

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  
VOLANTE,

Index No. E2022-0116CV

Petitioners,

-against-

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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**PETITIONERS' RESPONSE MEMORANDUM IN OPPOSITION TO  
TYRRELL L.S. BEN-AVI'S INTERVENTION REQUEST**

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**PRELIMINARY STATEMENT & ARGUMENT**

Consistent with Petitioners' position on belated interventions throughout these proceedings, *see* NYSCEF No.427 at 1, Petitioners respectfully submit that this Court should deny Proposed Intervenor Tyrrell L.S. Ben-Avi's intervention motion currently pending before this Court as untimely, CPLR §§ 1012, 1013. If Proposed Intervenor Ben-Avi wanted to participate as a party in the Special Proceedings that Petitioners filed on February 3, he should have sought to intervene three months ago. Moreover, Proposed Intervenor Ben-Avi describes himself as a New York candidate for United States Senate, NYSCEF 675 at 1, so it is unclear what Proposed Intervenor Ben-Avi's actual interests are in this litigation, *See* CPLR § 1012(a)(2). It is further unclear how the vague relief he requests, *see* NYSCEF No.673 at 2–3, relates in any way to his interests. Given that Proposed Intervenor Ben-Avi has not articulated how intervention at this exceptionally late stage in the litigation would “protect his rights as a candidate for the United States Senate for New York,” NYSCEF No.675 at 1, Petitioners submit that intervention is improper under both CPLR §§ 1012 and 1013.

**CONCLUSION**

For the reasons set forth above, Petitioners respectfully request that the Court deny as untimely Proposed Intervenor Ben-Avi's motion to intervene.

Dated: New York, New York

May 24, 2022

TROUTMAN PEPPER HAMILTON  
SANDERS LLP

By: 

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Respectfully submitted,

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**CERTIFICATION**

I hereby certify that the foregoing memorandum complies with the bookmarking requirement and word count limitations set forth in Rule 202.8-b of the Uniform Rules of Supreme and County Courts. *See* 22 NYCRR § 202.8-b. This memorandum contains 206 words, excluding parts of the document exempted by Rule 202.8-b(b).

Dated: New York, New York  
May 24, 2022

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