JONATHAN M. GOODMAN
jgoodman@troubhheisler.com

Troubh Heisler
ATTORNEYS AT LAW

In reply refer to: 204136.38

December 12, 2019

Mark A. Bower, Esq.
Jensen, Baird, Gardner & Henry
10 Free Street
PO Box 4510
Portland, Maine 04112-4510

RE: Janet Kuech & Meadow Welch v. Town of Gorham

Dear Mark:

Please find enclosed a copy of the Verified Complaint for Preliminary Injunction that was filed with the Cumberland County Superior Court on December 12, 2019. Also enclosed is an Acceptance of Service. Please sign and send it back to me in the enclosed envelope.

Thank you for your attention to this.

Sincerely,

Jonathan M. Goodman

511 Congress Street Suite 700
P.O. Box 9711
Portland, Maine 04104-5011
Telephone 207.780.6789 Fax 207.774.2339

www.troubhheisler.com

STATE OF MAINE
CUMBERLAND, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NUMBER: *PORSC-cv-2019-*

JANET KUECH, and

MEADOW WELCH,

Plaintiffs

v.

TOWN OF GORHAM,

Defendant

ACCEPTANCE OF SERVICE

I acknowledge that I have received a copy of the Plaintiffs' Complaint in the above-captioned matter on behalf of the Defendant, Town of Gorham. I hereby accept service of said Complaint on its behalf.

DATED: December ___, 2019

Mark A. Bower, Esq.
Attorney for Defendant
Maine Bar No.: 4132
Jensen, Baird, Gardner & Henry
10 Free Street
PO Box 4510
Portland, Maine 04112-4510
(207) 775-7271
mbower@jbgh.com

JONATHAN M. GOODMAN
jgoodman@troubhheisler.com

Troubh Heisler
ATTORNEYS AT LAW

In reply refer to: 204136.38

December 12, 2019

Heidi Bauer
Manager of Cumberland County Court Operations
Cumberland County Superior Court
205 Newbury Street, Ground Floor
Portland, Maine 04101-4125

RE: Janet Kuech & Meadow Welch v. Town of Gorham

Dear Heidi:

Please find enclosed the original Verified Complaint for Preliminary Injunction, Summary Sheet and filing fee for this matter.

Thank you for your attention to this.

Sincerely,

Jonathan M. Goodman

511 Congress Street Suite 700
P.O. Box 9711
Portland, Maine 04104-5011
Telephone 207.780.6789 Fax 207.774.2339

www.troubhheisler.com

SUMMARY SHEET

M.R. Civ. P. 5(h)

This summary sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the Maine Rules of Court or by law. This form is required for the use of the Clerk of Court for the purpose of initiating or updating the civil docket. (SEE ATTACHED INSTRUCTIONS)

I. County of Filing or District Court Jurisdiction: Cumberland County

II. CAUSE OF ACTION (Cite the primary civil statutes under which you are filing, if any.)

Maine Constitution: Article I, Sections 4 and 6-A

III. NATURE OF FILING

- [x] Initial Complaint
- [ ] Third-Party Complaint
- [ ] Cross-Claim or Counterclaim
- [ ] **If Reinstated or Reopened case, give original Docket Number** _____

(If filing a second or subsequent Money Judgment Disclosure, give docket number of first disclosure)

IV. [ ] **TITLE TO REAL ESTATE IS INVOLVED**

V. MOST DEFINITIVE NATURE OF ACTION. (Place an X in **one box only**) Check the box that most closely describes your case.

GENERAL CIVIL (CV)

Personal Injury Tort
- [ ] Property Negligence
- [ ] Auto Negligence
- [ ] Medical Malpractice
- [ ] Product Liability
- [ ] Assault/Battery
- [ ] Domestic Torts
- [ ] Other Negligence
- [ ] Other Personal Injury Tort

Non-Personal Injury Tort
- [ ] Libel/Defamation
- [ ] Auto Negligence
- [ ] Other Negligence
- [ ] Other Non-Personal Injury Tort

Contract
- [ ] Contract

Declaratory/Equitable Relief
- [ ] General Injunctive Relief
- [ ] Declaratory Judgment
- [ ] Other Equitable Relief

Constitutional/Civil Rights
- [x] Constitutional/Civil Rights

Statutory Actions
- [ ] Unfair Trade Practices
- [ ] Freedom of Access
- [ ] Other Statutory Actions

Miscellaneous Civil
- [ ] Drug Forfeitures
- [ ] Other Forfeitures/Property Libels
- [ ] Land Use Enforcement (80K)
- [ ] Administrative Warrant
- [ ] HIV Testing
- [ ] Arbitration Awards
- [ ] Appointment of Receiver
- [ ] Shareholders' Derivative Actions
- [ ] Foreign Deposition
- [ ] Pre-action Discovery
- [ ] Common Law Habeas Corpus
- [ ] Prisoner Transfers
- [ ] Foreign Judgments
- [ ] Minor Settlements
- [ ] Other Civil

CHILD PROTECTIVE CUSTODY (PC)

- [ ] Non-DHS Protective Custody

SPECIAL ACTIONS (SA)

Money Judgment
- [ ] Money Judgment Request Disclosure

REAL ESTATE (RE)

Title Actions
- [ ] Quiet Title
- [ ] Eminent Domain
- [ ] Easements
- [ ] Boundaries

Foreclosure
- [ ] Foreclosure (ADR exempt)
- [ ] Foreclosure (Diversion eligible)
- [ ] Foreclosure - Other

Misc. Real Estate
- [ ] Equitable Remedies
- [ ] Mechanics Lien
- [ ] Partition
- [ ] Adverse Possession
- [ ] Nuisance
- [ ] Abandoned Roads
- [ ] Trespass
- [ ] Other Real Estate

APPEALS (AP) (To be filed in Superior Court) (ADR exempt)

- [ ] Governmental Body (80B)
- [ ] Administrative Agency (80C)
- [ ] Other Appeals

VI. M.R. Civ. P. 16B Alternative Dispute Resolution (ADR):

- [ ] I certify that pursuant to M.R. Civ. P. 16B(b), this case is exempt from a required ADR process because:
  - [ ] It falls within an exemption listed above (i.e., an appeal or an action for non-payment of a note in a secured transaction).
  - [ ] The plaintiff or defendant is incarcerated in a local, state or federal facility.
  - [ ] The parties have participated in a statutory pre-litigation screening process with _____
  - [ ] The parties have participated in a formal ADR process with _____ on _____ (date).
  - [x] This is an action in which the plaintiff's likely damages will not exceed $50,000, and the plaintiff requests an exemption from ADR pursuant to M.R. Civ. P. 16C(g).

VII. (a) ☒ **PLAINTIFFS (Name & Address including county)**
or ☐ **Third-Party,** ☐ **Counterclaim or Cross-Claim Plaintiffs**
☐ The plaintiff is a prisoner in a local, state or federal facility.

Janet Kuech
115 Narragansett Street
Gorham, Cumberland, Maine 04038-1213

Meadow Welch
83 Narragansett Street
Gorham, Cumberland, Maine 04038-1411

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number) **If all counsel listed do NOT represent all plaintiffs, specify who the listed attorney(s) represent.**

Jonathan M. Goodman, Esq. | ME Bar No.: 4031
Troubh Heisler LLC
511 Congress Street, Suite 700 | PO Box 9711
Portland, Maine 04104-5011
(207) 780-6789 ext. 887
jgoodman@troubhheisler.com

Andrew T. Mason, Esq. | ME Bar No.: 10064
Maine Education Association
35 Community Drive
Augusta, Maine 04330-8005
(207) 622-4418 ext. 2219
amason@maineea.org

VIII. (a) ☒ **DEFENDANTS (Name & Address including county)**
and/or ☐ **Third-Party,** ☐ **Counterclaim or** ☐ **Cross-Claim Defendants**
☐ The defendant is a prisoner in a local, state or federal facility.

Town of Gorham
75 South Street, Suite 1
Gorham, Cumberland, Maine 04038-1737

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number) (If known)

If all counsel listed do NOT represent all defendants, specify who the listed attorney(s) represents.

Mark A. Bower, Esq. | ME Bar No.: 4132
Jensen, Baird, Gardner & Henry
10 Free Street | PO Box 4510
Portland, Maine 04112-4510
(207) 775-7271
mbower@jbgh.com

IX. (a) ☐ **PARTIES OF INTEREST (Name & Address including county)**

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number) (If known)

If all counsel listed do NOT represent all parties, specify who the listed attorney(s) represents.

X. **RELATED CASE(S) IF ANY**
Assigned Judge/Justice _____ Docket Number _____

Date: December 12, 2019

Jonathan M. Goodman, Esq.
Name of Plaintiff or Lead Attorney of Record

Signature of Plaintiff or Attorney

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
DOCKET NO. CV-

JANET KUECH,
an individual with a place of residence in Gorham, County of Cumberland, and State of Maine,

AND

MEADOW WELCH,
an individual with a place of residence in Gorham, County of Cumberland, and State of Maine,

Plaintiffs

v.

TOWN OF GORHAM, MAINE,
a municipal corporation located in the Town of Gorham, County of Cumberland, and State of Maine,

Defendant

VERIFIED COMPLAINT FOR PRELIMINARY INJUNCTION

INTRODUCTION

Plaintiffs Janet Kuech and Meadow Welch, for their Verified Complaint against the Town of Gorham, Maine, state as follows:

1. This case challenges the Town of Gorham's interference with the constitutional rights of Plaintiffs Kuech and Welch to participate fully in the political process of their community. Starting in September 2019, Kuech—an Educational Technician in the Gorham School Department—ran for election to a nonpartisan position as a member of the Gorham Town Council ("the Council"). Welch supported Kuech's candidacy and voted for her in the election. In November 2019, the voters in Gorham selected Plaintiff Kuech for a seat on the Council. The members of the Council, however, refused to seat Kuech—against the legal advice of the Town

of Gorham's own attorney. The Council then went even further and initiated a new election for the seat they had improperly withheld from Plaintiff Kuech.

2. The Council's refusal to seat Kuech and decision to nullify the election violate Maine Constitution's Declaration of Rights, *first*, by impermissibly infringing on Kuech's interests in running for office and casting votes in the position to which she has been elected and, *second*, by abridging Welch's right to have her vote honored in the election. All of these protected interests lie close to the core of freedom of speech guaranteed by the Maine Declaration of Rights. Accordingly, Kuech and Welch are entitled to declaratory and injunctive relief establishing that the Town Council's actions are unlawful and unconstitutional and preventing the Town Council from continuing to refuse to seat Kuech and attempting to replace her seat on the Council.

PARTIES AND JURISDICTION

3. Plaintiff Janet Kuech is a resident of Gorham, Maine, which is a part of Cumberland County.

4. Plaintiff Meadow Welch is a resident of Gorham, Maine, which is a part of Cumberland County.

5. Defendant Town of Gorham is organized as a municipality under Maine law, and it is part of Cumberland County.

6. Venue is in Cumberland County as provided in.14 M.R.S. §§ 501 and 505 because a substantial part of the events giving rise to the claim—the failure and refusal of Defendant to seat Plaintiff Kuech on the Gorham Town Council despite her being a duly-elected candidate who was voted into office by Plaintiff Welch and other Town of Gorham voters—took place in Cumberland County.

7. Jurisdiction is pursuant to 4 M.R.S. §105; the Maine Declaratory Judgment Act, 14 M.R.S. §§ 5951, et seq.; 14 M.R.S. § 6051(13); and M.R. Civ. P. 80B.

FACTUAL ALLEGATIONS

Janet Kuech

8. Plaintiff Kuech is currently a resident of Gorham, Maine, and she has been a resident of Gorham since 1999.

9. Plaintiff Kuech is a qualified elector (voter) of the Town of Gorham.

10. Plaintiff Kuech is an Educational Technician employed by the Gorham School Department. She has held this position since 2001. In her role as an Educational Technician, Plaintiff Kuech assists teachers in the delivery of appropriate instruction and services to students. This entails supporting students in and out of classrooms for academic, social-emotional, and behavioral needs. She also performs additional tasks such as daily afternoon bus duty.

11. The Gorham School Department in a municipal school district of the Town of Gorham. *See* 21-A M.R.S. § 2301 et seq. Pursuant to both state law and the Town of Gorham Charter, the School Department is governed by a School Committee composed of elected members. *See id.* § 2302; *see also* Town of Gorham Charter art. IV. The School Committee and school superintendent are responsible for virtually all of the School Department's functions and activities. *See* 21-A M.R.S. §§ 1001, 1055; *see also* Town of Gorham Charter art. IV, § 405. In particular, the School Committee has authority over the employment of teachers and other school employees, whose salaries and contracts are negotiated periodically between representatives for the union representing school employees and representatives for the School Committee, which results in a collective bargaining agreement that must be approved by the School Committee. *See Sawin v. Town of Winslow*, 253 A.2d 694, 699 (Me. 1969); *see also* 26 M.R.S. §§ 961–74

(providing for collective bargaining by municipal entities). The School Committee's authority in this respect is limited only by the funds annually appropriated by the Town of Gorham. *See Sawin*, 253 A.2d at 699; *see also* Town of Gorham Charter art. IV, § 405.

12. As a result, the Gorham Town Council only tangentially deals with issues affecting school employee compensation and employment. Its role is limited to reviewing and modifying the total amount of the School Department budget passed by the School Committee, and referring that budget for a vote by town citizens. See 21-A M.R.S. § 2307; *see also* Town of Gorham Charter art. IV, § 405.

13. In September 2019, Plaintiff Kuech submitted nominating petitions for a seat on the Gorham Town Council. On November 5, 2019, she was duly elected to the Gorham Town Council in a lawful nonpartisan election to serve a 3-year term.

14. Plaintiff Kuech is aware of the law governing conflicts of interest and government service, codified at 30-A M.R.S. § 2605, and she would abide by it if seated on the Council. If a situation was to arise before the Council in which Plaintiff Kuech's involvement would cause an actual conflict of interest, or create the appearance of a conflict of interest, she would either abstain or else follow the law governing such conflicts. This would which requires that she: (i) identify the situation and circumstances on the record; (ii) state that if she continued to participate that she would be unbiased and impartial; (iii) receive the evidence with an open mind, and base any decision solely on the record in accordance with the applicable standard of law; and (iv) receive the permission of her fellow Councilors, by vote, after a public discussion on the record.

15. On November 12, 2019, the Gorham Town Council held a special public meeting to determine whether Plaintiff Kuech met the qualifications to serve as Town Councilor. These

qualifications are set forth in Article II, Section 202 of the Gorham Town Charter, which provides in relevant part as follows:

> Councilmen shall be qualified electors of the Town and shall reside in the Town during their term of office. They shall hold no office of emolument or profit under the Town Charter or Ordinances.

16. At the special meeting, the Town's attorney, Mark Bower, Esq., provided the Town Council with a legal opinion that is memorialized in the memorandum attached hereto as **Exhibit A.** In accordance with Article I, Section 202 of the Gorham Town Charter, Attorney Bower stated to the Council that "During his/her term, a Councilor; (1) must be a qualified elector (voter) of the Town; (2) must reside in [the Town of] Gorham; and (3) must not hold any 'office of emolument or profit under the Town Charter or Ordinances.'" ***See*** **Exhibit A** (Bower Memorandum); Video of Special Town Council Meeting, Nov. 12, 2019, http://ec4.cc/k2cf623b5.*.[1]

17. Attorney Bower concluded that it was clear that Plaintiff Kuech met the first two qualifications listed in the preceding paragraph. *Id.* Attorney Bower then indicated that the third qualification required further analysis. *Id.* He explained to the Council each of the relevant terms in the Charter clause that reads "office of emolument or profit under the Town Charter or Ordinances." *Id.* In his analysis, Attorney Bower referenced dictionary definitions, statutes, the Town's Charter, and case law. *Id.* Ultimately, he concluded his memorandum by stating that, "[i]t is my opinion that the term 'office of emolument or profit under the Town Charter or Ordinances' should not be interpreted so broadly as to cover any position of employment within the Town of Gorham or Gorham School Department. Rather, it operates to bar service on the

[1] Pursuant to Rule of Evidence 201, this Court may take notice of the contents of this video. As a record of a public proceeding, its contents "can be accurately and readily determined" for a source "whose accuracy cannot reasonably be questioned." M.R. Evid. 201(b)(2).

Council by any individual who holds an office (of emolument or profit) created by the Charter or Ordinances to carry out a governmental function, which is consistent with the doctrine of incompatibility of offices." *See* **Exhibit A**.

18. Verbally, Attorney Bower told the Council that Plaintiff Kuech, as an Educational Technician in the Gorham School Department, was not an officer as contemplated in the Charter (such as the Town Manager, the Town Clerk, the Police Chief or the Fire Chief) and was thus not precluded by the Charter from being seated on the Council. *See id.*

19. Each of the members of the Town Council then expressed, to varying degrees, their displeasure and/or disagreement with the Town attorney's legal opinion. *See id.* Some of the Councilors indicated that although they disagreed with the provisions of the Charter, they understood that they were required to seat Plaintiff Kuech; other Councilors indicated that they felt the Charter meant something other than what their attorney was telling them. *Id.*

20. Town Councilor Suzanne Phillips moved that the Town Council find that Plaintiff Kuech did meet the qualifications set forth in Section 202 of the Town Charter to serve as Town Councilor. The motion was seconded by Councilor Ronald Shepard. The motion then failed by a vote of four votes to three votes. The Councilors who voted against the motion were James Hager, Paul Smith, Virginia Wilder Cross, and Ronald Shepard. As a result of the failure of the motion, the Council refused to seat Plaintiff Kuech in accordance with results of the election.

21. The Council expressed the following rationales for its decision:

- Their belief that the intent of the Charter was to exclude all Town and School employees from running for office, and not just officers;
- Their view that Plaintiff Kuech would have an inherent conflict of interest in voting for the school budget and other issues relating to the schools;

- Their view that seating Plaintiff Kuech on the Council would upset the balance of power and create a precedent under which the entire Council could eventually be comprised of school employees.

None of these rationales are adequate nor lawful justification for refusing to seat Plaintiff Kuech.

22. Defendant has publicly announced that it would hold a special municipal election on March 3, 2020 for the purpose of electing one person to the Council to serve a three-year term. This election is for the vacancy created by Defendant's refusal to seat Plaintiff Kuech on the Council. On December 9, 2019, Defendant made nomination papers available for candidates seeking to fill Plaintiff Kuech's seat. Completed nomination papers must be submitted to the Town Clerk's office no later than 1:00 p.m. on December 20, 2019.

23. "The Council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require production of records," but the "decision of the Council in any such case shall be subject to review by the courts." Town of Gorham Charter art. II, § 207. Such review takes place under Rule 80B of the Maine Rules of Civil Procedure.

24. Maine government is largely comprised of elected officials who are serving their communities and their state in addition to performing the work by which they earn a living, as most elected offices in Maine are either actually or practically unpaid.

25. Nothing in Maine law prohibits a school employee or a town employee from serving as a municipal officer, or prohibits a municipal officer from serving as a school employee or a town employee. Indeed provisions of state law specifically contemplate that public school teachers can and *will* serve as municipal officers. In particular, 30-A M.R.S. § 2605—which broadly makes voidable actions by a municipality when its voting officials are

under a conflict of interest—provides that its restrictions do "not prohibit a member of a city or town council or a member of a quasi-municipal corporation who is a teacher from making or renewing a teacher employment contract with the municipality or quasi-municipal corporation for which the member serves." *Id.* § 2605(4)(A).

Meadow Welch

26. Plaintiff Meadow Welch is a resident of Gorham, Maine and a duly registered voter in Gorham, Maine.

27. In the November 5, 2019 Gorham election, Plaintiff Welch voted to elect Plaintiff Kuech to the Town Council.

28. Plaintiff Welch voted for Plaintiff Kuech over other candidates because it was her view that Plaintiff Kuech was the candidate who would vote in accordance with her own views and wishes on matters before the Town Council.

29. As a result of the Town Council's failure to seat Plaintiff Kuech on the Council, Plaintiff Welch's vote has not been duly counted, and the Council is conducting official business without the input and votes of Plaintiff Kuech, the candidate who Plaintiff Welch supported.

CLAIMS FOR RELIEF

Count I
Complaint for Preliminary Injunction

30. Plaintiffs repeat and reallege the allegations in Paragraphs 1 through 29 of the Complaint as though fully set forth herein.

31. Plaintiffs will suffer irreparable injury if the Town is not enjoined from refusing to seat Plaintiff Kuech on the Town Council, from denying Plaintiff Welch her right under the Maine Constitution's Declaration of Rights to have her lawful vote for Plaintiff Kuech given its

due weight, and from proceeding with a new election for the seat that it has unlawfully denied Plaintiff Kuech until the merits of this action are decided by the Court.

32. Such injury outweighs any harm which granting the injunctive relief would inflict on the Town. Plaintiffs have a high likelihood of success on the merits. And, the public interest will not be adversely affected by granting the injunction.

Count II
Declaratory Judgment/Permanent Injunction

33. Plaintiffs repeat and reallege the allegations in Paragraphs 1 through 29 of the Complaint as though fully set forth herein.

34. Due to Defendant's actions, Plaintiffs rights to freedom of speech and due process have been and continue to be violated.

35. This Court has jurisdiction to determine the legal rights of the parties concerning participation in the political process, pursuant to Maine law, 14 M.R.S. § 5951 et seq., and should declare that there is no lawful reason for failing to seat Plaintiff Kuech and that Defendant's failure to seat Plaintiff Kuech violates the Maine Constitution.

36. Issuing such a declaration will serve the useful purpose of making clear the legal rights of the Plaintiffs to participate in the political process.

37. Plaintiffs will suffer irreparable injury if the Town is not permanently enjoined from refusing to seat Plaintiff Kuech on the Town Council, from denying Plaintiff Welch her right under the Maine Constitution to have her lawful vote for Plaintiff Kuech given its due weight, and from proceeding with a new election for the seat that it has unlawfully denied Plaintiff Kuech until the merits of this action are decided by the Court.

38. Such injury outweighs any harm which granting the injunctive relief would inflict on the Town. Plaintiffs' claims succeed on the merits. And the public interest will not be adversely affected by granting the injunction.

Count III
Plaintiff Kuech
Violation of Article I, Section 4 of the Maine Constitution: Freedom of Speech

39. Plaintiffs hereby re-allege Paragraphs 1 through 29 as though fully set forth herein.

40. Defendant's continuing failure and refusal to seat Plaintiff Kuech on the Gorham Town Council violates her right to freedom of speech because it is a restriction on her right to participate in political affairs.

41. Defendant has no lawful justification for this restriction.

42. As a result, Plaintiff Kuech is entitled to declaratory and injunctive relief to permit her to be seated on the Gorham Town Council.

Count IV
Plaintiff Kuech
Violation of Article I, Section 6-A of the Maine Constitution: Due Process

43. Plaintiffs hereby re-allege Paragraphs 1 through 29 as though fully set forth herein.

44. Defendant's continuing failure and refusal to seat Plaintiff Kuech on the Gorham Town Council violated Plaintiff Kuech's right to due process afforded by the Maine Constitution.

45. Defendant has no lawful justification for this restriction.

46. As a result, Plaintiff Kuech is entitled to declaratory and injunctive relief to permit her to be seated on the Gorham Town Council.

Count V
Plaintiff Kuech
Appeal under M.R. Civ. P. 80B

47. Plaintiffs hereby re-allege Paragraphs 1 through 29 as though fully set forth herein.

48. Defendant's failure and refusal to seat Plaintiff Kuech on the Gorham Town Council violates the Town's Charter and policies, as well as Maine law.

49. Defendant's continuing failure and refusal to seat Plaintiff Kuech on the Town Council was governmental action as contemplated under Rule 80B of the Maine Rules of Civil Procedure.

50. The Town's failure and refusal to seat Plaintiff Kuech on the Town Council was:

(1) In violation of constitutional or statutory provisions;

(2) In excess of the statutory authority of the Town;

(3) Made upon unlawful procedure;

(4) Affected by bias or error of law;

(5) Unsupported by substantial evidence on the whole record; and/or

(6) Arbitrary or capricious or characterized by abuse of discretion.

51. The Town's failure and refusal to seat Plaintiff Kuech on the Town Council must be reversed.

Count VI
Plaintiff Welch
Violation of Article I, Section 4 of the Maine Constitution: Freedom of Speech

52. Plaintiffs hereby re-allege Paragraphs 1 through 29 as though fully set forth herein.

53. Defendant's failure and refusal to seat Plaintiff Kuech on the Gorham Town Council violates Plaintiff Welch's right to freedom of expression because it is a restriction on her right to participate in political affairs by voting.

54. Defendant has no lawful justification for this restriction.

55. As a result, Plaintiff Welch is entitled to declaratory and injunctive relief to have the candidate that Plaintiff Welch and other voters duly elected seated on the Gorham Town Council.

Count VII
Plaintiff Welch
Violation of Article I, Section 6-A of the Maine Constitution: Due Process

56. Plaintiffs hereby re-allege Paragraphs 1 through 29 as though fully set forth herein.

57. Defendant's failure and refusal to seat Plaintiff Kuech on the Gorham Town Council violated Plaintiff Welch's right to due process afforded by the Maine Constitution.

58. Defendant has no lawful justification for this restriction.

59. As a result, Plaintiff Welch is entitled to declaratory and injunctive relief to have the candidate that Welch and other voters duly elected seated on the Gorham Town Council.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs Janet Kuech and Meadow Welch respectfully request that the Court enter judgment in their favor and order as follows:

a) Declare that nothing in the Gorham Town Charter or other law precludes Plaintiff Kuech from serving on the Gorham Town Council;

b) Declare that the Gorham Town Council's failure and refusal to seat Plaintiff Kuech on the Council violates the Maine Declaration of Rights;

c) Declare that, pursuant to M.R. Civ. P. 80B, the decision of the Gorham Town Council failing and refusing to seat Plaintiff Kuech on the Council must be reversed.

d) Enter an injunction prohibiting Defendant from denying Plaintiff Kuech her Constitutional rights to serve on the Gorham Town Council;

e) Enter an injunction prohibiting Defendant from denying Plaintiff Welch her Constitutional right to have her lawful vote given its due weight;

f) Enter an injunction prohibiting Defendant from proceeding with a new election for the seat that has been unlawfully denied to Plaintiff Kuech;

g) Grant any other relief that the Court deems just and necessary.

Janet Kuech

Janet Kuech

STATE OF MAINE
Cumberland, ss.

December 12, 2019

Personally appeared before me the above-named Janet Kuech in her stated capacity and made oath that the statements contained in this Verified Complaint are made on the affiant's personal knowledge and are true, unless expressly made upon information and belief, in which case, the affiant believes such statements to be true.

Before me,

Notary Public / Attorney
Print Name: Jonathan Goodman Bar No. 4631
My Commission Expires: N/A

Meadow SE Welch

Meadow Welch

STATE OF MAINE
Cumberland, ss.

December 12, 2019

Personally appeared before me the above-named Meadow Welch in her stated capacity and made oath that the statements contained in this Verified Complaint are made on the affiant's personal knowledge and are true, unless expressly made upon information and belief, in which case, the affiant believes such statements to be true.

Before me,

_____
Notary Public / Attorney
Print Name: Jonathan Goodman, Bar No. 4031
My Commission Expires: N/A

DATED at Portland, Maine on December 12, 2019.

_____ for Andrew Mason
Andrew T. Mason, Bar No. 10064
Attorney for Plaintiffs
Maine Education Association
35 Community Drive
Augusta, ME 04330
Tel: (207) 622-4418 x2219

_____
Jonathan M. Goodman, Bar No. 4031
Attorney for Plaintiffs
Troubh Heisler
511 Congress Street
P.O. Box 9711
Portland, Maine 04104-5011
207-780-6789