

THE LAW FIRM OF  
**Bucknam & Black**

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March 21, 2017

Angel Desilets  
Vermont Superior Court  
Essex Unit, Civil Division  
PO Box 75  
Guildhall, VT 05905

Re.: Tracey Martel v. Town of Victory et al

Dear Angel:

Enclosed please find:

- Complaint and Petition for Writ of Mandamus and Motion for Temporary Restraining Order and for Preliminary Injunction with accompanying exhibits.
- Separate Motion for Temporary Restraining Order and proposed Order
- Check #15702 in the amount of \$295.00

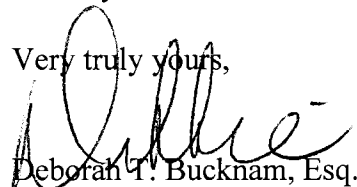
Please note that Exhibit S is a copy of an affidavit from Ruth Neborsky. She is sending the original by USPS, and we will file it with the court when we receive it. There are also date corrections on the affidavit which I made with Ruth's permission.

Please also note we are asking for a Temporary Restraining Order to stop the election set for the Town of Victory on April 5, 2017. We would request, therefore, that this matter be brought to the Court's immediate attention.

We are also happy to provide by email the documents filed today with the Court, to the Town and/or its attorney prior to the Court issuing an order, if the Court wishes.

Thank you.

Very truly yours,



Deborah T. Bucknam, Esq.

Copies to: Tracey Martel  
File

STATE OF VERMONT

SUPERIOR COURT  
Essex Unit

CIVIL DIVISION  
Docket No. \_\_\_\_\_

TRACEY MARTEL, Plaintiff )  
 )  
 vs. )  
 )  
 TOWN OF VICTORY, VERMONT )  
 CAROL EASTER )  
 DAWN PETERS )  
 JAN STANLEY )  
 SANDY HUDSON )  
 LIONEL ("SKIP") EASTER )  
 VICTORY BOARD OF CIVIL )  
 AUTHORITY )  
 WAYNE MOODIE )  
 KRYSTAL GRAY )  
 ROBERT FLANIGAN JR. )  
 TONI FLANIGAN )  
 ROBERT FLANIGAN III )  
 BRENDAN FLANIGAN )  
 LAURY SALIGMAN )  
 JOHN MCGILL )  
 ISAIAH PRESTON )  
 ANGELO SPERA )  
 ANDREA POGINY )

**COMPLAINT AND PETITION FOR WRIT OF MANDAMUS  
AND MOTION TEMPORARY RESTRAINING ORDER AND FOR  
PRELIMINARY INJUNCTION**

COMES NOW Tracey Martell, by and through her attorney, Deborah T.

Bucknam, Esq. of Bucknam & Black, PC, and hereby states as follows:

**INTRODUCTION**

This is a case involving massive voter fraud by the Defendants in the  
Town of Victory. Numerous non-residents who are political allies of the individual

Defendants have been placed on the voter checklist, and voted by absentee ballot in the March 7, 2017 election. Several attempts by other members of the Board of Civil Authority to purge the checklist of non-residents have been rebuffed by the Defendants. The result has been that the population of the Town of Victory has supposedly increased by 50% since the last decennial census. The Defendant members of the Board of Civil Authority have violated their non-discretionary duties to attend meetings to remove non-residents from the checklist, and Town Clerk and Town Treasurer Carol Easter has violated several statutes, including not following statutory procedure when placing persons on the checklist, failing to provide absentee ballots in a timely manner to voters who oppose Defendants; hand delivering an absentee ballot alone to a voter, and interfering with one voter with her ballots on Town Meeting Day. The result was that at Town Meeting, Carol Easter won the races for Town Clerk by three votes and Town Treasurer by one vote. Her husband, Defendant Lionel Easter tied in the race for select board. In addition, it has been recently learned that Carol Easter has refused to send out absentee ballots to some voters for the April 7, 2017 run-off election who have requested them, and she has failed to mail out absentee ballots for the April 7, 2017 run-off to voters who participated in the March 7, 2017 election.

Plaintiff Tracey Martel, who ran unsuccessfully for the Town Clerk and the Town Treasurer positions, seeks this Honorable Court to issue a temporary restraining order a preliminary and permanent injunction, and writ of mandamus to the Defendants to cancel the April 7, 2017 election, to remove non-residents from the checklist, and to hold another election, pursuant to 17 V.S.A. § 2603.

## PARTIES

1. Plaintiff Tracey Martel is a resident of the Town of Victory, Essex County, Vermont, and was a candidate for Victory Town Clerk in the March 7, 2017 town meeting election.
2. Defendant Town of Victory is a municipality located in Essex County, Vermont.
3. Defendant Carol Easter is a resident of Victory, and presently Victory Town Clerk, and a member of the Victory Board of Civil Authority (“BCA”).
4. Defendant Dawn Peters is a resident of the Town of Victory, Vermont, and is presently the Chair of the Victory BCA.
5. Defendant Jan Stanley is a resident of The Town Victory, Vermont, and a member of the Victory BCA.
6. Defendant Sandy Hudson is a resident of Victory Vermont and a member of the Victory BCA.
7. Defendant Lionel Easter is a resident of Victory Vermont and a member of the Victory BCA.
8. Defendant Victory Board of Civil Authority is a municipal Board of elected officials part of whose duties including purging the voter checklists
9. Defendant Wayne Moodie and Krystal Gray are residents of St. Johnsbury, Caledonia County, Vermont.
10. Defendants Robert Flanigan Jr., Toni Flanigan, Robert Flanigan III and Brendan Flanigan are residents of Granby, Connecticut.

11. Defendant Andrea Poginy is a resident of St. Johnsbury, Caledonia County, Vermont

12. Defendant Isaiah Preston is a resident of Burlington, Chittenden County, Vermont

13. Defendant Angelo Spera is a resident of Salem, Connecticut.

14. Defendants Laury Saligman and John McGill are residents of Montpelier, Washington County, Vermont.

### **JURISDICTION**

15. Superior Court jurisdiction is based on 17 V.S.A. § 2617 (“ In all cases for which no other provision has been made, the superior court shall have general jurisdiction to hear and determine matters relating to elections and to fashion appropriate relief.”) and 17 V.S.A. § 2603.(“Contest of elections”) Further, a complaint under 17 V.S.A. § 2603 must be filed within 15 days of the election.

### **FACTS**

16. Plaintiff re-alleges paragraphs 1-15.

17. On March 7, 2017, a Town Meeting was held in Victory, Vermont.

18. The Town of Victory holds elections of officers and decides warned articles by Australian ballot at Town Meeting.

19. According to the Town Checklist, as of Town Meeting Day, there were 84 registered voters in the Town of Victory. [Exhibit A—Town Meeting Day Checklist]. As of 2017, there were 11 school aged children in town. [Exhibit B—Town of Victory FY18 enrollment], resulting in a Town population of at least 95 persons.

20. As of the census year 2010, there were a total of 63 persons residing in the Town of Victory. Thus if the checklist is correct, there was an approximately 50% increase in population in the Town of Victory since the last census.
21. As late as February 2017, assistant Town Clerk Ferne Loomis said there were “only 63 people in town.” [Exhibit C—Caledonian Record articles quoting Ferne Loomis]
22. Of the 84 registered voters, on Town Meeting Day, 76 voted, with 41 voting by absentee ballot, and 35 voting in person.
23. The checklist reveals that there are at least eleven people who are not residents of the Town of Victory who voted by absentee ballot.
- a. Wayne Moodie and Krystal Gray moved out of town to St. Johnsbury, Vermont in November 2016 because the Victory Vermont trailer they were renting was deemed unsafe. [Exhibit D—Patricia Mitchell’s affidavit ]
  - b. Robert Flanigan Jr., Toni Flanigan, Robert Flanigan III, and Brendan Flanigan live in Connecticut and have for many years, even decades. Robert and Toni Flanigan have a vacation home in Victory, and they have not stayed overnight there since 2014. Their adult sons, Robert III and Brendan have not been seen in the Town of Victory for at least four years. Neither son has ever lived in Victory. [Exhibit E—Greg Hovey’s affidavit; Exhibit F—Checkmate background report four Flanigan family members; Exhibit G—Deposition transcript testimony of Robert Flanigan Jr.]

- c. Andrea Poginy lives in St. Johnsbury and has not lived in Victory, Vermont for more than one year [Exhibit H-15—Transcript of Carol Easter’s Testimony; Exhibit I—Facebook post]
- d. Isaiah Preston does not live in Victory, Vermont. Isaiah lives in Burlington, Vermont. [ Exhibit J—Checkmate background report on Isaiah Preston]
- e. Angelo Spera, who, upon information and belief, is Toni Flanigan’s brother, lives in Salem Connecticut, and, upon information and belief, owns no property in the Town of Victory. [Exhibit K—Checkmate background report]
- f. Laury Saligman and John McGill live in Montpelier, Vermont and their children attend Montpelier public schools. [Exhibit H—Transcript of Carol Easter’s testimony; Exhibit L—Checkmate background reports]
- g. Arrick Mitchell lives in North Conway, New Hampshire. [Exhibit M—Town Meeting Warning]

24. The previous Chair of the BCA, Walter Neborsky, attempted to call at least three meetings of the Board of Civil Authority in August, September and November of 2016 to purge the checklist. Defendant members of the Board of Civil Authority refused to do purge the checklist, and at times refused to attend BCA meetings so that there was no quorum. [Exhibit N—Affidavit of Walter Neborsky] [Exhibit O—Minutes of BCA Meetings]

25. In September 2015, the BCA illegally took Ruth Neborsky and her active duty military son, Airman Andrew Marden, off the checklist. Their actions were

illegal because Ruth Neborsky was a full time resident of the Town of Victory, living with her husband, Walter Neborsky, and her son's legal residence was his mother's home in Victory. In addition, Ruth had attended nearly every town meeting, had voted in every election in the Town of Victory, and had attended many select board meetings. Her husband, Walter Neborsky, owns a home in Victory, and was present at the September 2015 BCA meeting. He told the BCA that his wife and stepson were residents. Despite that, the BCA removed Ruth Neborsky and her son from the checklist. In addition, Ruth's other son, Anthony Schifone, who is a full time college student, had applied a year earlier to be placed on the checklist, but he never was. [Exhibit P—Anthony Schifone's testimony]

26. As a result, Ruth Neborsky and her sons were forced to file suit in Superior Court to be placed on the checklist. Town Officials, including Defendant Carol Easter, opposed placing Ms. Neborsky and her two sons on the checklist, and testified against her. They provided no information whatsoever that Ms. Neborsky lived elsewhere other than Victory, Vermont. Two contested hearings were held, one in January, 2016 and one in February 2016. The Essex County Superior Court ordered that all three be placed on the checklist after the contested hearings were completed.

27. Between the first and second hearing on Ms. Neborsky's and her sons' voting rights lawsuit, Defendant Carol Easter placed Brendan Flanigan and Robert Flanigan III on the checklist for the first time. They applied online, and Defendant Carol Easter did not require proof of residence when she placed them



on the checklist. [Exhibit H-11 & H-12---Transcript of Carol Easter's testimony] Ms. Easter also placed Andrea Poginy back on the checklist after she had been removed by the BCA meeting in September, 2015—the same meeting when Ruth Neborsky and Andrew Marden were removed from the checklist.

[Exhibit H-14-H-15]

28. At the same time, Town Clerk Easter required Anthony Schifone to provide his driver's license as proof of residency when he applied for the third time. Even then, she did not put Anthony's name on the checklist. [Exhibit H-4; Exhibit H-10 & H-11]

29. In addition, Town Clerk Easter refused to put Ruth Neborsky's son, Andrew Marden's name back on the checklist, even after he provided proof of residence. [Exhibit H-10 & H-11].

30. Town Clerk Easter testified that even if someone has never lived in Victory, they can be put on the checklist if they express an intent to move to Victory. [Exhibit H-12].

31. At a hearing on December 2, 2016 when Town Clerk Easter was asked about the Flanigan sons' residency, she refused to answer. When told by the court she needed to answer, she asserted her right under the Fifth Amendment to the Constitution to not answer the question. She then said "there are multiple people that are on the checklist that should not be." [Exhibit Q—Carol Easter Dec 2, 2016 testimony ].

32. On February 15, 2017, Defendant Carol Easter was asked about when the absentee ballots were going to be available, she said “When I get around to it, and if you don’t like it, sue me!” [Exhibit R—Affidavit of Walter Mitchell].
33. The absentee ballots for March 7, 2017 town meeting were not made available by Defendant Carol Easter until February 22, 2017.
34. Airman Andrew Marden’s ballot was sent to him on February 22, 2017. It did not get back in time for the town meeting vote.. [Exhibit S—Ruth Neborsky affidavit]
35. Defendant Carol Easter was running for Town Clerk and Town Treasurer on the March 7, 2017 Town Meeting ballot.
36. Defendant Carol Easter was asked by Kathleen Hill, who has power of attorney for Victory resident Patricia A. Hill, to send Kathleen an absentee ballot for Patricia. Patricia at the time was a patient at St. Johnsbury Health and Rehabilitation.
37. Carol Easter did not send Kathleen the absentee ballot. Instead she personally brought the ballot to Patricia Hill, and stayed with Patricia until she completed her ballot and gave it back to Carol. Carol had no one else with her from the Town of Victory at the time. [Exhibit T—Kathleen Hill affidavit]
38. On Town Meeting day, Carol Easter assisted Carole Shepard in making out her ballot.
39. Defendant Sandra Hudson, who was a candidate for School Director, was an election official on Town Meeting day.
40. The voting results were as outlined in the attached Exhibit U.

41. According to Exhibit U, Lionel (“Skip”) Easter and Otis McKinstry tied for select board, and Article 8 was a tie. . .
42. According to Exhibit N, Tracey Martel lost the election for Town Clerk by three votes, and Town Treasurer by one vote.
43. The Town of Victory has warned a notice of a new election for April 5<sup>th</sup>, 2017 for the select board position. [Exhibit V—Notice of Election]

### **COUNT I—CONTEST OF ELECTION**

44. Plaintiff re-alleges paragraphs 1-43.
45. 17 V.S.A. § 2603 provides as follows:

The result of an election for any office, other than for the general assembly, or public question may be contested by any legal voter entitled to vote on the office or public question to be contested.(b) A contest is initiated by filing a complaint with a superior court alleging:(1) that errors were committed in the conduct of the election or in count or return of votes, sufficient to change the ultimate result; (2) that there was fraud in the electoral process, sufficient to change the ultimate result; or(3) that for any other reason, the result of the election is not valid.”

46. Errors were committed that were sufficient to change the ultimate result, including, but not limited to the following:

- a. Absentee ballots are required to be available 20 days prior to an election.

(“Ballots for local officers and local public questions shall be prepared at town expense, under the direction of the town clerk not later than 20 days before the local election.”) Vt. Stat. Ann. tit. 17, § 2681a.

Absentee ballots for the March 7, 2017 election were not available until February 22, 2017, 13 days before the election. As a result, at least one voter, Andrew Marden, did not get his ballot back in time for his vote to count.

b. Australian ballots are, under Vermont statutes, secret ballots. (“ An ‘Australian ballot’ means a uniformly printed ballot, *typically confined to the secret vote election of specified offices* as previously warned to be voted upon by the Australian ballot system. Vt. Stat. Ann. tit. 17, § 2103 *Emphasis added*. Carol Easter, according to what appears in the town office’s security camera, handled the ballots of a voter in the voting booth, and, upon information and belief, wrote on at least one of the ballots while the voter was talking to another person, in violation of 17 V.S.A. § 1972:

“A voter who, except in cases of assistance as provided in this title, allows his or her ballot to be seen by another person with an apparent intention of letting it be known how he or she is about to vote or makes a false statement to the presiding officer at an election as to his or her inability to mark his or her ballot or places a distinguishing mark on his or her ballot or a person who interferes with a voter when inside the guard rail or who, within the building in which the voting is proceeding, endeavors to induce a voter to vote for a particular candidate, shall be fined \$ 1,000.00. (b) It shall be the duty of the election officers to see that the offender is duly prosecuted for a violation of this section. “ 17 V.S.A. § 1972

c. If an absentee ballot is hand delivered to a voter, the statutes require as follows:

“Not later than three days prior to the election, the board of civil authority or, upon request of the board, the town clerk, shall designate in pairs justices of the peace in numbers sufficient to deliver early voter absentee ballots to the applicants for early voter absentee ballots who have stated in their applications that they are unable to vote in person at the polling place due to illness or physical disability but who have not requested in their applications that early voter absentee ballots be mailed to them. No pair shall consist of two justices from the same political party.” Vt. Stat. Ann. tit. 17, § 2538

Carol Easter hand delivered an absentee ballot to Patricia Hill, who had not requested the ballot pursuant to 17 V.S.A. § 2538, and she went

alone without any justices of the peace, in violation of Section 2538 of Title 17.

- d. At least eleven voters on the checklist are non-residents, in violation of Vermont statutes. (“Any person may register to vote in the town of his or her residence in any election held in a political subdivision of this state in which he or she resides who, on election day:(1) is a citizen of the United States;(2) is a resident of the state of Vermont;(3) has taken the voter's oath; and(4) is 18 years of age or more.”) Vt. Stat. Ann. tit. 17, § 2121
- e. Two non-residents, Brendan Flanigan, Robert Flanigan III were placed on the checklist for the first time by Defendant Carol Easter in 2016 even though they have never lived in Victory, Vermont. They were placed on the checklist online, without providing the necessary proof of residency as required by the Help America Vote Act:

“...[A] State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if--(A) the individual registered to vote in a jurisdiction by mail; and(B)(i) the individual has not previously voted in an election for Federal office in the State; or(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a).(2) Requirements(A.... (ii) in the case of an individual who votes by mail, submits with the ballot--(I) a copy of a current and valid photo identification; or(II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that *shows the name and address of the voter.*” 52 U.S.C.A. § 21083. *Emphasis added.*

Defendant Carol Easter knew they were not residents when she placed them on the ballot, and when she sent them their absentee ballots. That

is why she did not require and valid identification that shows the voters' residence. [Exhibit Q-4-Q-5] This violates 17 V.S.A. § 2016 ("A person who willfully aids or abets a person who is not a duly qualified voter in voting or attempting to vote at a local, primary, or general election shall be fined not more than \$ 200.00.")

f. All of the individual defendants know that Brendan Flanigan and Robert Flanigan III and other eight non-resident Defendants are not residents of the Town of Victory, yet as members of the BCA, the defendants have refused to take steps to remove non-residents from the checklist. This is also a violation of 17 V.S.A. § 2016 .

47. A resident for voting purposes is defined by Vermont Statutes as follows:

"For the purpose of this chapter, 'resident' shall mean a person who is domiciled in the town as evidenced by an intent to maintain a principal dwelling place in the town indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent. If a person removes to another town with the intention of remaining there indefinitely, that person shall be considered to have lost residence in the town in which the person originally resided even though the person intends to return at some future time. However, a person shall retain the ability to vote in a town of former residence for a period of 17 days after becoming a resident of a new town. A person may have only one residence at a given time. Vt. Stat. Ann. tit. 17, § 2122

48. As outlined above, none of the eleven non-resident defendants meet the criteria for residency set forth in 17 V.S.A. § 2122.

49. There are several other names on the checklist who, upon information and belief, are not residents; however, Plaintiff has been unable to verify, within the 15 days allowed for contest of elections to verify the addresses of the other non-resident voters. (" The complaint shall be filed within 15 days after the election in question .") Vt. Stat. Ann. tit. 17, § 2603

**COUNT II—PETITION FOR WRIT OF MANDAMUS**

50. Plaintiff re-alleges paragraphs 1-49..

51. The Town of Victory Board of Civil Authority has a statutory duty to remove persons from the checklist who are not residents. In addition, the BCA is mandated to review the checklist every odd numbered year prior to September 15<sup>th</sup>.

“(c) In addition to any actions it takes under subsections (a) and (b) of this section, by September 15 of each odd-numbered year the board of civil authority shall review the most recent checklist name by name and consider, for each person whose name appears on the checklist, whether that person is still qualified to vote. In every case where the board of civil authority is unable to determine under subdivisions (d)(1) and (2) of this section that a person is still qualified to vote, the board of civil authority or, upon request of the board, the town clerk shall send a written notice to the person and take appropriate action as provided in subdivisions (d)(3) through (5) of this section. The intent is that when this process is completed there will have been some confirmation or indication of continued eligibility for each person whose name remains on the updated checklist.” 17 V.C.A. § 2150

52. Removing names from the checklist must occur at least 90 days before the next election. Because the BCA has willfully refused to review the checklist and to remove non-residents from the checklist, Plaintiff prays this Honorable order that the defendant BCA members set a date forthwith to review the checklist and remove the non-residents from the checklist, pursuant to the statute.

**COUNT III— TEMPORARY RESTRAINING ORDER AND TEMPORARY  
AND PERMANENT INJUCTION**

53. Plaintiff alleges paragraphs 1-52.

54. The eleven defendant non-resident voters are violating 17 V.S.A. § 2014: (“ A person, knowing that he or she is not a qualified voter, who votes at a local, primary, or general election for an officer to be elected at that election shall be fined not more than \$200.00.”), as well as Vt. Stat. Ann. tit. 13, § 2904 (“A person of whom an oath is required by law, who willfully swears falsely in regard to any matter or thing respecting which such oath is required, shall be guilty of perjury and punished as provided in section 2901 of this title.”)

55. Plaintiff requests this Honorable Court to order the eleven defendants request that their names be removed from the town of Victory checklist forthwith.

56. Plaintiff further requests that this Honorable Court order that the Defendant Town of Victory cancel its select board election of April 5<sup>th</sup>, 2017, and to hold an entirely new election for all town offices and all town warnings warned for the March 2017 town meeting after the non-residents are removed from the checklist.

57. This Court has broad authority to issue orders to ensure the integrity of the election process, including ordering new elections, and forwarding information of possible criminal conduct to the state’s attorney:

“After hearing, the court shall issue findings of fact and a judgment, which shall supersede any certificate of election previously issued. If the court finds just cause, the court shall grant appropriate relief, which may include, without limitation, ordering a recount, or ordering a new election. If during the hearing the court receives credible evidence of criminal conduct, the court shall order a transcript of all or part of the testimony to be forwarded to the proper state's attorney. If a new election is ordered, the court shall set a date for it, after consulting with the secretary of state; in ordering a new election, the court shall have authority to issue appropriate orders, either to provide for special cases not covered by law, or to supersede provisions of law which may conflict with the needs of the particular situation.” Vt. Stat. Ann. tit. 17, § 2603



**COUNT IV—ISSUING FINES TO NON-RESIDENT DEFENDANTS AND**

**FORWARDING TESTIMONY TO STATE’S ATTORNEY**

58. Plaintiff re-alleges paragraphs 1-59.

59. As indicated above, Defendants who were not qualified voters who voted in the Town Meeting election are subject to fines of not more than \$200.00.

60. In addition Defendants who signed under oath that they were residents of the Town of Victory are subject to prosecution under the state perjury statute outlined above.

61. Plaintiff prays this Honorable Court issue fines to the non-resident Defendants who voted in the Town Meeting election, and pursuant to the statute noted above, forward the transcript of the hearing to the state’s attorney, if warranted.

**COUNT V –ISSUING FINES TO DEFENDANT CAROL EASTER**

62. Plaintiff re-alleges paragraphs 1-63.

63. Defendant Carol Easter, as indicated above, aided unqualified persons to vote in the Town Meeting election by placing non-resident names on the Victory checklist, and sending absentee ballots to non-residents. As such, she is subject to fines of not more than \$200.00.

64. In addition Defendant Carol Easter violated 17 V.S.A. § 2012: (“A person who, directly or indirectly, procures or causes to be procured or aids in procuring the name of a person to be inserted on a checklist of voters, knowing such person not to be a voter in the political subdivision for which such list is made or, directly or indirectly, procures or causes to be procured or aids in procuring the

name of a person to be erased from such list, knowing him or her to be a legal voter in such political subdivision, shall be fined not more than \$200.00.”)

65. Plaintiff therefore requests this Honorable Court issue fines against Carol Easter for her statutory violations.

### **COUNT VI – AWARD OF ATTORNEY’S FEES**

66. Plaintiff re-alleges paragraphs 1-67.

67. Defendants have acted willfully to subvert the purity of elections, in violation of Vermont statutes and constitution.

68. Vermont recognizes, that as a court of equity, this court has the power to award attorney’s fees under special circumstances when justice requires; (“Where an individual is forced to seek judicial assistance to secure a clearly defined and established right, which should have been freely enjoyed without such intervention, an award of counsel fees on the basis of bad faith is appropriate. This principle, which merely shifts the cost of what should have been an unnecessary judicial proceeding to the responsible party, has long been recognized.) *Appeal of Gadhue*, 149 Vt. 322, 328, 544 A.2d 1151, 1154 (1987)  
*Citations omitted.*

69. Plaintiff and other residents of the Town of Victory have a clear constitutional right to free and fair elections, and the right to be elected to office in a free and fair election (“That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into

office, agreeably to the regulations made in this constitution.”) Vt. Const. CH I,  
art. VIII

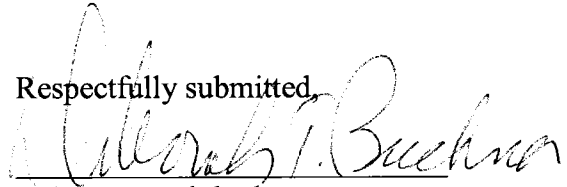
70. Plaintiff therefore requests that Defendants pay costs and attorney’s fees related  
to this matter.

**WHEREFORE**, Plaintiff prays this Honorable Court:

1. Issue a temporary restraining order, preliminary and permanent injunction  
and writ of mandamus as follows:
  - a. Order cancellation of the April 5, 2017 Town of Victory Select board  
election.
  - b. Order that the Defendant non-residents request forthwith that their  
names be removed from the Town of Victory checklist.
  - c. Order that the Victory Board of Civil Authority meet forthwith and  
remove unqualified voters from the Town of Victory checklist.
  - d. After unqualified voters are removed from the checklist, order an  
entirely new election for all town offices and warned articles.
  - e. Supervise the new election procedure to ensure there are no further  
statutory violations.
2. Issue fines to defendants who have violated the statutes which provide for  
fines for violation.
3. After hearing, if warranted, forward testimony to the State’s Attorney.
4. Order that defendants pay Plaintiff her attorney’s fees and costs.
5. Award any and all other relief which to this Honorable Court seems just and  
equitable.

Dated at St. Johnsbury, Vermont this 20 day of March, 2017.

Respectfully submitted,



Tracey Martel, by her attorney,  
Deborah T. Bucknam, Esq. ERN 1391  
[dbucknam@vtlegalhelp.com](mailto:dbucknam@vtlegalhelp.com)  
802-748-5525 Ext. 101

Exit

## Town of Victory, VT

Absentee	O	Voter	LastName	FirstName	Middle	Suffix	Address	TownName
		✓	ANDERSON	RICHARD			1475 VICTORY HL VIC	VICTORY
		✓	BACCHIOCHI	ANTHONY			1204 MASTEN RD	VICTORY
		✓	BACCHIOCHI	DONNA			1204 MASTEN RD	VICTORY
✓			BATIN	JENNIFER			1258 VICTORY HL	VICTORY
✓			BISHOP	BRTTANY			4140 VICTORY RD	VICTORY
✓			BLONDIN	JESSE			4140 VICTORY RD	VICTORY
			BOUCHARD	JANET			1291 RIVER RD	VICTORY
✓		✓	BROWN	EDWARD			4262 VICTORY RD	VICTORY
		✓	BROWN	STEVE	M.		7625 RIVER RD	VICTORY
		✓	CLERICI-MENDEL	ANGEL	B.		1768 VICTORY HL	VICTORY
✓			COOKE	LINDA	P.		217 MOUNT TUG RD	VICTORY
✓			COOKE	ZANE	G.		217 MOUNT TUG RD	VICTORY
		✓	EASTER	CAROL			2428 VICTORY HL	VICTORY
✓			EASTER	LIONEL			2428 VICTORY HL	VICTORY
✓			EASTER	STEPHEN			323 RIVER RD	VICTORY
✓			FLANIGAN	BRENDAN			2870 VICTORY HL	VICTORY
✓			FLANIGAN	ROBERT		III	2870 VICTORY HL	VICTORY
✓			FLANIGAN	ROBERT	J.	JR.	2870 VICTORY HL VIC	VICTORY
✓			FLANIGAN	TONI	T.		2870 VICTORY HL VIC	VICTORY
✓		✓	FRECHETTE	WILLIAM			945 GRANBY RD	VICTORY
✓			GRAY	KRYSTAL	M		1258B VICTORY HL	VICTORY
		✓	HARRISON	CATLIN	M		P.O. BOX 295	VICTORY
		✓	HARRISON	JOHN	SHANE		647 GRANBY RD	VICTORY
		✓	HARRISON	YVETTE			647 GRANBY RD	VICTORY
✓			HART	ELLEN	M		20 MASTEN RD	VICTORY
✓			HART	GORDON			20 MASTEN RD	VICTORY
✓			HART	TIMOTHY			20 MASTEN RD	VICTORY
		✓	HENDERSON	VIRGINIA			1061 RIVER RD	VICTORY
✓			HILL	PATRICIA			4270 VICTORY RD	VICTORY
✓			HINELINE	ELISE			1283 MASTEN RD	VICTORY
		✓	HOLT	BRADLEY			1640 VICTORY HL	VICTORY
		✓	HOLT	JOHN			1101 RIVER RD VICTO	VICTORY
			HOVEY	DYLAN	W.		3000 VICTORY HL	VICTORY
		✓	HOVEY	GREGORY			3000 VICTORY HL	VICTORY
			HOVEY	RYAN	R.		2622 VICTORY HL	VICTORY
		✓	HUDSON	SANDRA			323 RIVER RD	VICTORY
		✓	JACQUES-STAATS	MELANIE			3932 BURKE RD	VICTORY
		✓	LONGLEY	KATRINA	M.		80 BUTTONWOOD LN	VICTORY
✓			LOOMIS	FERNE			2754 VICTORY HL	VICTORY
		✓	LYNAUGH	HOWARD			1291 RIVER RD	VICTORY
✓			MACDONALD	JOHN			2754 VICTORY HL	VICTORY
✓			MARCHBANKS	LAWRENCE	STEPHEN		1258 VICTORY HL	VICTORY
			MARDEN	ANDREW JO	GARDEN		2364 VICTORY HL	VICTORY
✓			MARIN	RAYMOND	L.		874 RIVER RD VICTO	VICTORY

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PLAINTIFF'S  
EXHIBIT

A

tabbles

	✓	MARTEL	KYLE	E.		200 SERENITY WAY V	VICTORY
	✓	MARTEL	RAYMOND	R		200 SERENITY WAY	VICTORY
	✓	MARTEL	TRACEY	L.		200 SERENITY WAY V	VICTORY
✓	✓	MCGILL	JOHN	W.		3 DUNPATRICK CR M	VICTORY
✓	✓	MCKINSTRY	MARK			334 MOUNT TUG RD	VICTORY
✓	✓	MCKINSTRY	OTIS			P.O. BOX 52	VICTORY
✓	✓	MCKINSTRY	SYLVIA			P.O. BOX 52	VICTORY
	✓	MENDEL	AMY	F.		1768 VICTORY HL	VICTORY
✓		MITCHELL	ARRICK			323 RIVER RD	VICTORY
✓		MITCHELL	DOMINICK	E		1814 MASTEN RD	VICTORY
✓		MITCHELL	MICHAEL		C	80 BUTTONWOOD LN	VICTORY
✓		MITCHELL	PATRICIA			80 BUTTONWOOD LN	VICTORY
	✓	MITCHELL	WALTER			80 BUTTONWOOD LN	VICTORY
✓	✓	MITCHELL	WALTER JR			80 BUTTONWOOD LN	VICTORY
✓		MOODIE	WAYNE			1258B VICTORY HL	VICTORY
	✓	MORRON	JAMES			4082 VICTORY RD	VICTORY
✓		NEBORSKY	RUTH ANNE			2364 VICTORY HL	VICTORY
✓	✓	NEBORSKY	WALTER JR			2364 VICTORY HL	VICTORY
		NELSON	BRADLEY	G.		1204 MASTEN RD	VICTORY
✓		PEARSON	DARLENE	J.		3164 VICTORY HL	VICTORY
	✓	PETERS	DAWN	E.		750 RIVER RD VICTO	VICTORY
	✓	PETERS	ROBERT	C.	JR.	750 RIVER RD	VICTORY
✓		POGINY	ANDREA	L.		1258 VICTORY HL	VICTORY
✓		PRESTON	DOUGLAS			3317 VICTORY HL	VICTORY
✓		PRESTON	ISAIAH	D.		3317 VICTORY HL	VICTORY
✓		PRESTON	JEREMIE	F.		3317 VICTORY HL VIG	VICTORY
✓		RAINEY	LLOYD	W.		1344 RIVER RD	VICTORY
✓		RICH	TINA			1258 VICTORY HL	VICTORY
✓		SALIGMAN	LAURY	E.		3 DUNPATRICK CR M	VICTORY
✓	✓	SCHIFONE	ANTHONY			2364 VICTORY HL	VICTORY
	✓	SHEPARD	CAROLE			343 VICTORY RD	VICTORY
	✓	SOMERVILLE	DALE			257 RIVER RD	VICTORY
	✓	SOMERVILLE	MARLENE			257 RIVER RD	VICTORY
✓		SPERA	ANGELO				VICTORY
	✓	STAATS	WILLIAM			3932 BURKE RD	VICTORY
	✓	STANLEY	JANICE			11 GRANBY RD	VICTORY
	✓	VANDER-HEYDEN	EDDY			1645 MASTEN RD	VICTORY
		WALTERS	JUANITA	CHRISTIN		101 RADAR RD VICTO	VICTORY
		WALTERS	PHILEMON	THEOPH		101 RADAR RD	VICTORY
		WELCH	ERIN	L.		4262 VICTORY RD	VICTORY

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VICTORY TOWN SCHOOL DISTRICT  
ANTICIPATED FY18 ENROLLMENT

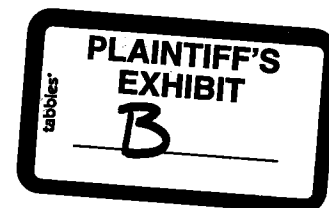
	Paid Tuitions					
	Concord School	Burke Town School	St. Johnsbury Academy	Riverside School	Lyndon Institute	Unknown High School
K:						
Grade 1:						
Grade 2:						
Grade 3:						
Grade 4:	1	1				
Grade 5:						
Grade 6:		1				
Grade 7:				1		
Grade 8:						
Grade 9:						3
Grade 10:					1	
Grade 11:			1			
Grade 12:			1		1	
	1	2	2	1	2	3

Elementary: 3

Secondary: 8

TOTAL: 11

	Concord School	Burke Town School	St. Johnsbury Academy	Riverside School	Lyndon Institute	Unknown High School
	\$14,884	\$15,225	\$17,634	\$15,766	\$17,632	\$17,632
	Budgeted FY18 Tuitions					



# Victory Residents Petition To Un-Incorporate Town

BY AMY ASH NIXON  
Staff Writer

VICTORY — A small group of citizens signed a petition seeking to have the town of Victory give up its autonomy as a town and instead join with the Unified Towns and Gores of Essex County.

The question of having Victory become a gore is not coming up on the town warning, said Selectman Walter Neborsky, who decided not to put the citizen-petitioned question on the warning with Chairman Walter Mitchell.

"That's so far-fetched, it's not even funny," said Neborsky.

Vermont Secretary of State Jim Condos said for Victory to become a gore, "the Selectboard in Victory and the Board of Governors for the Essex County Gores," would need to vote on the proposal.

If it passed both legislative bodies, the issue would need to go before voters and finally the Legislature, similar to a charter adoption process, Condos said.

Condos said on Thursday, "This is really un-chartered waters, but I think that is what would happen."

"Another option may be to just ask the Legislature to become an unincorporated town," said Condos.

Condos and Deputy Secretary of State Chris Winters recently met with Victory Town Clerk Carol Easter and Assistant Town Clerk Ferne Loomis.

It's highly unusual for a town to wish to unincorporate and become a gore, said Condos, but it

has happened.

"Most, if not all of the gores were once towns but after population decline," said Condos. He points to the former towns of Somerset and Glastenbury, both of which were disincorporated in 1937, according to historical records.

Rachel Muse, a state archivist, said, "Glastenbury unincorporated by an act of the legislature in 1937, now its referred to as a ghost town." The former town is in Bennington County, she said.

"It was like a mining town, essentially and when the mine stopped producing, people were like, okay, no need to be a town anymore," said Muse.

Victory is tiny in population, too, and many of the town's residents are disabled or elderly and on fixed incomes. The article about a dozen residents hoped to get on the warning, reads "We want to end all rumors, alleged corruption and power struggles. This will free the town of any wrong doing, miscalculations in recording and misappropriated funds. By removing the temptations of corruption we will make our town honest."

"We are very concerned about our town," Loomis, the assistant town clerk said in an interview about the gore question. "We want to make our town into a gore, and that is to help the people. We're only 63 people, we're so tiny."

Loomis said, "Our town is 89 percent elderly and on disability," and she said some people in town think if the state took the town over, they would be better off.

## Victory of Yesteryear

According to a book called *Vermont Place-Names: Footprints of History*, by Esther Munroe

Swift, published by the Vermont Historical Society, Victory was chartered as a town on Sept. 6, 1781, and was one of the last towns to be chartered in Essex County. "The town was chartered to Captain Ebenezer Fisk and 64 associates, most of whom were members of a Connecticut line regiment."

The town's name is believed to be one of the few which "derive from an idea rather than from a person or a place," Swift wrote. She wrote there were several theories on how the town was named, including that "Victory was so named because the general feel of victory over the British was in the air in the autumn of 1780."

The town was granted to Fisk and his associates a year earlier, the same day the state granted the town of Navy, now Charleston, in Orleans County, to Abraham Whipple and his associates, Swift wrote. It is presumed Whipple's Naval background in his native Rhode Island led to the original name of Charleston.

In 1970, there were just 42 residents in Victory, according to Swift's historical account, but 80 years earlier, "the town had the sixth largest population in the county."

"Heavily forested in the early days, Victory had been a mecca for the lumberman, and later on, large quantities of potatoes had been grown in the region for their starch and alcohol," she wrote. "In its heyday, Victory had seven villages, three post offices, five schools, six lumber mills, a starch factory, a granite quarry, ten miles of railroad track, four railroad stations and one hotel, plus several boarding houses for the factory and mill workers."

# Convicted Child Molester Violates Probation

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