

**DANIEL P. SILBERSTEIN, P.C.**  
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Attorney for the Plaintiff **COMMITTEE TO RECALL**

COMMITTEE TO RECALL ROBERT  
MENENDEZ FROM THE OFFICE OF U.S.  
SENATOR

Plaintiff,

v.

NINA MITCHELL WELLS, ESQ.,  
SECRETARY OF STATE, ROBERT F. GILES,  
DIRECTOR OF THE DIVISION OF  
ELECTIONS,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: ESSEX COUNTY  
DOCKET NO.: **ESX-L-8794-04**

**Civil Action**

**COMPLAINT IN LIEU OF  
PREROGATIVE WRIT**

Plaintiff complains of the defendants as follows:

1. Plaintiff, the Committee to Recall Robert Menendez from the Office of U.S. Senator (the "Committee") is a "recall committee" as defined by N.J.S.A. 19:27A-3, being a committee formed by persons sponsoring the recall of an elected official, and which represents the sponsors and signers of a recall petition in matters relating to the recall effort.

2. On September 25, 2009, the Committed forwarded to defendants a Notice of Intention to Recall, as provided for under N.J.S.A. 19:27A-6.

3. On October 5, 2009, defendants responded by letter stating that the Committee's Notice of Intention "is currently under review", and that "upon completion of this review, you will be notified accordingly."

4. On November 10, 2009, the Committee forwarded to the defendants an Amended Notice of Intention to Recall, as provided under N.J.S.A. 19:27A-6, replacing one of the Committee Members.

5. Defendants failed to respond.

6. Pursuant to N.J.S.A. 19:27A-7(a), defendants are required "within three business days of receiving the notice" return a certified copy of the approved notice, or in the alternative, return the non-compliant notice "together with a written statement indicating the reasons" for the finding of non-compliance allowing for the filing of a corrected notice of intention.

WHEREFORE, PLAINTIFF DEMANDS JUDGMENT AGAINST THE DEFENDANTS AS FOLLOWS:

A. Directing the defendants to immediately and forthwith comply with N.J.S.A. 19:27A-7(a) by issuing a response to the Committee's Notice of Intention.

B. Such other relief as this Court may deem just.

C. Attorney's fees and cost of suit.

**Designation of Trial Counsel**

Plaintiff hereby demands trial by jury.

**Designation of Trial Counsel**

Daniel P. Silberstein is hereby designated as trial counsel.

**Rule 4:5-1 Certification**

Pursuant to Rule 4:5-1, the undersigned hereby certifies that at the time of filing this complaint, the matter in controversy is not the subject of any other action pending in any court and/or arbitration proceeding. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the statements are wilfully false, I am subject to punishment.

November 25, 2009

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Daniel P. Silberstein