

SETTLEMENT AGREEMENT

RECITALS

WHEREAS, on July 24, 2015, Greg Dorsey (hereinafter, the “Plaintiff”) filed in the United States District Court for the District of Maryland the suit styled *Greg Dorsey v. Linda H. Lamone, et al.*, No. 1:15-cv-02170-GLR (the “Lawsuit”) against Linda H. Lamone, the State Administrator of Elections, and the members of the State Board of Elections (hereinafter, the “Board”) in their official capacities (collectively, the “Defendants”)¹; and

WHEREAS, the complaint alleged, in part, that ballot access regulations in Maryland unfairly burden supporters of unaffiliated candidates for statewide office in Maryland as compared to supporters of candidates nominated by a new political party; and

WHEREAS, under § 4-102 of the Election Law Article (“Elec. Law”), Md. Code Ann., a new political party may be formed by, among other things, submitting a petition containing the signatures of at least 10,000 registered voters, which empowers the new political party to nominate candidates for any office under Elec. Law § 5-703.1 and to have its nominees included on the general election ballot; and

WHEREAS, under Elec. Law § 5-703, supporters of an unaffiliated candidate for statewide office may not have the candidate’s name placed on the general election ballot unless the candidate files a petition signed by not less than 1% of the total number of registered voters in the State, which number in 2016 is more than 40,000 registered voters; and

WHEREAS, as stated in the Court’s June 10, 2016 Memorandum Order denying the Defendants’ motion to dismiss, under the First and Fourteenth Amendments to the Constitution of the United States, a State may regulate ballot access for unaffiliated candidates provided that the burdens imposed on unaffiliated candidates are reasonable and similar in degree to the burdens imposed on party candidates; and

WHEREAS, the Parties agree that a court would likely find that unaffiliated candidates for statewide office in Maryland now face a disproportionate burden on their ability to gain ballot access as compared to new party candidates, in violation of the First and Fourteenth Amendments; and

¹ The current members of the Board are David J. McManus, Jr., Chairman; Patrick J. Hogan, Vice Chairman; Michael R. Cogan; Kelly A. Howells; and Bobbie S. Mack.

WHEREAS, to avoid the uncertainty and expense of further litigation, Plaintiff and Defendants desire to resolve fully and finally all remaining issues and disputes between them involving the Lawsuit;

NOW, THEREFORE, this 29th day of July, 2016 (the "Effective Date"), Plaintiff and Defendants agree as follows:

AGREEMENT

A. The parties to this Settlement Agreement ("Settlement Agreement") are the Plaintiff and the Defendants. Nothing in this Settlement Agreement shall be construed to make any other person or entity not executing this Settlement Agreement a third-party beneficiary to this Settlement Agreement.

B. This Settlement Agreement applies to, is binding upon, and inures to the benefit of the Plaintiff (and his successors, assigns, and designees) and the Defendants (and their successors, assigns, and designees).

C. This Settlement Agreement shall not constitute an admission or evidence of any fact, wrongdoing, misconduct, or liability on the part of the Defendants, the State of Maryland, the Maryland State Board of Elections, its members, officers, agents, employees, state or local elections officials or employees, or any other person affiliated with any such entity or person.

D. Each undersigned representative of the Parties to this Settlement Agreement certifies that he or she is fully authorized by the Party to enter into and execute the terms and conditions of this Settlement Agreement and to legally bind such Party to this Settlement Agreement.

E. For the 2016 general election and for any special general election that may hereafter be scheduled to be held prior to the end of the 2017 legislative session of the Maryland General Assembly, the Board will accept as sufficient for purposes of Elec. Law § 5-703(e) a candidate nominating petition for statewide office containing the signatures of at least 10,000 registered voters and that, provided all other requirements are satisfied, the candidate shall be placed on the general election ballot.

F. The Board will recommend to the Governor and the General Assembly of Maryland for the 2017 legislative session passage of a bill to eliminate the unconstitutional disparity in ballot access requirements as between unaffiliated candidates and new political party candidates.

G. The Defendants shall pay to the Plaintiff the sum of SEVEN HUNDRED SIXTY DOLLARS (\$760.00) as reimbursement of Plaintiff's costs in filing and serving the summons in the Lawsuit in the form of a check payable to: David I. Schoen, Attorney at Law.

H. Plaintiff agrees that within 60 days after the Effective Date of this Agreement, Plaintiff will voluntarily dismiss the Lawsuit, without prejudice. The Parties acknowledge that the Plaintiff's agreement to dismiss the Lawsuit and not pursue further litigation of this matter is conditioned upon: (1) the Board's successful implementation of the policy agreed to in paragraph E of the Agreement; and (2) the enactment of legislation in the 2017 legislative session of the General Assembly of Maryland that eliminates any unconstitutional disparity in ballot access requirements as between unaffiliated candidates and party candidates for statewide office. Plaintiff expressly reserves the right to re-file this Lawsuit if the 2017 legislative session does not result in the enactment of legislation that reduces the number of signatures required on nominating petitions for unaffiliated candidates seeking statewide office to 10,000 or fewer. In the event that this Lawsuit is re-filed in accordance with this Paragraph H, Plaintiff reserves the right to seek in that litigation reimbursement of all attorneys' fees incurred in this Lawsuit and in the re-filed Lawsuit, including all attorneys' fees incurred as of the Effective Date of the Settlement Agreement. Nothing in this Settlement Agreement shall be deemed to constitute a waiver of the Defendants' right to raise any available argument in opposition to any request for attorneys' fees that may be submitted.

I. This Settlement Agreement constitutes the entire agreement between the Plaintiff and the Defendants in this case with regard to all claims and issues, including attorneys' fees and costs. To the extent this Settlement Agreement references other documents, those documents are referenced for informational purposes only and are not thereby incorporated by reference into, and do not constitute a part of, this Settlement Agreement. All prior conversations, meetings, discussions, drafts, and writings of any kind are specifically superseded by this Settlement Agreement.

J. It is hereby expressly understood and agreed that this Settlement Agreement was jointly drafted by the Plaintiff and the Defendants. Accordingly, the Parties hereby agree that any and all Rules of construction to the effect that ambiguity is construed against the drafting Party shall be inapplicable in any dispute concerning the terms, meaning, or interpretation of this Settlement Agreement.

K. This Settlement Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute as original agreement, and all of which shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that Party had signed all other counterparts.

RELEASE

L. Except as provided in Paragraph H, upon payment of \$760.00, in full and final settlement of the Plaintiffs' costs in connection with the Lawsuit, the parties agree that the following release of claims shall become effective:

Plaintiff, being of lawful age, for himself and any claiming through him, his heirs, executors, administrators and assigns, do release, acquit and forever discharge the Defendants and the State of Maryland, as well as their respective successors and assigns, departments, divisions, units, officials, officers, agents, servants, representatives, employees and independent contractors and any and all other persons, associations and corporations, whether or not named herein or referenced, who together with the Defendants may be jointly or severally liable to the Plaintiff, of and from all claims for attorneys' fees and costs related in any way to the Lawsuit.

FOR THE PLAINTIFF:

David I. Schoen, Bar No. 28554
2800 Zelda Road, Suite 100-6
Montgomery, Alabama 36106
Tel: (334) 395-6611
Fax: (917) 591-7586

FOR THE DEFENDANTS:

Linda H. Lamone
Linda H. Lamone
State Administrator of Elections
Maryland State Board of Elections
151 West Street, Suite 200
Annapolis, Maryland 21401
Tel: (410) 269-2840