

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

NATIONAL COALITION ON
BLACK CIVIC PARTICIPATION,
MARY WINTER, GENE
STEINBERG, NANCY HART,
SARAH WOLFF, KAREN SLAVEN,
KATE KENNEDY, EDA DANIEL,
and ANDREA SFERES,

Plaintiffs,

-and-

People of the STATE OF NEW
YORK, by its attorney general,
LETITIA JAMES, ATTORNEY
GENERAL OF THE STATE OF
NEW YORK

Plaintiff-Intervenor,

v.

JACOB WOHL, JACK BURKMAN,
J.M. BURKMAN & ASSOCIATES,
LLC, PROJECT 1599, MESSAGE
COMMUNICATIONS, INC., and
ROBERT MAHANIAN

Defendants.

CIVIL ACTION NO. 1:20-CV-08668

COMPLAINT IN INTERVENTION

PRELIMINARY STATEMENT

1. All eligible voters have the right to vote unimpeded by deception or intimidation. The right to vote “in a free and unimpaired manner is preservative of other basic civil and political rights” and “any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.” *Reynolds v. Sims*, 377 U.S. 533, 562 (1964).

2. This case is about a targeted, discriminatory effort to infringe on the fundamental rights of New Yorkers—and others across the country—to vote in a safe, lawful manner. Jacob Wohl and Jack Burkman, through Burkman’s lobbying firm, J.M. Burkman & Associates, and the purported organization Project 1599 (collectively “Wohl and Burkman”), concocted a racist campaign that trafficked in stereotypes and spread lies and deception all for their shared goal of intimidating voters and depressing voter turnout to disrupt a presidential election. In doing so, Wohl and Burkman violated several federal and New York laws.

3. In the summer of 2020, in advance of that November’s presidential election, Wohl and Burkman created a robocall recording, i.e. an automated phone call with a pre-recorded message, to discourage voters from voting by mail during a global pandemic in which voting in person posed a significant health risk. That robocall purported to come from a “Tamika Taylor from Project 1599, the civil rights organization founded by Jack Burman and Jacob Wohl,” and falsely claimed that voting by mail would subject the voter to having their personal information used by “police departments to track down old warrants,” “credit card companies to collect outstanding debts,” and by the Centers for Disease Control (“CDC”) to “track people for mandatory vaccines.”

4. Wohl and Burkman hired Message Communications, Inc., which is owned and operated by Robert Mahanian (collectively “Message Communications”), to send the robocall message to voters in New York and across the country.

5. On August 26, 2020, Message Communications sent the robocall to over 85,000 phone numbers nationwide, including approximately 5,500 phone numbers with New York area codes, and predominantly New York City metropolitan area codes.

6. Wohl and Burkman demonstrated a clear racial animus in carrying out their robocall campaign. For example, on August 25, 2020, the day before the robocalls were placed, Wohl emailed Burkman attaching the audio file for the call and stating that “[w]e should send it to black neighborhoods...” The next day, after the calls were sent and received by thousands of voters, Burkman emailed to congratulate Wohl, stating that “i love these robo calls...getting angry black call backs...win or lose...the black robo was a great jw idea.”

7. The Wohl and Burkman robocall campaign attempted to undermine and interfere with the then-ongoing efforts by the State of New York (“State”) to fairly and safely administer its elections and protect its citizens from voter intimidation and harassment. Indeed, in August 2020, as New York’s elections officials were taking steps—in light of the ongoing COVID-19 crisis—to make the application process for absentee ballots more accessible, the Wohl and Burkman robocall successfully reached thousands of New York phone numbers, spreading lies and subjecting those who received the call to intimidating and threatening language about what would happen to them if they decided to vote by absentee ballot during a deadly pandemic.

8. The New York Attorney General (“NYAG”) has a substantial interest in safeguarding the rights of New Yorkers who are threatened by voter intimidation. The NYAG seeks to intervene in this action to enforce the various voting rights and other protections provided by 42 U.S.C. § 1985(3) (the Ku Klux Klan Act of 1871), 52 U.S.C. § 10307(b) (the Voting Rights Act of 1965), 52 U.S.C. 10101(b) (the Civil Rights Act of 1957), New York Civil Rights Law §§ 9 and 40-c, otherwise prevent persistent illegality pursuant to New York Executive Law § 63(12), and to ensure that Defendants are not permitted to repeat their discriminatory and harassing conduct in future elections.

JURISDICTION AND VENUE

9. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343. This Court may exercise supplemental jurisdiction over claims based on New York law pursuant to 28 U.S.C. § 1367.

10. This Court has jurisdiction to issue the declaratory relief requested pursuant to the Declaratory Relief Act, 28 U.S.C. §§ 2201, 2202. This Court may also grant injunctive relief pursuant to Federal Rule of Civil Procedure 65.

11. Venue is proper in this district under 28 U.S.C. §§ 1391(b) because a substantial part of the events giving rise to this Complaint occurred and continue to occur within the Southern District of New York.

PARTIES

12. Plaintiff-Intervenor is the People of the State of New York, by its attorney, Letitia James, Attorney General of the State of New York. The Attorney General is the State's chief law enforcement officer and is authorized to pursue this action pursuant to New York Executive Law § 63.

13. The NYAG also brings this action pursuant to her *parens patriae* authority on behalf of the New York voters who have been intimidated by Defendants' unlawful conduct. Where, as here, the interests, rights, and well-being of a substantial segment of people of the State are implicated, the NYAG possesses *parens patriae* authority to commence legal actions in federal court for violations of federal and state laws.

14. The NYAG has a "unique status as the representative of the greater public good and [a] concomitant mandate to secure wide-ranging relief that will inure to the direct and indirect benefit of the broader community." *New York v. Utica City Sch. Dist.*, 177 F. Supp. 739, 753-54

(N.D.N.Y. 2016). As such, the NYAG has a quasi-sovereign interest in the health and well-being of New Yorkers. A fundamental component of that well-being is New Yorkers' right to vote. The NYAG's interest in protecting its citizens' fundamental voting rights warrants the employment of the NYAG's *parens patriae* authority. *See New York v. Cnty. of Del.*, 82 F. Supp. 2d 12, 13 n. 1 (N.D.N.Y. 2000) (holding that the NYAG has *parens patriae* authority to bring a suit to protect the voting rights of disabled New Yorkers).

15. Plaintiff-Intervenor, the NYAG, is aggrieved by Defendants' actions and has standing to bring this action.

16. Defendant Jacob Wohl ("Wohl") is a resident of Los Angeles, California. Wohl is a businessperson and conspiracy theorist.

17. Defendant Jack Burkman ("Burkman") is a resident of Arlington, Virginia. Burkman is a lobbyist, attorney, and conspiracy theorist.

18. Defendant J.M. Burkman & Associates, LLC ("Burkman & Associates") is a lobbying firm founded, controlled, and operated by Burkman. Burkman & Associates is headquartered at 1530 Key Blvd., Apt. 1222, Arlington, Virginia, an address affiliated with Burkman.

19. Defendant Project 1599 is an organization founded by Wohl and Burkman with headquarters at 1599 N. Colonial Terrace, Arlington, an address affiliated with Burkman.

20. Defendant Message Communications, Inc. is a California corporation that owns, operates, and hosts a telecommunication broadcasting platform, which broadcasts robocalls or pre-recorded telephone messages for a fee. Message Communications, Inc. is headquartered at 505 N. Tigertail Road, Los Angeles, California.

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