

## **Reductions in Signatures Required to Get on the Ballot in Maryland Because of a Pandemic**

*Maryland Green Party v. Hogan*  
(*Ellen Lipton Hollander, 1:20-cv-1253*) and  
*Ivey v. Lamone (1:20-cv-1995) and Dhillon v. Wobensmith*  
(*1:20-cv-2197*) (*Richard D. Bennett*) (D. Md.)

Two district judges in the District of Maryland issued consent decrees relaxing ballot-petition signature requirements for the November 3, 2020, general election in light of social distancing made necessary by a pandemic. A third case seeking further modifications was unsuccessful.

*Subject:* Getting on the ballot. *Topics:* Getting on the ballot; Covid-19; case assignment; attorney fees.

Three cases in the District of Maryland sought modifications to ballot-petition signature requirements in light of a global infectious pandemic. The first two resulted in consent decrees, but the third asked for more than the court was willing to provide.

### *Minor Political Parties*

Two minor parties and their chairs filed in the District of Maryland a federal complaint against Maryland's election officials on May 19, 2020, seeking damages for refusals by the governor and the administrator of elections to adequately adjust the ballot-petition signature requirements in light of social distancing made necessary by the global Covid-19 infectious pandemic.<sup>1</sup> With their complaint, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction modifying the signature requirement.<sup>2</sup>

On the next day, Judge Ellen Lipton Hollander observed that the motion for a temporary restraining order should not proceed without evidence of sufficient notice to the defendants.<sup>3</sup> The plaintiffs conferred with the defendants and submitted an agreement to brief an injunction motion by June 3.<sup>4</sup> Judge Hollander set the case for a telephone conference on May 22.<sup>5</sup>

At the conference, Judge Hollander agreed to the proposed briefing schedule and set the case for another telephone conference on June 8 and a hearing on June 12.<sup>6</sup> "I cannot yet determine whether [the hearing] will be in court, via telephone, or via Zoom," Judge Hollander observed.<sup>7</sup>

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1. Complaint, *Md. Green Party v. Hogan*, No. 1:20-cv-1253 (D. Md. May 19, 2020), D.E. 1.

2. Motion, *id.* (May 19, 2020), D.E. 2.

3. Order, *id.* (May 20, 2020), D.E. 6.

4. Letter, *id.* (May 20, 2020), D.E. 7.

5. Docket Sheet, *id.* (May 19, 2020) (D.E. 8).

6. Order, *id.* (May 22, 2020), D.E. 13.

7. *Id.*

Instead of holding the hearing, however, Judge Hollander agreed to the parties' request for time to prepare settlement documents.<sup>8</sup> On June 19, Judge Hollander issued a consent judgment reducing the number of signatures required for the parties to qualify for the November 3 general-election ballot to five thousand.<sup>9</sup>

### *Independent Candidates*

On July 7, a prospective candidate for Congress filed a federal complaint in the District of Maryland against the state's administrator of elections seeking relief from the state's ballot-petition signature requirements.<sup>10</sup> With her complaint, the plaintiff filed a motion for a preliminary injunction seeking either a reduction in the number of signatures necessary or an extension to the August 3 deadline.<sup>11</sup>

Judge Richard D. Bennett held a status conference by telephone on July 13.<sup>12</sup> The parties submitted a proposed consent judgment one week later.<sup>13</sup> Judge Bennett issued the consent judgment that day, reducing the signature requirement by half and applying the consent judgment to all prospective independent candidates.<sup>14</sup> It was further ordered "that if the State of Maryland cannot identify funds to satisfy payment of the attorneys' fee amounts required by separate agreement of the Parties, Plaintiff shall have the right to reopen the proceedings in this case to pursue claims for costs and attorneys' fees in this Court."<sup>15</sup>

### *Limits to Relief*

Mentioning the other prospective candidate's suit in his complaint, a prospective candidate for mayor of Baltimore filed in the District of Maryland a federal complaint against Maryland's secretary of state and its administrator of elections on July 28 seeking authorization to collect ballot-petition signatures electronically.<sup>16</sup> With his complaint, the plaintiff filed a motion for a preliminary injunction further modifying the signature requirement.<sup>17</sup>

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8. Endorsed Order, *id.* (June 12, 2020), D.E. 23.

9. Consent Judgment, *id.* (June 19, 2020), D.E. 25; *see Dhillon v. Wobensmith*, 475 F. Supp. 3d 456, 458 (D. Md. 2020).

10. Complaint, *Ivey v. Lamone*, No. 1:20-cv-1995 (D. Md. July 7, 2020), D.E. 1.

11. Preliminary-Injunction Motion, *id.* (July 7, 2020), D.E. 2.

12. Docket Sheet, *id.* (July 7, 2020).

13. Joint Motion for Consent Judgment, *id.* (July 20, 2020), D.E. 4.

14. Consent Judgment, *id.* (July 20, 2020), D.E. 5 [hereinafter *Ivey* Consent Judgment], 2020 WL 4197044; *see Dhillon*, 475 F. Supp. 3d at 458, 460.

15. *Ivey* Consent Judgment, *supra* note 14, at 3.

16. Complaint, *Dhillon v. Wobensmith*, No. 1:20-cv-2197 (D. Md. July 28, 2020), D.E. 1; *Dhillon*, 475 F. Supp. 3d at 458, 460.

17. Preliminary-Injunction Motion, *Dhillon*, No. 1:20-cv-2197 (D. Md. July 29, 2020), D.E. 2; *Dhillon*, 475 F. Supp. 3d at 458.

The court reassigned the case from Judge Catherine C. Blake to Judge Bennett,<sup>18</sup> who held a telephone conference on July 29 and set the case for a public telephone hearing on the following day.<sup>19</sup>

On July 31, Judge Bennett denied the plaintiff immediate relief: “Further modification of these already-altered election law requirements is unnecessary and would run afoul of the public interest, potentially jeopardizing the integrity of the upcoming election.”<sup>20</sup>

Judge Bennett dismissed the action as settled on August 28.<sup>21</sup>

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18. Docket Sheet, *Dhillon*, No. 1:20-cv-2197 (D. Md. July 28, 2020).

19. Order, *id.* (July 29, 2020), D.E. 4; *Dhillon*, 475 F. Supp. 3d at 458.

20. *Dhillon*, 475 F. Supp. 3d at 459.

21. Order, *Dhillon*, No. 1:20-cv-2197 (D. Md. Aug. 28, 2020), D.E. 12.