DOCKET NO. CV-13-5008261	:	SUPERIOR COURT
JOHN KILIAN	:	JUDICIAL DISTRICT OF
V.	:	MIDDLESEX
LINDA BETTENCOURT	:	OCTOBER 21, 2013

RULING ON APPLICATION FOR MANDAMUS

The plaintiff, John Kilian, has filed an Application for Order of Mandamus directing the defendant, Linda Bettencourt, the Town Clerk for the City of Middletown, to place certain names on the ballot for the November, 2013 municipal election. On October 21, 2013, the court granted the motions of the Stephen Devoto and Steven Smith to intervene as plaintiffs in this action. After a hearing on this date the court finds the following facts.

On August 28, 2013, the Realistic Balance Party filed a nomination list of candidates for the November election. The deadline for such filing was September 3, 2013, so the nomination list was timely filed. The nomination list included the names of four people for Common Council, including Fred Carroll and David Bauer. It also included three names for Planning and Zoning, including plaintiffs, Stephen Devoto and Steven Smith, four names for Board of Education, and the name of the plaintiff, John Kilian, for mayor.

The nomination list was in the same form as the list from the previous year. It contained only two signatures, Fred Carroll, the Chairman of the Middletown Realistic Balance Party, and the plaintiff, John Kilian, as Secretary of the Middletown Realistic Balance Party. The defendant accepted the nomination list and did not advise any of the plaintiffs that the law required that all those on the nomination list sign their names and provide their addresses.

On September 16, 2013, Ms. Bettencourt sent Mr. Devoto an e-mail concerning the position

Copies mailed to: Office of General Counsel (Middletown) Steven H. Beust John Kilian Steven Smith Hon. Angela Kh... A.C. 10-21-2013

OFFICE OF THE CLERK SUPERIOR COURT 2013 OCT 21 PM 3 47 JUDICIAL DISTRICT OF MIDDLESEX STATE OF CONNECTICUT

10-22-13 EK

110

of the Realistic Balance Party on the ballot. Sometime thereafter Ms. Bettencourt heard from certain people on the Realistic Balance Party nomination list that they did not wish to be on the ballot for that party. Then Ms. Bettencourt and other town clerks throughout the state experienced a "firestorm" of problems with minority party nomination lists: the statute governing the contents of those nominations, Connecticut General Statutes § 9-452, had changed to require that the signatures of the candidates be included on the nomination. Many, including the plaintiffs here, were unaware of the change.

Ms. Bettencourt testified that the counsel for the Secretary of State advised her that she had no authority to put anyone on the ballot if they had not complied with § 9-452. As of this date, however, Ms. Bettencourt is aware that Mr. Devoto and Mr. Smith wish to be on the Realistic Balance Party ballot. Mr Kilian and Mr. Carroll are already eligible to be on the ballot because they signed the nomination list.

The plaintiffs seek an order from this court permitting Devoto and Smith to sign the certified list of candidates submitted by the Realistic Balance Party and ordering the defendant to place their names on the ballot for the Realistic Balance Party.[1]

---

[1] The plaintiffs are not proceeding under General Statutes § 9-328, which provides in relevant part: "Any elector or candidate claiming to have been aggrieved by any ruling of any election official in connection with an election for any municipal office or a primary for justice of the peace, or any elector or candidate claiming that there has been a mistake in the count of votes cast for any such office at such election or primary, or any candidate in such an election or primary claiming that he is aggrieved by a violation of any provision of sections 9-355, 9-357 to 9-361, inclusive, 9-364, 9-364a or 9-365 in the casting of absentee ballots at such election or primary, may bring a complaint to any judge of the Superior Court for relief therefrom. In any action brought pursuant to the provisions of this section, the complainant shall send a copy of the complaint by first-class mail, or deliver a copy of the complaint by hand, to the State Elections Enforcement Commission."

Discussion of the Law and Ruling

The defendant argues that Kilian does not have standing to pursue this action because he is already on the ballot and, therefore, this court lacks subject matter jurisdiction. In the alternative, the defendant argues that even if this court has subject matter jurisdiction, General Statutes § 9-452 is mandatory, not directory, and therefore the town clerk may not place Devoto and Smith on the November ballot.

The court first addresses the standing issue. "A case that is nonjusticiable must be dismissed for lack of subject matter jurisdiction." (Internal quotation marks omitted.) *Chapman Lumber, Inc.* v. *Tager*, 288 Conn. 69, 86, 952 A.2d 1 (2008). "[J]usticiability comprises several related doctrines, namely, standing, ripeness, mootness and the political question doctrine, that implicate a court's subject matter jurisdiction and its competency to adjudicate a particular matter." (Internal quotation marks omitted.) *Keller* v. *Beckenstein*, 305 Conn. 523, 536, 46 A.3d 102 (2012). "If . . . the plaintiff's standing does not adequately appear from all materials of record, the complaint must be dismissed." (Internal quotation marks omitted.) *Burton* v. *Dominion Nuclear Connecticut, Inc.*, 300 Conn. 542, 550, 23 A.3d 1176 (2011).

"[S]tanding is not a technical rule intended to keep aggrieved parties out of court; nor is it a test of substantive rights. Rather it is a practical concept designed to ensure that courts and parties are not vexed by suits brought to vindicate nonjusticiable interests and that judicial decisions which may affect the rights of others are forged in hot controversy, with each view fairly and vigorously represented. . . . Two broad yet distinct categories of aggrievement exist, classical and statutory. . . . Classical aggrievement requires a two part showing. First, a party must demonstrate a specific, personal and legal interest in the subject matter of the decision, as opposed to a general interest that

all members of the community share. . . . Second, the party must also show that the [party's] decision has specially and injuriously affected that specific personal or legal interest. . . . Aggrievement does not demand certainty, only the possibility of an adverse effect on a legally protected interest. . . . Statutory aggrievement exists by legislative fiat, not by judicial analysis of the particular facts of the case. In other words, in cases of statutory aggrievement, particular legislation grants standing to those who claim injury to an interest protected by that legislation. . . . Where a party is found to lack standing, the court is consequently without subject matter jurisdiction to determine the cause." (Citations omitted; internal quotation marks omitted.) *Canty* v. *Otto*, 304 Conn. 546, 556-57, 41 A.3d 280 (2012).

Recently, in *Slane* v. *Fairfield*, the court stated in regard to elector standing: "[A] showing of aggrievement sufficient to provide a basis for standing does not demand certainty, but only the possibility of an adverse effect on a legally protected interest. The law does not require that the right to vote be threatened *in toto*, only that the right to vote could be adversely affected. In *Leahy* v. *Columbia*, Superior Court, judicial district of Tolland at Rockville, Docket No. [CV-00-73346-S] (September 29, 2000, Sferrazza, J.) (28 Conn. L. Rptr. 237), for example, a referendum was passed approving a bonding resolution to finance the construction of a new firehouse. The plaintiffs, who were voters eligible to participate in the referendum, brought suit alleging that town officials engaged in agreements which fell outside the purview of the bonding resolution which was passed. Citing *[Windham* v. *Taxpayers Assn.* v. *Board of Selectman*, 234 Conn. 513, 662 A.2d 1281 (1995)], the court held: 'The mere status as a qualified voter in a town fails to confer standing to litigate each and every municipal action. [However], [t]he municipal conduct that is the subject of the suit must conceivably pertain to an infringement of the right to vote. . . . The court finds that the plaintiffs'

complaint passes this test." (Citation omitted) Id., at 238. Thus, the court in *Leahy* held that the alleged failure to comply with the referendum as passed, that is, the expressed will of the voters, demonstrated a realistic possibility of injury to the plaintiffs. Id. In other words, the effect of the plaintiffs' votes could have been compromised." (Emphasis in original.). *Slane* v. *Fairfield*, Superior Court, judicial district of Fairfield, Docket No. CV-13-6035920-S (July 19, 2013).

In this case, it is not necessary that Kilian show his aggrievement as a potential candidate, but he may claim classical aggrievement if there is an adverse effect on his right to vote as an elector. If the court does not grant the requested relief in this case, his right to vote for the candidates of his choice, i.e. Devoto and Smith, may be infringed. Therefore, he has "assert[ed] a plain, direct and adequate interest in maintaining the effectiveness of [his vote] . . . not merely a claim of the right possessed by every citizen to require that the government be administered according to law." (Citation omitted; internal quotation marks omitted.) *Baker* v. *Carr*, 369 U.S. 186, 208, 82 S. Ct. 691, 7 L. Ed. 2d 663 (1962).

Consequently, after a review of the relevant law and materials, this court finds that it has subject matter jurisdiction to consider the issue now before it. Kilian, as a pro se plaintiff, is not engaging in the unauthorized practice of law as claimed by the defendant, because he is asserting that the effectiveness of his vote would be improperly limited if Devoto and Smith were not permitted to appear on the November ballot. The fact that a favorable decision would also grant the relief requested by Devoto and Smith does not alter this result.[2]

---

[2] The court agrees with the defendant that since § 9-328 was not pleaded; see footnote 1 of this decision; it cannot be used to confer jurisdiction. Nevertheless, while it is clear that § 9-328 is jurisdictional in nature, in the sense that it makes certain types of claims cognizable, the court has been unable to locate any authority indicating that the statute is mandatory, or that it is the exclusive

The next issue is whether the statute at issue, § 9-452, is mandatory or directory, and thus whether strict noncompliance with the statute forbids Devoto and Smith from being placed on the ballot after the deadline for submission of candidate lists. Section 9-452 provides in relevant part: "All minor parties nominating candidates for any elective office shall make such nominations and certify and file a list of such nominations, as required by this section, not later than the sixty-second day prior to the day of the election at which such candidates are to be voted for. A list of nominees in printed or typewritten form that includes each candidate's name as authorized by each candidate to appear on the ballot, the signature of each candidate, the full street address of each candidate and the title and district of the office for which each candidate is nominated shall be certified by the presiding officer of the committee, meeting or other authority making such nomination and shall be filed by such presiding officer with . . . the clerk of the municipality, in the case of municipal office,

---

means by which the present plaintiffs may bring their cause of action. To the contrary, courts in Connecticut have interpreted § 9-328 to be limited in scope. See, e.g., *Scheyd* v. *Bezrucik*, 205 Conn. 495, 502, 535 A.2d 793 (1987) ("[Section] 9-328 applies only when an elector or a candidate claims to have been aggrieved by any ruling of any election official in connection with an election for any municipal office . . . or . . . [claims] that there has been a mistake in the count of votes cast for any such office at such election . . . ." [Internal quotation marks omitted.]). In fact, that § 9-328 is not exclusive is evidenced by the fact that the Supreme Court has held that certain types of claims, such as constitutional claims, are excluded from the ambit of the statute. *Wrotnowski* v. *Bysiewicz*, 289 Conn. 522, 527, 958 A.2d 709 (2008). Here, the plaintiffs have claimed a constitutional infringement of their rights to vote and/or appear on the ballot. In addition, the court is mindful of the fact that the present plaintiffs are pro se, to whom the court bears a duty to be solicitous. *Royce* v. *Westport*, 183 Conn. 177, 181, 439 A.2d 298 (1981). Because "[t]he action is being prosecuted by the plaintiff [a] person who is not a member of the bar. . . this court . . . so far as [it] properly can, will endeavor to see that such a plaintiff shall have the opportunity to have his case fully and fairly heard, and will endeavor to aid a result, such as this case presents, brought about by plaintiff's lack of legal education and experience, rather than to deny him an opportunity to be heard through a too strict construction of a rule of practice, when this course does not interfere with the just rights of the defendant . . . ." *Higgins* v. *Hartford County Bar Assn.*, 109 Conn. 690, 692, 145 A. 20 (1929); *Connecticut Light & Power Co.* v. *Kluczinsky*, 171 Conn. 516, 520, 370 A.2d 1306 (1976).

not later than the sixty-second day prior to the day of the election. The registrars of voters of such municipality shall promptly verify and correct the names on any such list filed with him, or the names of nominees forwarded to the clerk of the municipality by the Secretary of the State, in accordance with the registry list of such municipality and endorse the same as having been so verified and corrected. For purposes of this section, a list of nominations shall be deemed to be filed when it is received by the Secretary or clerk, as appropriate."

It is not at issue that the Realistic Balance Party qualifies as a minor party, and thus that § 9-452 applies to the plaintiffs. The statute was recently amended by Public Act 11-173, which added the requirement that the list of nominees must include each candidate's name as authorized by each candidate to appear on the ballot, the signature of each candidate, the full street address of each candidate and the title and district of the office for which each candidate is nominated. It is not disputed that at the time the candidate list was submitted to the defendant on August 28, 2013, the list did not fully comply with the statute. The plaintiffs nonetheless request that Devoto and Smith be added. The defendant argues that neither she nor this court have the power to add candidates to the ballot in contravention of § 9-452.

"[W]hen interpreting a statute, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . To do so, we first consult the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered. General Statutes § 1-2z. . . . A statute is ambiguous if, when read in context, it is susceptible to more than one reasonable interpretation." (Citation omitted; footnote omitted; internal quotation marks omitted.) *Butts* v.

Bysiewicz, 298 Conn. 665, 672-73, 5 A.3d 932 (2010). Courts must "read the statute as a whole in order to reconcile all of its parts. . . . Every word and phrase is presumed to have meaning, and we do not construe statutes so as to render certain words and phrases surplusage." (Internal quotation marks omitted.) *Ugrin* v. *Cheshire*, 307 Conn. 364, 383, 54 A.3d 532 (2012).

"[S]tate statutes which restrict the access of political parties to the ballot implicate associational rights as well as the rights of voters to cast their votes effectively. . . . The right to associate with the political party of one's choice is an integral part of this basic constitutional freedom. . . . Freedom of association means not only that an individual voter has the right to associate with the political party of her choice . . . but also that a political party has a right to identify the people who constitute the association . . . and to select a standard bearer who best represents the party's ideologies and preferences. . . . Each provision of [an election] code, whether it governs the registration and qualifications of voters, the selection and eligibility of candidates, or the voting process itself, inevitably affects — at least to some degree — the individual's right to vote and his right to associate with others for political ends. . . . Therefore, [c]ommon sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections; as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." (Citations omitted; internal quotation marks omitted.) *Butts* v. *Bysiewicz*, supra, 298 Conn. 674.

"It generally is understood that filing deadlines for ballot access are designed to ensure the integrity of the election process in general [because they] . . . ensure the orderly functioning of the primary-election timetable so that those responsible will have sufficient time to prepare that ballot

properly." (Citations omitted; internal quotation marks omitted.) Id., 674-75. "Therefore, to give due weight to the interests of the voters, candidates and political parties, on the one hand, and the legislature, on the other hand, [the court is] guided by the following additional principles. Ambiguities in election laws are construed to allow the greatest scope for public participation in the electoral process, to allow candidates to get on the ballot, to allow parties to put their candidates on the ballot, and most importantly to allow the voters a choice on Election Day. . . . This principle, however, does not authorize the court to substitute its views for those of the legislature." (Citation omitted; internal quotation marks omitted.) Id., 675.

"It is well established that the legislature's use of the word shall suggests a mandatory command. . . . Nevertheless, we also have recognized that the word shall is not [necessarily] dispositive on the issue of whether a statute is mandatory." (Citation omitted; internal quotation marks omitted.) *Southwick at Milford Condominium Assn., Inc.* v. *523 Wheelers Farm Road, Milford, LLC*, 294 Conn. 311, 319-20, 984 A.2d 676 (2009).

The defendant argues, relying upon one decision of the Supreme Court — *Butts* v. *Bysiewicz*, supra, 298 Conn. 665 — and two decisions of the Superior Court — *Caterbone* v. *Bysiewicz*, Superior Court, judicial district of Stamford-Norwalk at Stamford, Docket No. CV-10-6005682-S (August 30, 2010, *Adams, J.*) (50 Conn. L. Rptr. 527) and *Buckley* v. *Secretary of State*, Superior Court, judicial district of Fairfield, Docket No. CV-13-6038400-S (October 7, 2013, *Bellis, J.*), that this court should interpret § 9-452 to be mandatory. Although the court concludes that each of these cases contains an accurate statement of the standard by which a court is to determine whether a statute is mandatory or directory, the court concludes that each of the above three cases is factually distinguishable from the present.

Each of the above three cases concerned statutes different than the one at issue here — § 9-388[3] in the *Butts* and *Caterbone* cases, and § 9-453o (b)[4] in *Buckley*. This is significant because the court in each of the above three cases, in addition to looking at the words used in the particular statute, also found it significant that the statute contained an express penalty for noncompliance with the statutory provisions. In *Butts* and *Caterbone*, the statute at issue expressly stated that any filing

---

3

Section 9-388 provides: "Whenever a convention of a political party is held for the endorsement of candidates for nomination to state or district office, each candidate endorsed at such convention shall file with the Secretary of the State a certificate, signed by him, stating that he was endorsed by such convention, his name as he authorizes it to appear on the ballot, his full residence address and the title and district, if applicable, of the office for which he was endorsed. Such certificate shall be attested by either (1) the chairman or presiding officer, or (2) the secretary of such convention and shall be received by the Secretary of the State not later than four o'clock p.m. on the fourteenth day after the close of such convention. Such certificate shall either be mailed to the Secretary of the State by certified mail, return receipt requested, or delivered in person, in which case a receipt indicating the date and time of delivery shall be provided by the Secretary of the State to the person making delivery. If a certificate of a party's endorsement for a particular state or district office is not received by the Secretary of the State by such time, such certificate shall be invalid and such party, for purposes of section 9-416 and section 9-416a shall be deemed to have made no endorsement of any candidate for such office. If applicable, the chairman of a party's state convention shall, forthwith upon the close of such convention, file with the Secretary of the State the names and full residence addresses of persons selected by such convention as the nominees of such party for electors of President and Vice-President of the United States in accordance with the provisions of section 9-175.

4

Section 9-453o (b) provides: "Except as otherwise provided in this subsection, the Secretary of the State shall approve every nominating petition which contains sufficient signatures counted and certified on approved pages by the town clerks. In the case of a candidate who petitions under a reserved party designation the Secretary shall approve the petition only if it meets the signature requirement and if a statement endorsing such candidate is filed with the Secretary by the party designation committee not later than four o'clock p.m. on the sixty-second day before the election. In the case of a candidate who petitions under a party designation which is the same as the name of a minor party the Secretary shall approve the petition only if it meets the signature requirement and if a statement endorsing such candidate is filed in the office of the Secretary by the chairman or secretary of such minor party not later than four o'clock p.m. on the sixty-second day before the election. No candidate shall be qualified to appear on any ballot by nominating petition unless the candidate's petition is approved by the Secretary pursuant to this subsection."

that did not comply with the statute "shall be invalid . . . ." General Statutes § 9-388; *Butts* v. *Bysiewicz*, supra, 298 Conn. 665; *Caterbone* v. *Bysiewicz*, supra, 50 Conn. L. Rptr. 527. In *Buckley*, the statute provided that "No candidate shall be qualified . . . ." General Statutes § 9-453o (b); *Buckley* v. *Secretary of State*, supra, Superior Court, Docket No. CV-13-6038400-S. This language, when read in the context of the statute as a whole, gave credence to the conclusion that the use of the word "shall" in each of §§ 9-388 and 9-453o (b) was mandatory. No such penalty for noncompliance is contained in § 9-452. "[T]he use of different words [or the absence of repeatedly used words in the context of] the same [subject matter] must indicate a difference in legislative intention . . . ." (Internal quotation marks omitted.) *State* v. *Tabone*, 279 Conn. 527, 539 n.14, 902 A.2d 1058 (2006).

In addition, the court in *Buckley* v. *Secretary of State*, supra, Superior Court, Docket No. CV-13-6038400-S, based its determination that § 9-453o (b) was mandatory upon two other considerations not present in this case. First, the court in *Buckley* found it significant that the Secretary of State, which appeared as a party in that case, interpreted § 9-453o (b) as mandatory. Meanwhile, the court observed that General Statutes § 9-3 provides, in relevant part "the [Secretary of State's] regulations, declaratory rulings, instructions and opinions, if in written form, shall be presumed as correctly interpreting and effectuating the administration of elections and primaries under this title . . . ." *Buckley* v. *Secretary of State*, supra, Superior Court, Docket No. CV-13-6038400-S. Second, the court found it significant that § 9-453o (b) was specifically referenced by General Statutes § 9-379, which provides: "No name of any candidate shall be printed on any official ballot at any election except the name of a candidate nominated by a major or minor party unless a nominating petition for such candidate is approved by the Secretary of the State as provided in

sections 9-453a to 9-453p, inclusive." *Buckley* v. *Secretary of State*, Superior Court, Docket No. CV-13-6038400-S. Neither of these two factors is present in this case.

The defendant also argues, however, that *Butts* v. *Bysiewicz*, supra, 298 Conn. 665, stands for the proposition that filing deadlines within the election code as a whole are to be interpreted as mandatory. *Butts*, however, concerned a situation in which the relevant filing was never received by the Secretary of State's office. Here, there is no dispute that the relevant filing was properly delivered to the town clerk's office. Rather, the present dispute focuses on whether the filing was properly completed, not whether it was filed by the statutory deadline. Accordingly, this case differs from *Butts* in this respect.

The court concludes that despite the use of the word "shall" in § 9-452, the statute is nonmandatory as applied to the facts of this case. In the absence of the three factors noted in the three cases upon which the defendant relies, the court finds that the statute should be construed in order to provide the greatest access to the ballot. The use of the word shall in this statute does not unequivocally require the conclusion that the statute is mandatory. The language in the statutes at issue in *Butts*, *Caterbone*, and *Buckley* was accompanied other language clarifying the intent of the statute.

This court also finds it significant that there is a recent decision of the Superior Court that found § 9-452 to be nonmandatory. See *Lessing* v. *Strauss*, Superior Court, judicial district of Stamford-Norwalk at Stamford, Docket No. CV-13-6019887-S (October 3, 2013, *Povodator, J.*) (entering stipulated agreement as judgment on the record after concluding that § 9-452 was nonmandatory); but see *Dostaler* v. *Wielaba*, Superior Court, judicial district of Middlesex, Docket No. CV-13-6010514-S (October 7, 2013, *Domnarski, J.*) (concluding that § 9-452 prohibited clerk

from placing candidate on ballot, but entering stipulated judgment to the contrary in the absence of objection of the defendant).

Furthermore, the court in *Buckley* v. *Secretary of State*, supra, Superior Court, Docket No. CV-13-6038400-S recognized that *Lessing* v. *Strauss*, supra, Superior Court, Docket No. CV-13-6019887-S concluded that § 9-452 was nonmandatory. This court therefore agrees with Judge Povodator's conclusion that the statute is nonmandatory. In addition, despite the language of the stipulation entered in *Dostaler* v. *Wielaba*, supra, Superior Court, Docket No. CV-13-6010514-S, the fact remains that the court nonetheless permitted the stipulation to enter as an order, thus permitting the plaintiff to be placed on the ballot.[5]

---

[5] Were the court to find that the statute was mandatory, as opposed to directory, the court concludes that the plaintiffs are nonetheless entitled to relief because they have stated a valid estoppel claim. "The standards governing the application of equitable estoppel are well established. There are two essential elements to an estoppel — the party must do or say something that is intended or calculated to induce another to believe in the existence of certain facts and to act upon that belief; and the other party, influenced thereby, must actually change his position or do some act to his injury which he otherwise would not have done. . . . [I]n order for a court to invoke municipal estoppel, the aggrieved party must establish that: (1) an authorized agent of the municipality had done or said something calculated or intended to induce the party to believe that certain facts existed and to act on that belief; (2) the party had exercised due diligence to ascertain the truth and not only lacked knowledge of the true state of things, but also had no convenient means of acquiring that knowledge; (3) the party had changed its position in reliance on those facts; and (4) the party would be subjected to a substantial loss if the municipality were permitted to negate the acts of its agents." (Internal quotation marks omitted.) *Levine* v. *Sterling*, 300 Conn. 521, 534-535, 16 A.3d 664 (2011). "The party claiming estoppel . . . has the burden of proof. . . . Whether that burden has been met is a question of fact . . . ." (Internal quotation marks omitted.) Id., 536. In the present case, the town clerk sent a proposed ballot to the plaintiffs that contained a line for the Realistic Balance Party. This was an official act upon which the plaintiffs were entitled to rely — that is to say, it was reasonable for them to change their position and presume that they had submitted all required filings properly. In addition, the court finds that the plaintiffs exercised due diligence in determining the requirements of the law, and given the nature of the injury claimed, the plaintiffs would suffer substantial loss were they not permitted on the ballot. See also, e.g., *Foster* v. *Ayala*, Superior Court, judicial district of Fairfield, Docket No. CV-11-6021487-S (September 2, 2011, *Bellis, J.*) (52 Conn. L. Rptr. 541) (concluded plaintiffs had established municipal estoppel in context of election case).

Conclusion and Order

For all the aforementioned reasons, writ of mandamus is granted. Judgment shall enter accordingly. The defendant shall place the names of Stephen DeVoto and Steven Smith on the ballot for the Realistic Balance Party for the office of Planning and Zoning.

By the Court,

Aurigemma, J.