

STATE OF NEW YORK : SUPREME COURT
COUNTY OF ERIE : CIVIL TERM : PART 33

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In the Matter of the Application of
ELLEN REESE
-and-
MICHAEL T. QUIGLEY
-and-
GREGORY B. OLMA
-and-
GEOFFREY H. KELLY
-and-
RICHARD H. GREENBERG, as qualified voters

Index No.
I2009-8865

Petitioners,

vs.

CHRISTOPHER L. JACOBS,
as a candidate for the office of Member At Large of the
Board of Education of the City of Buffalo

Respondent.

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50 Delaware Avenue
Buffalo, New York
September 1, 2009

B E F O R E:

HONORABLE FREDERICK J. MARSHALL,

Supreme Court Justice

A P P E A R A N C E S:

PETER A. REESE, ESQ.
Appearing for the Plaintiff

PAUL G. JOYCE, ESQ.
Appearing for the Defendant

Marcia M. Langer
Sr. Court Reporter

1 (9:47 a.m. counsel present.)

2 COURT CLERK: Our next matter will be Reese.

3 THE COURT: Reese V. Jacobs.

4 COURT CLERK: Counsel, please state your
5 appearance for the record, beginning with the plaintiff.

6 MR. REESE: Yes. Good morning, your Honor.

7 Peter Reese for Petitioners.

8 MR. JOYCE: Paul Joyce for Mr. Jacobs.

9 THE COURT: Okay. Now let's get to the heart of
10 this, gentlemen.

11 Mr. Joyce, your client says he responded. If
12 you read the disclosure statement, it's rather incomplete.
13 At least that's the way I read it. It's half names,
14 partial names, things like that, no addresses on -- on the
15 disclosure. You think that that's adequate disclosure?

16 MR. JOYCE: Your Honor, to the letter of the
17 Education Law, no, it's not. I believe the Education Law
18 does state that you're supposed to have name and address,
19 and I agree that it does not have complete names and
20 addresses for all donors, similar to many of the other
21 candidates who have filed disclosure statements, although
22 Mr. Jacobs is the only one who's been sued for it.

23 THE COURT: Sometimes that happens. There's a
24 phrase for that, but I can't say it here.

25 MR. JOYCE: It is the exact same relief that the

1 Court -- that Mr. Reese asked for in the last lawsuit he
2 filed here -- I'm sorry -- the first lawsuit he filed
3 against Mr. Jacobs. So --

4 THE COURT: Well, it's not the exact same
5 relief. As a matter of fact, he -- he had brought a
6 motion to reargue, or perhaps it was to renew, I forgot
7 which --

8 MR. REESE: Reopen, your Honor.

9 THE COURT: -- and I -- and I denied it because
10 I said, no, it's not the same relief, it's new relief, so
11 I said you'll have to bring a new petition. So now he's
12 brought a new petition. So it's not the same.

13 MR. REESE: Your Honor, if I might, there are
14 additional items in here. We've got entities which appear
15 to be political committees, even though I can't tell from
16 the limited name. There are additional pieces of
17 information that have to be reported for a political
18 committee. That's clearly stated in the statute. In
19 addition to that, I do not believe there's any provision
20 in the Education Law -- and please excuse me if I mention
21 Election Law, because I'm used to saying Election Law. I
22 mean Education Law in general. I don't think there's any
23 provision in the Education Law for anonymous contributions
24 or cash contributions. We do have an anonymous
25 contribution here, and we've got a substantial almost

1 thirty-six hundred dollar cash contribution. Since this
2 is not covered by the Election Law, we don't have the
3 hundred dollar threshold for reportability here, and --
4 and strict reading of the Education Law says if you
5 contribute a buck, your name and address should be down.
6 I don't know if the Court wants to take it that far, but I
7 think there's at least got to be an explanation of where
8 the thirty-six hundred bucks came from. And, your Honor,
9 if I -- if I may, I'll call your attention to -- well,
10 it's -- that's detailed in my petition, but it's page 1,
11 line 22 of the disclosure report it's cash, thirty-five
12 ninety. I don't think that's appropriate under the
13 Education Law and --

14 THE COURT: It doesn't say -- it doesn't say who
15 contributed the cash?

16 MR. REESE: No. It says cash. And you've got
17 the document, your Honor, it's in Exhibit A --

18 THE COURT: I read it. I read it.

19 MR. REESE: I don't know what to say, quite
20 frankly, because this --

21 THE COURT: You don't have to say anything, Mr.
22 Reese.

23 MR. REESE: We've discussed this. The Education
24 Law has big holes in it.

25 THE COURT: Well, I know it does. I --

1 Listen, Mr. Joyce, I think at the very least,
2 though, Mr. Jacobs has to list the names of the
3 contributors, the full names, not partial names, the full
4 names of campaign committees, whatever is required in the
5 Education Law. You can't, for example, list somebody's
6 name, put their first name, their middle initial and then
7 not list their last name or a partial corporate name.

8 I'm going to grant the petition. Mr. Jacobs has
9 20 days to comply with the law, file an amended statement
10 listing the names of all donors, the complete names of all
11 donors and their addresses and to otherwise comply with
12 the Education Law regarding disclosure. In other words,
13 Mr. Reese, when you say campaign committees require other
14 information, what are you -- what are you saying?

15 MR. REESE: Apparently they're required to
16 define or at least name the political unit that the
17 committee is supposed to represent. And, your Honor, I
18 apologize, because -- I mean it's the Education Law, I --
19 I don't -- I don't profess to understand it all, but there
20 is a qualifier here that says, "If the contributor or
21 person is a political committee as defined by subdivision
22 one of section fourteen one hundred of the Election Law --
23 now suddenly we kick back to the Election Law -- the name
24 of the political unit represented by the committee, the
25 date of its receipt, the dollar amount of every

1 expenditure, the name and address of the person to whom it
2 was made or the name of and the political unit represented
3 by the committee to which it was made and the date
4 thereof.

5 THE COURT: What's a political unit?

6 MR. REESE: I don't know what that means.

7 THE COURT: What's a political unit?

8 MR. REESE: Well, it appears that there's a
9 Higgins For Congress, so I guess that means New York
10 Congressional 15th. I mean I -- I don't profess to know
11 what this means, but that's what it --

12 THE COURT: Okay. Let's see what Mr.

13 MR. REESE: I mean, your Honor --

14 MR. JOYCE: Your Honor --

15 THE COURT: Hold on.

16 MR. JOYCE: Mr. Reese mentioned expenditures by
17 a committee. I don't understand how a contribution can be
18 an expenditure.

19 MR. REESE: Well, I'm reading the law, your
20 Honor. That's all I can do.

21 THE COURT: Okay. Listen, as I recall, the list
22 of expenditures was already filed, correct?

23 MR. JOYCE: Yes, your Honor.

24 MR. REESE: We don't have any objection to that
25 even though some of the -- there's some cutoff. I mean

1 we've got a printout problem here, that's all. When it
2 says dot dot dot at the end of the line, it means there's
3 more there, but I have to guess what it is.

4 THE COURT: I have to agree. I'm agreeing with
5 you, Mr. Reese, the full name has to be disclosed, the
6 address has to be disclosed, the political unit apparently
7 has to be disclosed, such as if it's Higgins For Congress,
8 the Congressional District, although keep in mind I think
9 we all know where he's running and where he serves, but
10 I'm ordering the disclosure because I think it is in the
11 public interest that disclosure be made and that is full
12 and complete disclosure of names and addresses of who is
13 contributing. Anonymous is not a name. Anonymous has no
14 address. All of that has to be disclosed. 20 days to do
15 so following notice of entry of the order. Have a good
16 day, gentlemen.

17 MR. JOYCE: Thank you, your Honor.

18 MR. REESE: Thank you, your Honor.

19 (9:55 a.m. recess.)

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21 I hereby certify that the foregoing is a true
22 and accurate transcript of the proceedings held in the
23 matter of Ellen Reese, et al, vs Christopher L. Jacobs.

24 *Marcia M. Langer*
25 Marcia M. Langer
Sr. Court Reporter