

ORDER ON EMERGENT MOTION

JONATHAN M. SAMMONS, BYRON
DRISCOLL AND GLOUCESTER
COUNTY REPUBLICAN COMMITTEE
V.
JAMES N. HOGAN, IN HIS CAPACITY
AS CLERK OF THE COUNTY OF
GLOUCESTER; HEATHER POOLE, IN
HER CAPACITY AS DEPUTY
COUNTY CLERK OF THE COUNTY
OF GLOUCESTER; STEPHANIE
SALVATORE, IN HER CAPACITY AS
GLOUCESTER COUNTY
SUPERINTENDENT OF ELECTIONS;
AND GLOUCESTER COUNTY
BOARD OF ELECTIONS

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO.: AM-000094-25T04
MOTION NO.: M-000858-25
M-000859-25
BEFORE: PART D
JUDGE(S): GRETA GOODENBROWN
ELLEN TORREGROSSA-
O'CONNOR

MOTION(S) 10/08/2025
FILED:

BY: JONATHAN M. SAMMONS, BRYON
DRISCOLL, GLOUCESTER COUNTY
REPUBLICAN COMMITTEE,

ANSWER(S) 10/09/2025
FILED:

BY: GLOUCESTER COUNTY
DEMOCRATIC COMMITTEE,
STEPHANIE SALVATORE, JAMES
HOGAN, HEATHER POOLIE,
GLOUCESTER COUNTY BOARD OF
ELECTIONS

SUBMITTED TO COURT: October 09, 2025

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON
THIS 10th day of October, 2025, HEREBY ORDERED AS FOLLOWS:

MOTION BY APPELLANT

MOTION FOR LEAVE TO APPEAL
AND FOR EMERGENCY

TEMPORARY RELIEF UNDER R. 2:9-8 GRANTED AND OTHER

EMERGENT MOTION SEEKING
REVERSAL OF THE TRIAL COURT GRANTED AND OTHER

SUPPLEMENTAL:

Plaintiffs' motion for leave to appeal on an emergent basis from paragraphs 3, 4, 6, and 7 of the trial court's October 7, 2025 order denying injunctive and mandamus relief requiring the reformatting of the ballots displayed on the touchscreen voting machines to be used for in-person voting from "office block" format to "column" format is granted. The trial court order is summarily reversed pursuant to Rule 2:8-3(b), and the matter is remanded to the trial court for entry of an order granting plaintiffs the requested relief.

Plaintiffs Jonathan M. Sammons and Byron Driscoll are residents and voters of Gloucester County and candidates for the Board of County Commissioners in the upcoming general election. Plaintiff Gloucester County Republican Committee (GCRC) is the official county committee of the Republican Party in Gloucester County. Defendants are the Gloucester County Clerk, Deputy County Clerk, Superintendent of Elections, and Board of Elections.

On August 11, 2025, the County Clerk duly conducted a required drawing for position on the ballot for the upcoming general election pursuant to N.J.S.A. 19:14-12 and announced that the Republican candidates for office drew the first position on the ballot. GCRC's Chairman certifies the County Clerk had previously stated that, notwithstanding a change in ballot design for the recent primary election in response to litigation, ballots for the general election would retain the ordinary "column" design required by statute, with candidates for each office listed horizontally next to the name of the office, in columns corresponding to party affiliation. The County Clerk said nothing to the contrary at the ballot drawing, and no sample ballots were on display. Thereafter, GCRC and its candidates disseminated campaign literature encouraging voters to "vote Column A."

By August 29, 2025, however, a draft of the general election ballot featuring an "office block" design, with candidates for each office listed vertically in rows rather than horizontally in columns and no longer grouped by party affiliation, was publicly displayed

and posted in the Clerk's office. Final ballots with the same design were posted on the Clerk's website on September 16, and the Clerk's office began sending out vote-by-mail ballots on September 19.

On September 22, 2025, GCRC was contacted by voters who had received mail ballots, seeking to confirm the ballots were legitimate, given the unfamiliar format. Plaintiffs filed a complaint and order to show cause (OTSC) four days later on September 26, 2025, claiming the ballots violated the requirements of N.J.S.A. 19:14-6, -8 and -12. They sought to enjoin defendants from continuing to print or distribute ballots or program any election software or voting machine for the general election using the office block design, and to require them to redesign the ballots using the column format for all vote-by-mail ballots going forward and for all in-person voting. The Gloucester County Democratic Committee (GCDC) intervened by virtue of a consent order.

At oral argument on the OTSC, the trial judge agreed with plaintiffs that the ballots violated the statute, leaving the question of appropriate relief. In that regard, the judge contemplated that there could be significant confusion caused by the use of ballots with two separate formats, even if all the ballots for in-person voting were uniform, and believed requiring a change in the ballots at that point could result in errors, given the speed at which the change would have to be accomplished. See In re Malinowski, 481 N.J. Super. 128, 151 (App. Div. 2025) (recognizing interests in preventing voter confusion and ensuring confidence in integrity of electoral process).

Consequently, the judge declined to order any injunctive relief. Acknowledging that plaintiffs had been injured to the extent they had paid for and disseminated campaign literature referencing the now-nonexistent "Column A," the judge concluded an award of money damages would suffice to remedy the injury. Accordingly, the judge issued an order on October 7, 2025, to that effect.

Plaintiffs promptly filed an application for leave to file an emergent motion for leave to appeal, which we granted along with a temporary stay. On appeal, plaintiffs maintain that the current ballots plainly violate the statute and assert that the record below established that sufficient time remained to revise ballots for in-person voting and entailed no evidence that any voter would be confused by such a change. Notably, plaintiffs have abandoned their demand for any change to vote-by-mail ballots, even prospectively.

The Clerk counters that county clerks have considerable discretion in administration of an election and that their actions are entitled to a presumption of reasonableness. GCDC, meanwhile, asserts that plaintiffs failed to show they would suffer irreparable harm because the notion that they might lose voters due to the change in design was purely speculative and the money damages the court awarded were adequate compensation for

their expenditures on campaign materials referencing "Column A." GCDC also argues that plaintiffs were unlikely to succeed on the merits given the risks of voter confusion and impact on the integrity of the voting process a ballot-design change could entail at this juncture, and that, in any event, the equities weighed against granting relief. The Superintendent of Elections and Board of Elections take no position on the merits and add only that they would need to receive any revised ballots from the Clerk by October 15 to complete their obligations in time for the start of early voting on October 25.

A court's decision whether to grant injunctive relief rests within its sound discretion and will be reviewed only for an abuse of that discretion. Waste Mgmt. of N.J., Inc., v. Morris Cnty. Mun. Utils. Auth., 433 N.J. Super. 445, 454 (App. Div. 2013). However, a court's interpretation of the law is not entitled to deference on appeal. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995).

First, as the judge correctly found and defendants do not contest, the existing ballot design does not comply with N.J.S.A. 19:14-6, -8 and -12, which plainly require ballots for the general election to be arranged in a "column" format. Defendants point to nothing in these provisions that would afford a county clerk any discretion to depart from that format. There is therefore no question plaintiffs are correct on the merits.

In denying plaintiffs injunctive relief, to the extent the judge relied on the notion that a revision of the ballots at this point would be a practical impossibility without a significant likelihood of error or engender voter confusion, we note the analysis in part implicated the vote-by-mail ballots for which plaintiffs no longer seek relief. As to the timing, when oral argument was conducted, the judge observed that at that point, there remained sufficient time to revise the ballots for in-person voting. Based on our review of the record, we are satisfied that seems to remain the case at this point. Plaintiffs' expert certifies the changes could be accomplished within one to two days, and the Superintendent states that revised ballots need only be received by October 15.

Regarding the possibility of voter confusion, the judge noted that a voter who had earlier seen a vote-by-mail ballot could plausibly be confused by seeing a different ballot on election day. However, the judge acknowledged that such a notion was "speculative," and indeed initially doubted whether there would be any confusion, given that all in-person voters would be voting using the same ballot. Moreover, all in-person voters will also have received a sample ballot consistent with the one they will encounter on election day, and those are not due to be sent out until October 22.

All things considered, we are convinced the record did not support the judge's denial of relief as to the ballots for in-person voting, which are the only ballots that remain at issue in this application. The judge's decision in that regard therefore constituted a

mistaken exercise of discretion. Accordingly, we summarily reverse and remand for the entry of an order consistent with this opinion. The stay granted in our October 9, 2025 amended disposition is vacated.

FOR THE COURT:

A handwritten signature in black ink, appearing to read "Greta Goodenbrown". The signature is fluid and cursive, with the first name "Greta" being more prominent.

GRETA GOODENBROWN, P.J.A.D.

GLO-L-1286-25 GLOUCESTER
ORDER - REGULAR MOTION
CLD