

**UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

SALLIE HOCK,  
JASON MCCLANAHAN,  
CLIFFORD J. FROST, and  
DARRELL VICKERS,

Case No. 2:19-cv-11785  
Hon.

Plaintiffs,

v.

SONJA BUFFA, in her official capacity as  
Warren City Clerk and WARREN CITY  
ELECTION COMMISSION, an agency of  
a Michigan municipal corporation

Defendants.

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**COMPLAINT FOR DECLATORY AND INJUNCTIVE RELIEF**

Plaintiffs SALLIE HOCK, JASON MCCLANAHAN, CLIFFORD J. FROST, and DARRELL VICKERS file this Complaint against Defendants SONJA BUFFA, in her official capacity as City Clerk, and the WARREN CITY ELECTION COMMISSION, an agency of a Michigan municipal corporation. Plaintiffs allege that Defendants significantly departed from their previous years-long state

(municipal) election practice, which had been affirmed by the Macomb Circuit Court and Michigan Court of Appeals in 2015 – specifically, how they determined eligibility for City Council candidates under the Warren City Charter rules on term limits - by unexpectedly striking candidates Cecil St. Pierre, Robert Boccomino, Steven Warner, and Scott Stevens – all of whom are politically associated with the Plaintiffs and represent the Plaintiffs’ deeply held political beliefs on the proper governance of the city of Warren.

This significant departure from past election practices by the Defendants is a Due Process Clause violation as recognized by the Sixth Circuit Court of Appeals in *Warf v. Board of Elections of Green County, Ky.*, 619 F.3d 553, 559 (2010) where relief pursuant to 42 U.S.C. §1983 is appropriate. *See also Griffin v. Burns*, 570 F.2d 1065, 1078 (1st Cir. 1978) and *Roe v. Alabama*, 43 F.3d 574, 580–81 (11th Cir.1995). More specifically, the Defendants’ significant departure from their own longstanding election practices gives rise to two distinct claims that Defendants violated the Plaintiffs’ First and Fourteenth Amendment protections of the right of the Plaintiffs to associate among themselves and others for the advancement of their political beliefs, and Plaintiffs’ right to cast their votes effectively. *Williams v Rhodes*, 393 U.S. 23, 30; 89 S.Ct. 5, 21 L. Ed.2d 24 (1968).

Plaintiffs seek prospective declaratory and injunctive relief, to secure the protection of Plaintiffs’ right of association and to cast their votes effectively through

reinstatement of the four challenged candidates on the August 6, 2019 municipal primary ballot to ensure that Plaintiffs' political beliefs are represented on the ballot as guaranteed by the First and Fourteenth Amendment. Plaintiffs submit their own four sworn Declarations, **Exs. 1-4**, as well as the sworn Declarations of Cecil D. St. Pierre, Steven Warner, Robert Boccomino, and Scott Stevens, **Exs. 5-8**, as well as all declarations attached and facts alleged in the accompanying motion for temporary restraining order and preliminary injunction, as well as the supporting brief for that motion, in support of this complaint.

### **PARTIES**

1. Plaintiff Sallie Hock resides in Warren, Michigan, is a registered voter in Warren, and votes in the 3rd District of Warren. Hock associates politically with current incumbent Warren City Council 3rd District member Scott Stevens, as well as other politically-likeminded voters, and supports Warren because he advances her political ideas and beliefs on issues confronting the city of Warren. In that capacity as a voter and supporter of the ideas and policies forwarded by Council Member Scott Stevens, Ms. Hock joins this lawsuit seeking injunctive and declaratory relief, including a prayer of relief that restores Mr. Stevens to the upcoming August 6, 2019 Warren municipal primary election ballot.

2. Plaintiff Jason McClanahan has resided in Warren, Michigan for over 40 years and is a registered voter in Warren, Michigan. Mr. McClanahan lives in

the Warren's 4th District for City Council. He is currently represented by Warren City Council Member Steven Warner. In his role on the Warren Planning Commission and as a resident of the 4th District, Mr. McClanahan has come to associate politically with Council Member Warner, and other like-minded Warren voters. Plaintiff McClanahan supports Warner's policies and political philosophy concerning the governance of Warren and so supports his candidacy. Mr. McClanahan joins this lawsuit seeking injunctive and declaratory relief to ensure his political ideas are represented on the August 6, 2019 primary election ballot in the person of Steven Warner. Plaintiff McClanahan is a supporter of Council Member Cecil St. Pierre for the same reasons – St. Pierre advocates the political ideas that Mr. McClanahan supports, as a candidate for office, and has done so in the past on the Warren City Council.

3. Plaintiff Clifford J. Frost resides in Warren, Michigan and is a registered voter in Warren, Michigan. Mr. Frost has participated as a citizen volunteer appointee on the Warren Tax Increment Finance Authority, as well as the City of Warren Crime Commission. In these capacities, as well as others, Frost has become well-versed in the issues confronting Warren, as well as becoming well-versed in the policy positions and political beliefs of others active in Warren civic life, and in doing so, has come to associate politically with Council Member St. Pierre. Frost views St. Pierre as an advocate for Frost's political beliefs and a

kindred spirit on issues facing Warren. In the capacity as a voter and supporter, Plaintiff Frost joins this Complaint as a Plaintiff.

4. Plaintiff Darrell Vickers resides in and is a registered voter in Warren, Michigan. He lives in the 5th District for the purpose of City Council races. Through Mr. Vickers' participation in numerous civic and community activities he has met and come to associate politically with his District 5 City Council Member Robert Boccomino. Vickers supports Boccomino because the positions that Boccomino advocates as a candidate, and as a member of the City Council, are compatible with Vickers own political beliefs. In his capacity as a supporter, registered voter, and political associate of Mr. Boccomino, Mr. Vickers joins this lawsuit seeking reinstatement of Boccomino to the upcoming August 6, 2019 Warren primary election ballot.

5. Defendant Sonya Buffa is the City Clerk for the City of Warren in Macomb County, Michigan. Plaintiffs assert their claims against Clerk Buffa in her official capacity only.

6. Defendant Warren City Election Commission is a commission of the City of Warren, a municipal corporation in Macomb County, Michigan organized under the Home Rule City Act, MCL 117.1 et. seq. The Warrant City Election Commission is established pursuant to the Warren City Charter and subject to the charter and ordinances of the City of Warren as well as the laws of the United States

and the State of Michigan.

### **JURISDICTION AND VENUE**

7. Venue is proper in this Court because all Plaintiffs and Defendants are residents of Michigan and all Plaintiffs and Defendants are located within the Eastern District of Michigan judicial district. 28 U.S.C. §1391. This Court has personal jurisdiction over the Defendants because they are public officials or entities of the State of Michigan, that operate under color of law, and reside within the Eastern District of Michigan Federal District judicial district.

8. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331, because Plaintiffs' claims arise as federal questions under the First and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983.

9. Declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202, 42 U.S.C. § 1983, and Rules 57 and 65 of the Federal Rules of Civil Procedure.

### **FACTUAL BACKGROUND**

**A. The Warren City Clerk uniformly follows an election practice of placing city council candidates on the ballot if they have not served three terms as an At-Large member and three terms as a District member.**

10. Under the City of Warren's Charter, Clerk Buffa "shall be the chief elections officer of the city." (**Ex. 9**, § 7.11(7).) Among other things, in this role as Warren's chief elections officer, Clerk Buffa accepts candidate filings for city

offices, including open four-year terms on the seven-seat city council. (*Id.*, § 4.1(a).)

11. A candidate who chooses to run for Warren City Council may apply to get their name on the ballot by filing with the Clerk a candidacy declaration. (*Id.*, § 13.6.) Examples of candidacy declarations filed for the 2019 election, titled “Affidavit,” are attached as **Ex. 10**.

12. The Clerk has the responsibility of making a final determination about the validity of a candidacy, and therefore what names go on the ballot, and then the Election Commission prepares and prints the election ballots. (**Ex. 9**, § 13.10 and § 13.15(2).)

13. On November 2, 2010, the voters of Warren amended the Warren Charter to create two types of city council members: “There shall be five council districts and one at-large district established in the city. One member shall be elected for each of the five (5) council districts [“District member”] and two members shall be elected at-large [“At-Large member”]. Each candidate for a city council district shall be a resident of the council district he or she seeks to represent.” (*Id.*, § 5.1.)

14. Regarding how many terms a person can serve on city council, the Warren Charter, § 4.4, provides in pertinent part: “A person shall not be eligible to hold the position of city council ... for more than the greater of three (3) complete terms or twelve (12) years in that particular office.” (*Id.*, emphasis added; see also § 4.3(d).)

15. After different At-Large and District positions were created by Charter on November 2, 2010, the Clerk began an election practice of interpreting the three-term (twelve year) limitation under § 4.3(d) as applying to each type of office – At-Large and District – meaning, the Clerk, in practice, uniformly allowed a candidate to run for three terms in each role.

16. For example, in the 2011 election, the Clerk placed St. Pierre on the ballot in the 3rd District race for the first time after having served on Council in 1987-2003 – prior to the creation of At-Large and District member positions in 2010. (Ex. 11.)

17. And in the 2015 election, the Clerk placed St. Pierre on the ballot in the 3rd District race for the second time: St. Pierre is currently serving that term as the District 3 member. (Ex. 12.)

**B. Entering the 2019 municipal elections, the Clerk’s (and Election Commission’s) uniform and consistent election practice of separately calculating terms served as At-Large and District members was consistent with (1) the Clerk’s past practice and election rule enforcement in 2011 and 2015, (2) a 2014 City Attorney Legal Opinion, and (3) 2015 state circuit court and appellate orders in *Olejniczak*.**

***The 2014 City Attorney Legal Opinion.***

18. Four years after the Warren Charter was amended to provide for separate At-Large and District positions on city council, a Warren citizen requested the Warren City Attorney’s Office to opine on the proper application of term limits under Sec. 4.4 to the varying city council offices. (Ex. 13, p. 1)



19. The City Attorney concluded that the At-Large and District members held “separate and distinct offices,” and listed the many ways the two offices differ under the Warren Charter. (*Id.*, p. 1-2; see also **Ex. 9**, § 5.1(c).)

20. The City Attorney concluded voters may elect a person to serve in each separate and distinct office for three terms (or 12 years), so a citizen could serve twelve years at an At-Large council member and an additional twelve years as a District council member. (**Ex. 13**, p. 3.)

21. This opinion affirmed the Clerk’s municipal election practice which began with the 2011 election and continued until just this month.

***State court litigation in Olejniczak v. Warren leads to affirmance of the Clerk’s election practice by the Macomb County Circuit Court and Michigan Court of Appeals Opinions.***

22. In 2015, the Clerk continued following the past uniform election practice (as well as the 2014 Legal Opinion) by placing city council candidates on the primary ballot who had served at least three terms on city council but who had not served three terms as an At-Large member or as a District member.

23. On April 27, 2015, a city council candidate, Lanette Olejniczak, sued the Elections Commission and the City Clerk, requesting an order compelling the Clerk to deviate from her uniform election practice by striking the challenged candidates from the 2015 primary ballot, including St. Pierre. (**Ex. 14**, p. 24-25.)

24. On May 4, 2015, Macomb County Circuit Court Judge Diane Druzinski

ruled in favor of the Clerk's ongoing election practice of distinguishing between At-Large and District term limits.

25. The Macomb County Circuit Court noted that striking qualified candidates from the ballot would be "highly detrimental to the public interest" and would work an immeasurable harm on voters as they would be foreclosed from voting for the candidate of their choice. (Ex. 15, pp. 13-14.)

26. Plaintiff Olejniczak filed an Application for Leave to Appeal with the Michigan Court of Appeals.

27. On June 11, 2015, the Court denied Plaintiff's Application, again affirming the Clerk's past and then-current election practice regarding the proper application of term limits to city council members, holding, among other things, the Olejniczak Application lacked "merit in the grounds presented." (Ex. 16.)

**C. But for the Clerk's uniform election practice regarding city council term limits in 2015, the people of Warren would not have been represented by candidates with ideas and policies that the voters overwhelming favored and supported.**

28. In 2015, with Olejniczak's term limit challenge failing, the Clerk kept the challenged candidates on the ballot, and the people of the City of Warren had the right to choose for themselves who best to represent their political beliefs on city council.

29. For example, St. Pierre won the 3rd District with 68% of the vote, defeating Olejniczak. (Ex. 12.)

30. Accordingly, voters who identified with the ideas espoused by St. Pierre were able to effectively express their political views through the candidacy of St. Pierre because of the Clerk's uniform election practice of treating At-Large and District city council positions as different for purpose of calculating terms served.

**D. The Plaintiffs' preferred candidates, who support and espouse the Plaintiffs' political beliefs, file for positions on the August 6, 2019 Warren primary ballot based on the Defendants' previous elation practices.**

31. This year, the deadline for submitting a nominating petition for the office of Warren city council was April 23, 2019. (Ex. 17, Berdy MCCC Opinion, issued May 31, 2019, p. 2.)

32. Candidates Robert Boccomino, Scott Stevens, Cecil St. Pierre, and Steven Warner all timely filed affidavits between February 25-April 11, nominating themselves for either At-Large or District offices on city council. (Ex. 10; see also Exs. 5-7, ¶3; Ex. 8, ¶¶3,4.)

33. Mr. Boccomino seeks re-election for the 5th District for the third time.<sup>1</sup> (Ex. 5, ¶3.)

34. Mr. Warner seeks re-election for the 4th District position for the third time.<sup>2</sup> (Ex. 6, ¶3.)

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<sup>1</sup> Boccomino served one term in an At-Large Position from 2007-2011 and two terms as the 5th District representative in 2011 and 2015. (Ex. 17, p. 3.)

<sup>2</sup> Warner served one term in the At-Large Position in 2007 and two terms in the 4th District Position in 2011 and 2015. (Ex. 17, p. 3.)

35. Mr. St. Pierre seeks election for one of the two At-Large positions for the first time.<sup>3</sup> (Ex. 7, ¶3.)

36. Mr. Stevens seeks election for the 3rd District for the first time.<sup>4</sup> (Ex. 8, ¶4.)

37. Based on the Clerk's years-long previous election practice which considered the At-Large and District city council designation as separate members for purpose of term limits, and in reliance on the past opinions and orders of the Macomb Circuit Court and Michigan Court of Appeals in *Olejniczak* (as well as the 2014 Legal Opinion), each of the four challenged candidates swore on his affidavits that his candidacies "meet the statutory and constitutional requirements for the office sought." (Ex. 10; see also Exs. 5-7, ¶6-7; Ex. 8, ¶7.)

38. Following her office's previous election practice, the Clerk certified the candidates to be placed on the 2019 primary ballot. (Ex. 17, p. 2; Ex. 18; Ex. 19.)

**E. The Defendants' actions removing the four challenged candidates from the August 6, 2019 primary ballot based on new 2019 state court rulings in *Berdy v Buffa and Warren City Election Commission* is a significant departure from the Clerk's past municipal election practice.**

39. On May 10, 2019, a candidate for an At-Large position on city council,

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<sup>3</sup> Before the bicameral system, St. Pierre served on city council from 1987-2003 and then served two terms in the 3rd District Position in 2011 and 2015. (Ex. 17, pp. 1-3.)

<sup>4</sup> Stevens served three terms in the At-Large Position from 2007 to the present. (Ex. 17, p. 3.)

Connor Berdy, filed a Complaint in the Macomb County Circuit Court against the Warren City Election Commission, the city clerk, and the county clerk, requesting a writ of mandamus and declaratory judgment to keep Boccomino, Stevens, St. Pierre, and Warner off the ballot given their prior terms. (**Ex. 20.**)

40. On May 20, 2019, Macomb County Circuit Court Judge James M. Maceroni (a colleague of Judge Druzinski who decided the 2015 *Olejniczak* case) ordered the Clerk and Elections Commission to depart significantly from their previous election practice by removing Boccomino, Stevens, St. Pierre, and Warner from the ballot. Judge Maceroni determined that the Charter's term limits provision limited candidates to three terms in total on the Warren City Council. (**Ex. 17**, pp. 7, 10-11.)

41. On June 3, 2019, the Defendants filed an Application for Leave to Appeal with the Michigan Court of Appeals, seeking immediate consideration of the Judge Maceroni's decision. (**Ex. 21.**)

42. On June 6, 2019, the Michigan Court of Appeals issued a published opinion reversing the Macomb County Circuit Court Opinion. (**Ex. 22**; J. Tukul dissenting.)<sup>5</sup>

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<sup>5</sup> "Plaintiff did not show that the four candidates at issue were term-limited under the plain language of the Warren City Charter or that the city government was misinterpreting or misapplying the relevant charter provisions. . . [T]he city charter does distinguish between council members elected by district and at-large with regard to their election, fundraising, constituencies, and abilities to serve as mayor

43. Just this week, on June 11, 2019, the Michigan Supreme Court issued an Order reversing the Court of Appeals: “We agree with the dissenting Court of Appeals judge that the Warren Charter provides for a single class of city council members, subject to the term limits of the greater of three complete terms or 12 years in that office.” (Ex. 23, p. 1.)

44. As a result, the Defendant significantly departed from their previous election practices and removed the challenged candidates from the August 6, 2019 Warren primary ballot, and thus removed the candidates with whom the Plaintiffs associate, and who espouse the political beliefs held by the Plaintiffs.

**F. The *Berdy* litigation – initiated *after* the 2019 primary candidate filing deadline – abruptly reversed the Clerk’s past election practice, thus depriving voters of the opportunity to vote the challenged candidates, with whom they associate, because these candidates share Plaintiffs’ political beliefs, and such views will not be on or tested by the primary ballot, all of which violates the Plaintiffs’ First and Fourteenth Amendment rights.**

45. Both the timing and the ruling of the *Berdy* state court litigation here impact Plaintiffs’ rights to associate with their candidates and effectively cast their votes.

46. First, the Supreme Court ordering the Clerk to significantly – and abruptly – change her previous election practices and strike the challenged candidates from the August 2019 primary ballot directly impairs the political views

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pro tem.” (Ex. 22, p. 3.)

of Plaintiffs, as shared with and expressed through the struck candidates.

47. Plaintiffs are long-time residents of Warren – having lived there an average of 40 years – who are all actively engaged in politics impacting their hometown. (Exs. 1-4, ¶¶1-3.)

48. Plaintiffs represent the four districts of Warren city council, support the challenged candidates facing elimination from the ballot from their home district, and believe the candidates seeking to run represent their political views on important topics such as taxes, police protection, and the role of the mayor. (Exs. 1-4, ¶¶1, 4, 7, 9, 10.)

49. Each Plaintiff believes that if the challenged candidates are struck from the ballot, their voices will not be heard on city council over the next four years: “I will be unable to cast my vote for a candidate who reflects my political views, and the views of other Warren voters with whom I often associated with on matters concerning the City of Warren.” (Exs. 1-4, ¶ 13.)

50. Secondly, the state court litigation – which turns past Warren election practices on their head – was initiated on May 10, 2019, close to 3 weeks after the filing deadline (April 23, 2019) for city council candidates. (Ex. 20.)

51. The state-court ordered removal of the challenged candidates significantly departs from past election practice by striking those candidates with whom Plaintiffs associate, and who as candidates and elected officials express

Plaintiffs' political views. (**Exs. 1-4**, ¶¶4, 7, 9, 10.)

52. Thirdly, the timing of the state court litigation also forecloses Plaintiffs – through no fault of their own – from finding any other candidates (or running themselves) who associate with them politically, share their views, or would make their vote in 2019 August primary effective. (**Exs. 1-4**, ¶¶7, 8.)

53. Plaintiff McClanahan would have run for the 4th District seat held by Steven Warner, except Warner represents the political beliefs held by Plaintiff McClanahan, and the Defendants previous election practices would have allowed Warner on the ballot. Accordingly, the political beliefs held by McClanahan cannot be expressed by either him or Warner, through no fault of either. (**Ex. 2**, ¶¶7-9.)

54. Even the challenged candidates themselves would have recruited successors who share their views and the views of the challenged candidates' supporters on the political and civic issues facing the city of Warren. (**Exs. 5-7**, ¶¶7, 8; **Ex 8**, ¶¶8,9.)

55. As a result, this significant departure from past municipal election practice will leave Plaintiffs and all others who associate with them and share their views on the proper governance of Warren without any candidate to speak for them and represent their views and beliefs. (**Exs. 1-4**, ¶¶12, 13; **Exs. 5-7**, ¶13; **Ex. 8**, ¶14.)

### **Injury to Plaintiffs**

56. The significant departure of Defendants Clerk Buffa and Warren



Elections Commission, operating under the color of law, from their previous municipal election practices here by removing candidates St. Pierre, Boccomino, Stevens, and Warner – all of whom associated politically with the Plaintiffs and advocate and advocate for the Plaintiffs’ political beliefs on the proper governance of Warren, deprives each of the Plaintiffs of “rights, privileges, or immunities secured by the Constitution and laws”, 42 U.S.C §1983.

57. Specifically, the significant departure by Defendants Buffa and Warren Elections Commission from their previous municipal election practices here is a violation of the Due Process Clause, *Warf v. Board of Elections of Green County, Ky.*, 619 F. 3d 553, 559 (2010); *Griffin v. Burns*, 579 F.2d 1065, 1078 (1st Cir. 1978); *Roe v. Alabama*, 43 F.3d 574, 580–81 (11th Cir.1995).

58. This Due Process violation abrogates and impairs the Plaintiffs’ First and Fourteenth Amendment guarantees protecting their right of association and right to cast an effective vote.

## **COUNT I**

### **VIOLATION OF 42 U.S.C. §1983 FIRST AND FOURTEENTH AMENDMENT VIOLATION OF PLAINTIFFS’ RIGHT OF ASSOCIATION**

59. The preceding Paragraphs are hereby incorporated by reference.

60. Defendants Clerk Buffa and the Elections Commission, acted under color of law when significantly departing from their previous election practice

regarding the application of the Warren City Charter's term limits provision for City Council members, such as Cecil D. St. Pierre, Scott C. Stevens, Robert Boccomino, and Steven G. Warner, by striking their names from the August 6, 2019 Warren City municipal primary election ballot this past week.

61. Defendants' acts impaired and abrogated Plaintiffs' right to associate with others, including Cecil D. St. Pierre, Scott C. Stevens, Robert Boccomino, and Steven G. Warner that Defendants struck from the August 2019 primary election ballot.

62. As a result of Defendants' acts, Plaintiffs can no longer associate with the struck candidates to effectively advance the political beliefs Plaintiffs hold at either the Warren City Council, or at the August 2019 municipal primary election.

63. The Plaintiffs' acts have caused damage to Plaintiffs' First and Fourteenth Amendments rights, including, more specifically their freedom to associate with others of like-minded political beliefs to advance their political beliefs.

64. Accordingly, Plaintiffs seek all remedies available under 42 U.S.C. §1983, including the discrete and particular of remedy of ordering the reinstatement of the four struck candidates — Cecil D. St. Pierre, Scott C. Stevens, Robert Boccomino, and Steven G. Warner — to the August 6, 2019 Warren municipal primary ballot to remedy Plaintiffs' damages to their right of association.

**COUNT II**

**VIOLATION OF 42 U.S.C. §1983  
FIRST AND FOURTEENTH AMENDMENT  
VIOLATION OF PLAINTIFFS' RIGHT TO CAST THEIR VOTES  
EFFECTIVELY**

65. The preceding Paragraphs are hereby incorporated by reference.

66. Defendants Clerk Buffa and the Elections Commission, acted under color of law when significantly departing from their previous election practice regarding the application of the Warren City Charter's term limits provision for City Council members, such as Cecil D. St. Pierre, Scott C. Stevens, Robert Boccomino, and Steven G. Warner, by striking their names from the August 6, 2019 Warren City municipal primary election ballot this past week.

67. Defendants' acts impaired and abrogated Plaintiffs' right to cast their votes effectively to forward the political ideals and beliefs that they value which were advocated by Cecil D. St. Pierre, Scott C. Stevens, Robert Boccomino, and Steven G. Warner as candidates for office and on the Warren City Council.

68. As a result of Defendants' acts, Plaintiffs can no longer effectively cast their vote for candidates at the August 2019 municipal primary election who advance Plaintiffs' political preferences and values.

69. The Plaintiffs' acts have caused damage to Plaintiffs' First and Fourteenth Amendments rights, including, more specifically their freedom to effectively cast their vote in the August 6, 2019 Warren municipal primary election.

70. Accordingly, Plaintiffs seek all remedies available under 42 U.S.C. §1983, including the discrete and particular of remedy of ordering reinstatement of the four struck candidates – Cecil D. St. Pierre, Scott C. Stevens, Robert Boccomino, and Steven G. Warner – to the August 6, 2019 Warren municipal primary ballot to remedy the damage to Plaintiffs’ right to effectively cast their votes.

### **COUNT III**

#### **DECLARATORY JUDGMENT**

#### **28 U.S.C. §2201**

#### **DECLARATION OF LEGAL RIGHTS AND OTHER LEGAL RELATIONS**

71. The preceding Paragraphs are hereby incorporated by reference.

72. 28 U.S.C. §2201 authorizes this Court to declare the rights and other legal relations of the Plaintiffs and Defendants related to the controversy at issue here.

73. Accordingly, Plaintiffs request this Court to declare the rights and other legal relationships of the Plaintiffs and Defendants here, and enter a final judgment(s) or decree(s) consistent with those declarations.

### **COUNT IV**

#### **INJUNCTIVE RELIEF**

#### **42 U.S.C. §1983**

#### **DECLARATION OF LEGAL RIGHTS AND OTHER LEGAL RELATIONS**

74. The preceding Paragraphs are hereby incorporated by reference.

75. 42 U.S.C. §1983 authorizes this Court to entertain “suits in equity” and

thereby provide parties injunctive relief, including ordering the reinstatement of the four incumbent Warren City Council members struck by the Defendants from the August 6, 2019 Warren municipal primary ballot.

76. Plaintiffs seek reinstatement of the four struck Warren City Council members who represent their political beliefs.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that the Court:

- A. Enter a declaratory judgment holding Defendants committed a Due Process violation, 42 U.S.C. §1983, which abrogated the Plaintiffs' right of association;
- B. Enter a declaratory judgement holding Defendants committed a Due Process violation, 42 U.S.C. §1983, which abrogated the Plaintiffs' right to cast their votes effectively;
- C. Order Defendants to reinstate Cecil D. St. Pierre, Scott C. Stevens, Robert Boccomino, and Steven G. Warner to the August 6, 2019 primary ballot in order to remedy and protect the Plaintiffs' right of association as guaranteed by the First and Fourteenth Amendments.
- D. Order Defendants to reinstate Cecil D. St. Pierre, Scott C. Stevens, Robert Boccomino, and Steven G. Warner to the August 6, 2019 primary ballot in order to remedy and protect the Plaintiffs' right to effectively cast their

votes as guaranteed by the First and Fourteenth Amendments.

- E. Award attorneys' fees pursuant to 42 U.S.C. § 1988; and
- F. Award such other and further relief as the Court deems proper.

Respectfully Submitted,

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Dated: June 15, 2019

### **CERTIFICATE OF SERVICE (E-FILE)**

I hereby certify that on June 15, 2019, I electronically filed the above document(s) with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

/s/ Michael A. Cox (P43039)  
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