

September 4, 2025

**Via ECourts**

Honorable Robert E Brenner, P.J.Civ.  
Ocean County Courthouse  
100 Hooper Ave  
Toms River, NJ 08753

**Re: Eagan v. Lobman , O'Toole et al  
Docket # OCN-L-2161-25**

Dear Judge Brenner:

This office represents Plaintiff Kathy Eagan in the above-referenced matter, which is scheduled before Your Honor tomorrow at 2:00 PM. I would like to address the following two procedural issues in preparation for the hearing.

First, pursuant to the discussion during the Court's conference on September 2, 2025, I propose that the parties stipulate to the core facts, and to then make legal argument on the core issue of the case. Both sides have submitted certifications and other papers that, when boiled down, demonstrate that there is no dispute to the following facts:

1. Defendant Lobman filed a nominating petition in a single volume that the Ocean County Clerk found to be facially compliant with the applicable statutes. As part of the petition, Defendant Lobman signed a standard circulator affidavit.
2. Defendant Lobman did not collect all of the signatures in the nominating petition. Mr. Rodrick has certified that he collected approximately eight of the signatures. Defendant Lobman was not present when Mr. Rodrick collected the approximately eight signatures.

The legal argument then turns on the application of McKaskey v. Kirchoff, 56 N.J. Super. 178 (App. Div. 1959). The circulator affidavit in this case is false under the plain letter of N.J.S.A. 19:13-7 which requires the affiant to collect the petition signatures and swear to that fact. McKaskey controls the outcome. The only remedy when an a circulator affidavit is invalid is to throw out the entire book. In this case, there is only one book; therefore the nomination is invalid.

To expedite matters, I have sent counsel a draft set of proposed stipulations. The two numbered paragraphs above are at the core of the proposed stipulations. We are willing to discuss further narrowing of the issues. In the end, the case will turn on this small set of facts, and legal argument, which would be the most expeditious way to a decision that will allow the Ocean County Clerk to get the court approved ballot to

the press in compliance with N.J.S.A. 19:63-5 and N.J.S.A. 19:63-9 for the commencement of the mailing of the mail-in ballots for the election.

Second, I respectfully request that the Court allow my client to appear via Zoom tomorrow. My client had surgery on August 26. She remains in an in-patient rehabilitation setting, and is unable to attend court in person. My client has no first-hand knowledge of the core facts; therefore, she would not be a fact witness. I await the Court's instructions.

Respectfully submitted,

*W. Timothy Howes*

W. Timothy Howes

WTH/th

Cc: Laura Benson, Esq.  
Donald Burke, Esq.  
Ms. Kathy Eagan