

At a _____ of the Supreme Court of the State of New York, held in and for the County of Steuben at 3 East Pulteney Square, Bath, NY 14810, on the ____ day of May 2022.

PRESENT: HON. PATRICK F. MCALLISTER, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF STEUBEN

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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,

Petitioners,

v.

GOVERNOR KATHY HOCHUL, LIEUTENANT
GOVERNOR AND PRESIDENT OF THE
SENATE BRIAN A. BENJAMIN, SENATE
MAJORITY LEADER AND PRESIDENT PRO
TEMPORE OF THE SENATE ANDREA
STEWART-COUSINS, SPEAKER OF THE
ASSEMBLY CARL HEASTIE, NEW YORK
STATE BOARD OF ELECTIONS, AND THE
NEW YORK STATE LEGISLATIVE TASK
FORCE ON DEMOGRAPHIC RESEARCH AND
REAPPORTIONMENT,

Respondents.

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Index No.: E2022-0116CV

**ORDER TO SHOW CAUSE
REGARDING LARRY SHARPE,
DIANE SARE, and WILLIAM CODY
ANDERSON as chair and de facto
President of the LIBERTARIAN
PARTY OF NEW YORK'S
EMERGENCY MOTION FOR
LEAVE TO INTERVENE**

Upon the emergency motion of Larry Sharpe, Diane Sare and the Libertarian Party of New York to intervene in this action on the ground that their interests are or may be inadequately represented and that they may be bound by the judgment entered herein; the annexed Affidavits of Larry Sharpe, Diane Sare and Cody Anderson, Chair and de facto President of the Libertarian Party of New York; Proposed Answer to Amended Petition With Additional Cause of Action Seeking to Modify Election Law Provisions for Independent Statewide Candidates; and the accompanying Memorandum of Law of Jonathan O'Brien,

Esq., Petitioners and Respondents are hereby

ORDERED TO SHOW CAUSE, on the _____ day of May 2022 at _____,
or as soon thereafter counsel can be heard, at Part _____, [Room, _____] at the Courthouse located at 3
East Pulteney Square, Bath NY 14810, under CPLR 1012 & 1013,

- (a) WHY PETITIONER-INTERVENORS should not be allowed to intervene to protect their rights as voters, candidates, and potential ballot-qualified political parties qua independent bodies, and
- (b) WHY AN ORDER should not be issued directing THE NEW YORK STATE BOARD OF ELECTIONS and related respondents to extend the time period for petitioning 4 weeks beyond the statutory May 31 deadline, which is eleven days from when new State Senate and Congressional district maps will be issued; and
- (c) WHY THIS COURT should not remedy the harm to proposed intervenors by waiving the new 45,000 signature requirement to petition onto the ballot for non-recognized-party statewide candidates, and reducing the signature requirement to 30,000 as occurred in the 2020 election due to Covid-19, or to the previous 15,000 signature requirement and
- (d) WHY THIS COURT should not waive the 500 signature requirement per each of 13 congressional districts and
- (e) WHY THIS COURT should not grant any such other and further relief as is just and equitable, and it is further

ORDERED that service of a copy of this Order and accompanying documents be made on counsel to all parties via NYSCEF, on or before the _____ day of May, and that such service be deemed sufficient, and it is further;

ORDERED that Petitioners and Respondents including the NEW YORK STATE BOARD OF ELECTIONS shall file a copy with this Court of their reply/opposition papers, if any, in connection with the above motion to intervene and/or any of the accompanying requests for relief, via NYSCEF, by

_____.

Dated: Bath, NY
_____, 2022

ENTER:

HON. PATRICK F. MCALLISTER, JSC

EXHIBIT A

(Affidavit of Candidate Larry Sharpe)

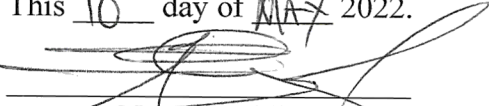
4. I am moving for leave to intervene by order to show cause so that my rights as a voter and candidate for a non-recognized party will be protected.
5. I seek to intervene as of right in this this action, on the ground that my interests may not be adequately represented by the present parties and since I may be bound by any judgment rendered herein. NY CPLR § 1012(a)(2) (“Upon timely motion, any person shall be permitted to intervene in any action...when the representation of the person’s interest by the parties is or may be inadequate and the person is or may be bound by the judgment.”)
6. In the alternative, I seek to intervene by permission in this action, on the ground that CPLR § 1013 permits intervention “when the person’s claim or defense and the main action have a common question of law or fact.” The Legislature’s unconstitutional redistricting has harmed voters’ and candidates’ interests in fair representation. The redrawing of district lines makes it likely that the signatures independent statewide candidates must gather will not meet the statutory requirements and sufficient signatures cannot be gathered between elimination of the old district lines on April 27, 2022 and the deadline for petitioning on May 31, 2022. Since the Court of Appeals affirmance of this Court’s March 31, 2022 voiding of state Senate and Congressional districts on April 27, 2022, Libertarian Congressional and State Senate candidates and petitioners have been discouraged and unable to gather signatures, not knowing the parameters of their respective districts. Petitioning for state-wide candidates like myself consequently has been harmed, since the situation has resulted in a loss of cooperation and coordination with down-ballot candidates in my independent party. What’s more, this is the first election cycle candidates when non-recognized parties face a tripling of the signature requirement, from 15,000 to 45,000.
7. Unless the Court applies a remedy by reducing the statewide independent candidate signature requirement, or by extending the period for such petitioning beyond the statutory May 31, 2022 deadline, independent statewide candidates will face the impossible task of having had only 9 days to gather the requisite signatures together with joint congressional, and state senate candidates, with fewer

petition gatherers during the remaining 34 days of the statutory petitioning period due to lack of local candidates and health concerns and venue restrictions related to Covid-19.

8. I have not submitted any prior application for relief.


Larry Sharpe

Sworn to and subscribed before me
This 10 day of ~~MAY~~ 2022.


Notary Public
NYS DC 955

GEORGE C. LAZARIDES
Notary Public, State of New York
No. 01LA4930290
Qualified in Suffolk County
Commission Expires May 9, 2026

GEORGE C. LAZARIDES
Notary Public, State of New York
No. 01LA4930290
Qualified in Suffolk County
Commission Expires May 9, 2026

EXHIBIT B

(Affidavit of Candidate Diane Sare)

protected.

5. I seek to intervene as of right as my interests are not adequately represented by the present parties and since I may be bound by any judgment rendered herein. NY CPLR § 1012(a)(2) (“Upon timely motion, any person shall be permitted to intervene in any action...when the representation of the person’s interest by the parties is or may be inadequate and the person is or may be bound by the judgment.”)
6. In the alternative, I seek to intervene by permission in this action, on the ground that CPLR 1013 permits intervention “when the person’s claim or defense and the main action have a common question of law or fact.” The Legislature’s unconstitutional redistricting has harmed voters’ and candidates’ interests in fair representation.
7. To collect 45,000 valid signatures, my campaign hopes to submit 70,000, in order to ensure validity. I am also required to have at least 500 signatures in each of 13 congressional districts, which of this writing do not exist. In the best case scenario, the new lines will be drawn and issued on May 20. The filing deadline is May 31.
8. My petition clerks, who, among other things, look up the signatures and determine which district each voter is in, *may* have access to shape files by May 21, 2022, so that the new districts can be looked up digitally. It would be impossible to comply with the 500 voter per congressional district rule because as many as 70,000 signatures would have to be checked for their respective district, and then, if there were shortfalls in a given district, petitioners would then have to go to those areas to make up for the shortfall.
9. A petition clerk can look up 30 signatures per hour at a maximum. To go through 70,000 signatures would take 2333 hours. At 40 hours per week, that's 58 weeks. If an independent candidate had 10 people who each clerk signatures at that rate, and can spend 40 hours per week doing it, looking up that number of voters will take nearly six weeks -- the entire petitioning period. This doesn't allow time to remedy the short fall and gather more signatures where needed.
10. If an independent candidate were "only" to review 40,000 signatures to find congressional districts, that is still 1333 man-hours of labor, which has to be accomplished in 9 days. To place this demand on

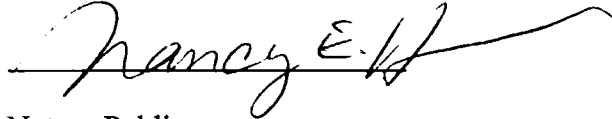
an independent candidacy, such as my own, which does not have the resources of any national party organization, is to eliminate the possibility of ballot access for my campaign.

11. The redrawing of district lines makes it likely that the signatures candidates must gather will not meet the statutory requirements and sufficient signatures cannot be gathered between issuance of the redrawn maps on May 20, 2022 and the deadline for petitioning on May 31, 2022. What's more, this is the first election cycle candidates of non-recognized parties face a trebling of the signature requirement, from 15,000 to 45,000.
12. Unless the Court applies a remedy by waiving the 500 signature requirement for 50% of congressional districts, or reduces the 45,000 signature requirement and extends the period for petitioning beyond the May 31, 2022 deadline, independent candidates and their supporters will face the impossible task of having at most 11 days to gather the requisite signatures after the congressional, state senate and perhaps assembly lines are redrawn and issued, with fewer petition gatherers due to health concerns and venue restrictions related to Covid-19.
13. I have not submitted any prior application for this relief.


Diane Sare

Sworn to and subscribed before me

This 10 day of 5 2022.



Notary Public

NANCY E KAUFER.
NOTARY PUBLIC - STATE OF NEW YORK
No. 01KA6352897
Qualified in Orange County
My Commission Expires 01/09/2025

EXHIBIT C

**(Affidavit of William Cody Anderson as Chair and de facto President of the
Libertarian Party of New York)**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF STEUBEN

-----x

TIM HARKENRIDER, GUY C. BROUGHT,
LAWRENCE CANNING, PATRICIA CLARINO,
GEORGE DOOHER, JR., STEPHEN EVANS,
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Index No.: E2022-0116CV

**AFFIDAVIT OF WILLIAM CODY
ANDERSON IN SUPPORT OF REQUEST
FOR LEAVE TO INTERVENE**

STATE OF NEW YORK)
) ss.:
COUNTY OF SCHOHARIE)

I, William Cody Anderson, being duly sworn, depose and state the following,

1. I am Chair and de facto President of the Libertarian Party of New York, an independent body and unincorporated association.
2. I am a registered, eligible, and active voter of the State of New York, residing at 106 Nickerson Drive, Middleburgh, New York 12122.
3. I, on behalf of the Libertarian Party of New York, submit this affidavit in support of its emergency request to intervene in the above-captioned action. I am fully familiar with the facts and circumstances stated therein.

4. **The Libertarian Party of New York, currently a non-recognized party, moves for leave to intervene by order to show cause so that its rights will be protected.**
5. **Four years ago the Libertarian Party crossed the vote threshold for recognized party status, the first time in its fifty year history the party achieved such status. That status ended after the Legislature passed a new election law in 2020 truncating two years of recognized party status from what had been won in 2018 and promised through 2022. Under the new law, the Libertarian candidate for President did not obtain sufficient votes in 2020, reducing the Libertarian Party to independent body status. Its Governor candidate now provides the only opportunity for the Libertarian Party to regain its recognized party status, and must gather a minimum of 45,000 signatures in order to even appear on the ballot.**
6. **The Libertarian Party of New York seeks to intervene as of right as its interests are not adequately represented by the present parties and since it may be bound by any judgment rendered herein. NY CPLR § 1012(a)(2) (“Upon timely motion, any person shall be permitted to intervene in any action...when the representation of the person’s interest by the parties is or may be inadequate and the person is or may be bound by the judgment.”)**
7. **In the alternative, the Libertarian Party of New York seeks to intervene by permission in this action, on the ground that CPLR § 1013 permits intervention “when the person’s claim or defense and the main action have a common question of law or fact.” The Legislature’s unconstitutional redistricting has harmed voters’ and candidates’ interests in fair representation.**
8. **The redrawing of district lines makes it likely that the signatures candidates must gather will not meet the statutory requirements and reduced signatures will be gathered between elimination of the old district lines as affirmed by the Court of Appeals on April 27, 2022 and the deadline for petitioning on May 31, 2022. Since that voiding of state Senate and Congressional districts, those candidates and their petitioners have been discouraged and unable to gather signatures, not knowing the parameters of their respective districts. Petitioning for state-wide candidates endorsed by the Libertarian Party of New York consequently has been harmed, since the situation has resulted in a loss of cooperation and**

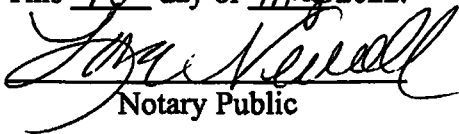
coordination with down-ballot candidates in the party. What's more, this is the first election cycle when candidates of non-recognized parties face a tripling of the signature requirement, from 15,000 to 45,000.

9. Unless the Court applies a remedy by reducing the signature requirement, and by extending the period for petitioning beyond the May 31, 2022 deadline, the state-wide candidates endorsed by the Libertarian Party of New York will face a significantly increased burden not contemplated by the legislature when it imposed its recent drastic increase in our signature requirements, with fewer petition gatherers due to the lack of local candidates and health concerns and venue restrictions related to Covid-19.
10. I have not submitted any prior application for the relief requested herein, in this or any court.



William Cody Anderson

Sworn to and subscribed before me
This 10th day of May 2022.



Notary Public

LORA L. NEWELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01NE6269660
Qualified in Schoharie County
By Commission Expires October 01, 2024