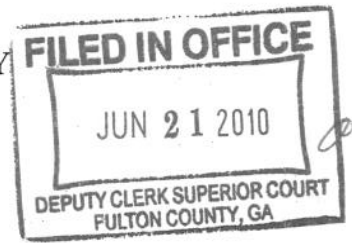


IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA



MARY NORWOOD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 FULTON COUNTY BOARD OF )  
 REGISTRATION AND ELECTIONS, and )  
 COMMITTEE TO ELECT JOHN EAVES, )  
 INC. )  
 )  
 Defendant. )

Civil Action No. 2010 CV 187251

**MOTION FOR EMERGENCY HEARING ON PLAINTIFF'S  
COMPLAINT FOR DECLARATORY JUDGMENT**

Pursuant to Uniform Superior Court Rule 6.7, Plaintiff Mary Norwood, ("Norwood") seeks an emergency hearing on her Verified Complaint for Declaratory Judgment ("Complaint"), showing the Court as follows:

**RELEVANT FACTS**

Plaintiff Mary Norwood is seeking the office of Chairman of the Fulton County Board of Commissioners in the 2010 election cycle. Incumbent Chairman John Eaves is seeking re-election to that position as well. See Complaint at ¶ 5. The general election will be held on November 2, 2010. Id. at ¶ 6. Because Norwood is running as an independent candidate, O.C.G.A. § 21-2-170(b) requires her to file a nomination petition that is signed by five percent (approximately 23,000) of the registered voters of Fulton County. Id. at 7. Norwood must file the nomination petition with the Fulton County Board of Elections on July 13, 2010. O.C.G.A. § 21-2-132(d). The Elections Board is charged with the responsibility of determining whether the petition complies with the law. O.C.G.A. § 21-2-171(a).

Norwood obtained a nomination petition form from the Elections Board. Id. at ¶ 9. On May 18, 2010, Norwood's campaign asked the Elections Board's designee if the campaign could type in the word "Fulton" in the space provided for each signer's county of residence. Id. This requested change would not only expedite the signature process but it would also ensure that only those electors who were residents of Fulton County executed the nomination form. Id. The Elections Board's designee approved the requested change to the petition nomination form in writing. Id. at ¶ 10 and Exhibit A. In reliance upon that approval, the Norwood campaign has obtained thousands of signatures of qualified electors on nomination petition forms containing a pre-printed "Fulton." Id. at ¶ 11 and Exhibit B.

On June 11, 2010, the Eaves Campaign wrote to the Director of Registration and Elections to "correct what we believe is erroneous advice that the Fulton County Board of Registration and Elections provided to a representative of Mary Norwood Campaign 2010." Id. at ¶ 12 and Exhibit C. In that letter, the Eaves Campaign asserts that the Norwood nomination petition approved by the Elections Board violates O.C.G.A. § 21-2-170(c), which requires that each person signing a nomination petition "shall declare therein that he or she is a duly qualified and registered elector of the state, county, or municipality entitled to vote in the next election for the filling of the office sought by the candidate supported by the petition and shall add to his or her signature his or her residence address, giving municipality, if any, and county, with street and number...." Id. at ¶ 13. Upon information and belief, the Eaves Campaign has suggested that it will challenge Norwood's qualifications on this basis pursuant to O.C.G.A. § 21-2-6(b). Id.

Norwood, on the other hand, maintains that her nomination petition form complies with the law because it was approved by the Elections Board and because it provides sufficient space for the printing of the elector's name and his or her signature. O.C.G.A. § 21-2-170(a) ("Such

petition shall be in the form prescribed by the officers with whom they are filed, and no forms other than the ones so prescribed shall be used for such purposes, but such petitions shall provide sufficient space for the printing of the elector's name as well as for his or her signature.”

O.C.G.A. § 21-2-170(a).

Norwood further maintains that her nomination petition form complies with the law because each person signing provided their street address (next to their pre-printed county of residence) and declared they are a duly qualified and registered elector (and, therefore, a resident) of Fulton County. Thus, at a minimum, the form that the Elections Board approved substantially complies with the requirements of O.C.G.A. § 21-2-171(c). Substantial compliance with the requirements of the statute is all that is required from a public body especially where, as here, the alleged deviation from those requirements does not disserve the purpose of the law. O.C.G.A. § 1-3-1. See also Banker v. Cole, 278 Ga. 532, 533, 604 S.E.2d 165 (2004) (“[W]here the election is held in substantial compliance with the law, it should not be rendered void merely because of isolated failures to conform strictly with the law unless it appears that such failures changed the results of the election.”); General Elec. Credit Corp. v. Brooks, 242 Ga. 109, 118-119, 249 S.E.2d 596 (1978) (“Substantial compliance does not require that the language should be exactly as prescribed by the statute but that all the essential requirements of the form be prescribed. When there is actual compliance as to all matters of substance then mere technicalities of form or variations in the mode of expression should not be given the stature of noncompliance.”).

The Elections Board's designee has not yet taken a position on the matter, he seems to agree with the Eaves Campaign's position, writing “[a]s indicated in your letter, the literal

language of the statute, O.C.G.A. § 21-2-170(c) requires the person who signs the petition to personally write in their information.” Id. at ¶ 16 and Exhibit D.

Norwood is left in a grave position of uncertainty and insecurity. Id. at ¶ 17. If she files the nomination petitions that were specifically approved by the Elections Board’s designee, there does not appear to be any law that would prevent the Elections Board from reversing course and rejecting those forms once they are filed. Id. Norwood is attempting to guard against that risk by obtaining new signatures on the original forms issued by the Elections Board, but at the rate that process is progressing, she will have significant difficulty in obtaining sufficient signatures before the July 13, 2010 deadline. Id.

#### **ARGUMENT AND CITATION OF AUTHORITIES**

A declaratory judgment is appropriate in two distinct situations: (1) in cases of an actual controversy; or (2) when it appears that the ends of justice require that such declaration should be made for the guidance and protection of the petitioner. O.C.G.A. § 9-4-2; see also Calvary Indep. Baptist Church v. City of Rome, 208 Ga. 312, 314, 66 S.E.2d 726 (1951).

In this case, there is an actual controversy insofar as it appears as if the Election Board agrees with the Eaves Campaign that the law requires that each voter write in their full address and county of residence. See Exhibit D. More compellingly, the ends of justice require that this Court enter a declaratory judgment so that Norwood is not later deprived of her right to run for office in the event the Elections Board rejects the signatures on the nomination petition forms that its designee has already approved. At that point, it will be too late for Norwood to obtain new signatures. O.C.G.A. § 21-2-132(d).

Although O.C.G.A. § 9-4-5 provides that this action may be tried no sooner than 20 days after service on the Defendants, Uniform Superior Court Rule 6.7 gives the Court discretion to hold an emergency hearing within those 20 days:

Upon written notice and good cause shown, the assigned judge may shorten or waive the time requirement applicable to emergency motions, except motions for summary judgment, or grant an immediate hearing on any matter requiring such expedited procedure.


U.S.C.R. 6.7

Norwood is working diligently to obtain nomination signatures, but at the rate she is progressing, she may not have obtain the roughly 23,000 that are required before the July 13, 2010 deadline. Every signature counts. Accordingly, she respectfully requests a declaratory judgment, to be heard on an emergency basis, that the nomination petition signatures shall not be disqualified merely because the Norwood campaign, in reliance upon the Elections Board's designee, typed in the word "Fulton" in the space provided for each signer's county of residence.

**CONCLUSION**

For the following reasons, Plaintiff Mary Norwood respectfully requests entry of declaratory judgment following an emergency hearing.

Respectfully submitted this 21st day of June 2010.



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J. Matthew Maguire, Jr.

Georgia Bar No. 372670

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