bd. of Elections*, 149 F.4th 291, 314 (3d Cir. 2025) (holding that even legitimate government interests must actually justify the challenged election practice).

III. Plaintiffs satisfy the remaining factors for temporary restraints.

C. Plaintiffs will suffer irreparable harm absent temporary restraints.

Plaintiffs will suffer irreparable harm absent the temporary relief sought here. "Harm is generally considered irreparable in equity if it cannot be redressed adequately by monetary damages." *Subcarrier Commc 'ns, Inc. v. Day*, 299 N.J. Super. 634, 638 (App. Div. 1997) (quoting *Crowe*, 90 N.J. at 132-33). "Elections are, by nature, time sensitive and finite. While there will be other elections, no future election will be *this* election." *Emineth v. Jaeger*, 901 F. Supp. 2d 1138, 1142 (D.N.D. 2012). "[O]nce the election occurs, there can be no do-over and no redress." *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (collecting "[c]ourts routinely deem[ing] restrictions on fundamental voting rights irreparable injury"). Thus, monetary damages cannot compensate for the Voter Plaintiffs' lost opportunity to vote, nor for the League's lost "mobilization opportunities." *In re Georgia Senate Bill 202*, No. 1:21-CV-01259-JPB, 2023 WL 5334582, at *11 (N.D. Ga. Aug. 18,

2023) (quotation omitted); *see also League of Women Voters of Mo. v. Ashcroft*, 336 F. Supp. 3d 998, 1005 (W.D. Mo. 2018) (collecting cases).

Defendants have already informed targeted voters that their eligibility to vote is in question, demanded that they complete an extensive Domicile Questionnaire and provide supporting documentation, and warned that their right to vote in the upcoming November 3, 2026 general election may be challenged if they fail to comply and sufficiently satisfy the Board as to their eligibility. Ex. B. Voter Plaintiffs have been forced to assemble secure documents, reluctantly share sensitive personal details, and request assistance from others in a hurried panic to comply with the Board’s demands for information. Colby Cert. ¶¶ 11–13; Draesel Cert. ¶ 10; Robertson Cert. ¶¶ 17–19. These hurdles constitute impermissible “restriction[s] on the fundamental right to vote . . . [establishing] irreparable injury.” *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012).

In addition to being compelled to respond in a matter of days, voters are offered just one opportunity on short notice to clear doubt about their eligibility, instilling fear in those who have preplanned travel or would have to take off from work to attend a midday meeting that they will be unable to vote. Draesel Cert. ¶ 12, Robertson Cert. ¶ 22. Indeed, voters are warned that if they are unable to convince the Board at this proceeding of their bona fides, they will be required

to cast provisional ballots which could later be rejected. Ex. B. Others are scared to even try voting, chilled by Defendants’ actions. Colby Cert. ¶ 17. “When constitutional rights are threatened or impaired” in such a manner, “irreparable injury is presumed.” *Husted*, 697 F.3d at 436 (citation omitted).

Organizational harms also abound. “Courts routinely recognize that organizations suffer irreparable harm when a defendant’s conduct causes them to lose opportunities to conduct election-related activities, such as voter registration and education.” *League of Women Voters of Mo.*, 336 F. Supp. 3d at 1005. By causing confusion, anxiety, and concern regarding whether recipients may lawfully vote in the upcoming election, Defendants’ actions interfere with the League’s core activities and divert resources in a manner that undercuts their mission. Burns Cert. ¶¶ 9–13; *see also Louisiana v. Biden*, 55 F.4th 1017, 1033 (5th Cir. 2022) (affirming finding of irreparable harm from “diversion of resources”).

Specifically, because of Defendants’ actions, a reasonable voter could conclude that attempting to vote in this election may expose them to legal jeopardy, public scrutiny, or disenfranchisement, thereby deterring their participation entirely. Burns Cert. ¶ 10. The League must now increase voter assistance to address these new concerns, on the eve of a major election, at the expense of other activities and civic engagement programs. *Id.* ¶¶ 10–11. “Such

mobilization opportunities cannot be remedied once lost.” *In re Georgia Senate Bill 202*, 2023 WL 5334582, at *11 (quoting *Ga. Coal. for People’s Agenda, Inc. v. Kemp*, 347 F. Supp. 3d 1251, 1268 (N.D. Ga. 2018)).

When fundamental rights are ““either threatened or in fact being impaired,”” temporary injunctive relief is the *only* means by which to prevent ongoing injuries. *Davis v. N.J. Dep’t of L. & Pub. Safety, Div. of State Police*, 327 N.J. Super. 59, 69 (Law. Div. 1999) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Such is the case here.

D. The balance of the equities and the public interest weigh in favor of granting temporary restraints.

Both the balance of equities and public interest counsel towards granting temporary restraints. “When a case presents an issue of ‘significant public importance,’ a court must consider the public interest in addition to the traditional *Crowe* factors.” *Garden State Equal. v. Dow*, 216 N.J. 314, 321 (2013) (quoting *McNeil v. Legis. Apportionment Comm’n of N.J.*, 176 N.J. 484, 484 (2003)). And when the public interest is at stake, “courts, in the exercise of their equitable powers, ‘may, and frequently do, go much farther both to give and withhold relief . . . than they are accustomed to go when only private interests are involved.’” *Waste Mgmt. of N.J., Inc. v. Union Cnty. Utils. Auth.*, 399 N.J. Super. 508, 520-21 (App. Div. 2008) (quoting *Yakus v. United States*, 321 U.S. 414, 441 (1944)).

First, the balance of equities overwhelmingly favors Plaintiffs. Absent relief, eligible Bay Head voters face the loss or chilling of a fundamental constitutional right. They face a choice: Submit to an intrusive and burdensome inquiry into their personal lives and appear before election officials to defend their eligibility or forego participation altogether. *See, e.g.,* Burns Cert. ¶ 13; Colby Cert. ¶¶ 11-15, 17; Robertson Cert. ¶¶ 21-22. By contrast, the narrowly drawn temporary restraints would merely preserve the status quo—on the eve of the November 2026 general election—while this Court determines the legality of Defendants’ conduct. *Cf.* 52 U.S.C. § 20507(c)(2)(A) (prohibiting removing voters from the voting rolls within 90 days of an election).

Second, the public interest likewise strongly supports temporary restraint. For one, “[t]here is generally no public interest in the perpetuation of unlawful” governmental action. *Newby*, 838 F.3d at 12. Moreover, especially where “there is a substantial risk that citizens will be disenfranchised in the present [] election cycle[,] [t]he public has a strong interest in exercising the fundamental political right to vote.” *Id.* (quotation omitted). “[E]nsuring qualified voters exercise their right to vote is always in the public interest.” *Ashcroft*, 336 F. Supp. 3d at 1006 (quoting *Action NC v. Strach*, 216 F. Supp. 3d 597, 648 (M.D.N.C. 2016)). Absent relief here, eligible voters now face the threat of removal from the voter rolls or being forced to cast provisional ballots that may never be counted.

The public interest is further served by ensuring election administration is conducted uniformly, free from partisan targeting. *Cf.* 52 U.S.C. § 20507(b)(1) (requiring “uniform” and “nondiscriminatory” voter list maintenance). Here, the Shaning Letter included only Democratic and unaffiliated voters. Ex. A. Only this targeted class of voters has been subjected to extraordinary and ongoing scrutiny through the Board’s ad hoc procedures, compounding doubt in the orderly administration of the election and protection of the franchise. *See, e.g.*, Draesel Cert. ¶ 15. Granting temporary restraints serves the public interest by re-establishing voter confidence; denying relief, by contrast, risks more confusion, deterrence, and disenfranchisement. *See, e.g.*, Colby Cert. ¶ 15; Draesel Cert. ¶ 15; Roberston Cert. ¶ 21.

The balance of equities and the public interest therefore strongly favor issuance of temporary restraints.

CONCLUSION

For the foregoing reasons, the Court should issue the carefully cabined temporary restraints sought here to preserve the status quo and prevent Defendants from interfering with the democratic process by intimidating voters, discriminating against them, and imposing intolerable burdens on their fundamental right to make their voices heard in the upcoming election.

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