

KENNETH P. GREEN	:	SUPERIOR COURT
VS	:	J.D. OF HARTFORD
OLGA IRIS VAZQUEZ, HARTFORD DEMOCRATIC REGISTRAR OF VOTERS;	:	
ANNE E. WALL, BLOOMFIELD DEMOCRATIC REGISTRAR OF VOTERS; AND	:	
MATTHEW D. RITTER	:	AUGUST 24, 2010

COMPLAINT

1) The plaintiff, Kenneth P. Green, is the incumbent representative of the First Assembly District of the Connecticut House of Representatives, is a Democrat, and sought his party's nomination to run for re-election in November 2010. To that end he was a candidate in the Democratic primary for said seat, which was held on August 10, 2010.

2) The First Assembly District comprises portions of Hartford and Bloomfield, Connecticut with four (4) voting districts in Hartford and two (2) voting districts in Bloomfield.

3) The defendant, Olga Iris Vazquez is the Hartford Democratic Registrar of Voters.

4) The defendant, Anne E. Wall, is the Bloomfield Democratic Registrar of Voters.

5) The defendant, Matthew D. Ritter, is a Democrat, resident of the First Assembly District, and also sought the Democratic nomination to be its candidate in the general election for the First Assembly District.

6) Ritter was endorsed for the subject position, and Green received enough votes in order to qualify for a primary, which was held on August 10, 2010.

7) At the conclusion of primary voting the candidates received the following votes, resulting in Green being declared the victor by 2 votes:

<u>VOTING DISTRICT</u>	<u>GREEN</u>	<u>RITTER</u>
Hartford—1 st (includes AB)	243	163
Hartford—2 nd (“	57	102
Hartford—3 rd (“	178	377
Hartford—4 th (“	105	103
Bloomfield—3 rd (polls only)	277	179
Bloomfield—4 th (polls only)	239	194
Bloomfield Absentee Ballots	<u>53</u>	<u>38</u>
TOTALS	1152	1150

8) Because of the vote's closeness, a recanvass was mandated pursuant to C.G.S. §9-311a. Hartford recanvassed its (4) involved districts on Monday, August 16, 2010, and Bloomfield recanvassed its (2) involved districts on Tuesday, August 17, 2010.

9) The Hartford recanvass resulted in changes to the vote totals certified at the conclusion of the August 10 primary as follows:

- a) Green lost one (1) vote in the Hartford 1st voting district;
- b) Ritter gained one (1) absentee ballot in Hartford 3rd; and
- c) Ritter gained two (2) votes in Hartford 4th.

10) The Bloomfield recanvass resulted in no change to the vote totals certified at the conclusion of the August 10 primary.

11) As a result of the recanvass, the vote totals resulted in a 2-vote Ritter victory: 1153 for him and 1151 for Green.

12) The plaintiff, Green, is aggrieved by rulings of election officials and alleges that there has been a mistake in the count of the votes cast at the subject primary and brings this complaint pursuant to C.G.S. §9-329a.

13) The errors and mistakes of which the plaintiff complains are:

- a) the Bloomfield Registrar of Voters violated C.G.S. §9-436 (e) in that she failed to notify the plaintiff of his right to submit a list of designees such that 50% of the polling place officials would be his designees;

b) plaintiff was deprived of his right to have 50% of the polling place officials be his designees, in violation of C.G.S. §9-436(e);

c) as a further result of the Bloomfield registrar's violation of C.G.S. §9-436(e), the plaintiff was deprived of his rights under C.G.S. §9-311(a) to have recount officials *of his designation* serve at the primary;

d) at approximately 6:45am on August 10, 2010 at Bloomfield voting district #3, a voter (whose identity will be revealed to the court and all parties) completed his paper ballot and fed it into an unattended machine. Before placing the ballot into the machine, he observed the counter to display the number "16." After feeding in his ballot, he observed an error message on the reader and also that the counter number was still on "16." He apprised an election official of what he had observed, and the election official told him that he was not "supposed to be looking at that portion of the machine" and refused to answer his questions regarding whether his vote had been counted. Upon information and belief that machine malfunctioned depriving this voter and others of their right to cast a vote in the subject primary and, thereby, depriving the plaintiff of votes that were rightfully his;

e) a Bloomfield voter (whose identity will be revealed to all parties and the court) voted by absentee ballot but died on August 9, 2010, a day before the primary. Upon information and belief the deceased voter's absentee ballot was improperly counted in the election results.

f) at the Bloomfield recanvass, recount officials found a Republican primary ballot in the ballot transfer case that was to be only for Democratic ballots, and then refused to open the ballot transfer cases holding Republican primary ballots to determine whether Democratic ballots might be in them;

g) Hartford recount officials failed to keep absentee ballots cast in Hartford under seal, as required by C.G.S. 9-311(b). Specifically, those officials—in the absence of the plaintiff or his representatives—broke the seal on absentee ballots on the morning of Monday, August 16, 2010 when they were looking for ballots for an unrelated recanvass (that of the Fourth Assembly District). Pursuant to the absentee ballot recount, defendant Ritter gained one vote from Hartford 3rd voting district from the ballots that were improperly unsealed and maintained in violation of C.G.S. §9-311(b).

h) during the recanvass for machine-cast ballots in the Hartford 1st voting district, the following irregularities occurred:

h1) the moderator fed the so called “readable” (as opposed to “hand counted”) ballots into the optical scanner;

h2) During the recount in Voting District 1, when the ballots were fed through the optical scanner, the machine total registered one vote less for Kenneth Green than the vote that was counted on election night;

h3) on three occasions as the moderator was feeding ballots through the computerized machine counter, the machine jammed;

h4) the moderator took a key and unlocked the scanner, and pulled the device away from rest of the entrance to the bin where the counted ballots were dropped by the machine;

h5) for the three paper jams, the computer said "Vote was counted";

h6) on two occasions after the machine said "vote was counted" the yellow ballot had passed beneath the reader and was almost all the way into the mouth of the bin;

h7) the moderator, looking at the reader and seeing the words "vote counted," moved the ballot manually into the bin;

h8) on the third of the three paper jams, the top portion of the paper ballot had entered the scanning machine when the ballot stopped moving into the scanner and the jam occurred;

h9) the markings on this ballot were still clearly visible because the bold oval markings on the ballot had not passed beneath the reader/scanner to be read by the scanner;

h10) nonetheless, the indicator once again said "vote counted" and this ballot, after the counting device was plugged back into the machine, was drawn by the machine beneath the reader and down into the bin;

h11) when more than half of the ballot, with its markings clearly visible, could not possibly have passed beneath the reading device of the scanner and be in a position to be read and counted;

h12) although this ballot had stalled, with only the top portion of the ballot running beneath the scanner and the remainder of the ballot clearly outside the scanner, the moderator nonetheless concluded that "The machine said that the vote was counted" and ruled that he didn't have to take any further action;

h13) this vote was lost in Voting District 1 and caused the subtraction of one vote from Kenneth Green's vote total.

h14) the moderator did not take any steps to verify the accuracy of the machine's count by physically hand counting all the paper ballots after they had been fed through the machine, and then cross-checking this number with the number on the computer generated tape that was produced by the machine after the machine count was completed. This number would have provided the machine generated count of the total ballots that were cast; and

h15) because the moderator did not order a comparison of the machine count on the tape with a follow through by the physical hand count of the ballots that were fed into the machine, the complainant was aggrieved by the ruling of an election official pursuant to Sec. 9-329(a)(1).

i) In Hartford voting district 4th, defendant Ritter gained two (2) votes. Recanvass officials made no attempt to explain or justify this discrepancy by, for example, manually recounting the ballots or examining them to determine whether there were marks that were too faint for the counting machine to detect.

14) But for the errors and mistakes of which the plaintiff complains, the result of the subject primary might have been different and the aforesaid errors and mistakes make it impossible to determine the result of the primary.

15) The aforesaid errors and mistakes of Hartford and Bloomfield voting officials deprived the plaintiff of a chance to ascertain the accuracy of vote counts either on the primary night or during the recanvass, thus resulting in the spoilation of evidence which would assist this court in determining the result of the primary.

DATED AT HARTFORD, CONNECTICUT THIS 24th DAY OF AUGUST
2010.

Plaintiff, Kenneth P. Green.

By 

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WHEREFORE, the plaintiff respectfully demands the following remedies:

- 1) an order of this court immediately impounding and preserving under seal all materials relevant to the primary and recanvasses;
- 2) an order that all visiting lists be made available to the parties for inspection and copying;
- 3) an order that all voting materials be unlocked, all ballot boxes (Democratic and Republican) be opened and that all votes cast be recounted by such special masters or persons appointed by this court; and
- 4) based upon such recount and such evidence to be offered at the hearing guaranteed by C.G.S. §9-329a, that this court determine that the plaintiff, Green, has won the primary or that a new primary be ordered.

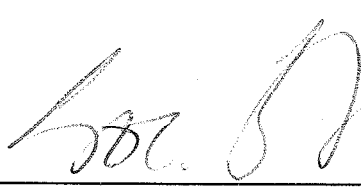
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CERTIFICATION OF SERVICE

I hereby certify that a copy of the within complaint has been hand-delivered to the State Elections Enforcement Commission this 24th day of August 2010.


Steven L. Seligman
Commissioner of the Superior Court