

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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Anthony S. Hoffmann; Courtney Gibbons; Lauren Foley;
Seth Pearce; and Nancy Van Tassel,

Index No. 904972-22

Petitioners,

**ATTORNEY AFFIRMATION
OF RICHARD A. MEDINA
IN SUPPORT OF MOTION
FOR LEAVE TO AMEND
PETITION**

For an Order and Judgment Pursuant to Article 78 of the
New York Civil Practice Law and Rules,

-against-

The New York State Independent Redistricting
Commission; Independent Redistricting Commission
Chairperson David Imamura; Independent Redistricting
Commissioner Ross Brady; Independent Redistricting
Commissioner John Conway III; Independent Redistricting
Commissioner Ivelisse Cuevas-Molina; Independent
Redistricting Commissioner Elaine Frazier; Independent
Redistricting Commissioner Lisa Harris; Independent
Redistricting Commissioner Charles Nesbitt; and
Independent Redistricting Commissioner Willis H.
Stephens,

Respondents.

-and-

Tim Harkenrider; Guy C. Brought; Lawrence Canning;
Patricia Clarino; George Dooher, Jr.; Stephen Evans; Linda
Fantom; Jerry Fishman; Jay Frantz; Lawrence Garvey; Alan
Nephew; Susan Rowley; Josephine Thomas; and Marianne
Violante,

Intervenor-Respondents.

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RICHARD A. MEDINA, an attorney admitted to practice in the courts of this State, and
not a party to this action, affirms the following to be true under the penalties of perjury pursuant
to CPLR § 2106:

1. I am an attorney at law duly admitted to practice before this Court and an associate with the law firm of Elias Law Group LLP.

2. I submit this Affirmation in support of Petitioners' motion for an order granting Petitioners leave to file a Second Amended Verified Petition.

3. There are two members of the Independent Redistricting Commission that are not currently listed in the caption of this case. One member, John Flateau, had resigned from the commission at the time the suit was filed, but he was reinstated as a Commissioner last week. The other member, Eugene Benger, had previously indicated an intent to resign from the Commission but the effective date of his resignation was uncertain.

4. Counsel for Petitioners conferred with counsel for Respondents regarding Petitioners' anticipated request to file and serve a Second Amended Verified Petition that includes Commissioners Flateau and Benger but is otherwise substantively identical to the Amended Verified Petition.

5. Counsel for each of the Commissioners named as Respondents in this action indicated that they do not oppose Petitioners' request.

6. Counsel for each of the Commissioners named as Respondents further agreed with counsel for Petitioners that adding Commissioners Flateau and Benger as Respondents should not alter any of the existing dates and deadlines in this case, and that each of the filings in this case related to the Amended Verified Petition should be deemed to apply to the Second Amended Verified Petition.

7. Counsel for Respondents Imamura, Cuevas-Molina, and Frazier represented to the undersigned that, contingent upon approval from the Attorney General, they would represent Commissioners Flateau and Benger in this action.

8. Counsel for Respondents Imamura, Cuevas-Molina, and Frazier represented to the undersigned that Commissioners Flateau and Bengier do not object to being named as additional Respondents in this action and do not object to answering the Seconded Amended Petition by September 9, 2022. Counsel further anticipated that Commissioners Flateau and Bengier would consent to electronic service.

9. Pursuant to the discussions outlined above, on September 1, 2022, Petitioners and Respondents agreed to file a Stipulation and Order with the Court memorializing their agreement and requesting that the Court enter the requested relief. A true and correct copy of that Stipulation and Order, which was agreed to but never signed or filed, is attached hereto as Exhibit 1.

10. On September 1, 2022, the Court granted the motion of Tim Harkenrider, Guy C. Brought, Lawrence Canning, Patricia Clarino, George Dooher, Jr., Stephen Evans, Linda Fanton, Jerry Fishman, Jay Frantz, Lawrence Garvey, Alan Nephew, Susan Rowley, Josephine Thomas, and Marianne Violante (“Intervenor-Respondents”) to intervene as Respondents in this action. A true and correct copy of the Court’s Order granting the Intervenor-Respondents’ motion to intervene (Doc. No. [140](#)) is attached hereto as Exhibit 2.

11. In light of the Court’s order granting Intervenor-Respondents’ motion to Intervene, the undersigned contacted counsel for Intervenor-Respondents by email on September 1, 2022, to obtain Intervenor-Respondents’ position on the Stipulation and Order agreed to by Petitioners and Respondents.

12. In a teleconference on September 2, 2022, counsel for Intervenor-Respondents indicated that Intervenor-Respondents would not join the Stipulation and Order.

13. Counsel for Intervenor-Respondents indicated that, should Petitioners proceed by motion rather than by stipulation, Intervenor-Respondents would reserve the right to oppose Petitioners' request to file and serve a Second Amended Verified Petition.

14. Counsel for Respondents Imamura, Cuevas-Molina, and Frazier has represented to the undersigned that Commissioner Bengert's last day on the Independent Redistricting Commission is today, September 2, 2022.

15. Accordingly, Petitioners seek leave to amend to add only Commissioner Flateau as a Respondent in this action. Petitioners anticipate seeking further leave to amend to add Commissioner Bengert's successor as a Respondent once that person has taken office.

16. Counsel for Respondents Imamura, Cuevas-Molina, and Frazier have indicated that they consent to the relief sought in Petitioners' Proposed Order to Show Cause for Leave to Amend.

17. A true and correct copy of Petitioners' Amended Verified Petition, dated August 4, 2022 (Doc. No. [47](#)), is attached hereto as Exhibit 3.

18. A true and correct copy of Petitioners' proposed Second Amended Verified Petition, dated September 2, 2022, is attached hereto as Exhibit 4.

19. A true and correct copy of a redline document comparing Petitioners' proposed Second Amended Verified Petition with Petitioners' Amended Verified Petition, is attached hereto as Exhibit 5.

Dated: September 2, 2022
Washington, D.C.

By: /s/ Richard A. Medina
Richard A. Medina