

STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT

REPUBLICAN PARTY OF NEW MEXICO, et al.,

Plaintiffs,

vs.

Case No. D-506-CV-202200041

MAGGIE TOULOUSE OLIVER, et al.,

Defendants.

**PRESIDENT PRO TEMPORE OF THE SENATE MIMI STEWART'S AND SPEAKER OF
THE HOUSE OF REPRESENTATIVE BRIAN EGOLF'S RESPONSE TO LARRY
MARKER'S MOTION TO INTERVENE**

COME NOW President Pro Tempore of the Senate Mimi Stewart and Speaker of the House of Representative Brian Egolf and for their Response to Larry Marker's Motion to Intervene state:

1. Larry Marker's Motion to Intervene should be denied because he has not satisfied the requirements for intervention under Rule 1-024(A)(2) NMRA.

2. The Rule provides, in relevant part, that

[u]pon timely application anyone shall be permitted to intervene in an action ... when the applicant claims an interest relating to the...transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, *unless the applicant's interest is adequately represented by existing parties.*

Rule 1-024(A)(2) NMRA (emphasis added).

3. Mr. Marker has not alleged or demonstrated that his interest will not be adequately represented by Plaintiffs. Instead, Mr. Marker's Motion states that he "does agree, support and further states Plaintiffs plead allegations of Violation of Article II Section 18 of the New Mexico Constitution." [Motion ¶ 2] His putative Complaint in Intervention also reflects

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Plaintiffs' Claims: "Intervening Plaintiff does further state and support the allegations and specific claims Plaintiffs have put forth in their complaint filed on January 21st 2022." [Intervening Complaint ¶ 12]

4. The grant or denial of motions to intervene is properly left to the sound discretion of the district court. *Rivera-Platte v. First Colony Life Ins. Co.*, 2007-NMCA-158, ¶ 89, 143 N.M. 158.

5. Plaintiffs purport to be a bipartisan group of persons dissatisfied with the lawfully enacted Congressional voting districts. Plaintiffs are represented by sophisticated and competent counsel. Mr. Marker's interests are adequately represented by Plaintiffs and their counsel and his motion to intervene should be denied.

WHEREFORE because Mr. Marker has failed to allege that his interests will not be adequately represented by the existing parties and because his will be adequately represented by the existing parties, his Motion to Intervene should be denied.

Respectfully Submitted,

HINKLE SHANOR LLP

By: 

Richard E. Olson

Lucas M. Williams

P.O. Box 10

Roswell, New Mexico 88202-0010

(575) 622-6510 telephone

(575) 623-9332 facsimile

PEIFER, HANSON, MULLINS & BAKER, P.A.

Sara N. Sanchez

Mark T. Baker

20 First Plaza, Suite 725

Albuquerque, NM 87102

(505) 247-4800 telephone

STELZNER LLC

Luis G. Stelzner, LC

3521 Campbell CT. NW

Albuquerque, NM 87104

(505) 263-2764 telephone

PROFESSOR MICHAEL B. BROWDE

751 Adobe RD., NW

Albuquerque, NM 87107

(505) 266-8042 telephone

Attorneys for Mimi Steward and Brian Egolf

CERTIFICATE OF SERVICE

Pursuant to Rule 1-005(E) NMRA, the foregoing President Pro Tempore of the Senate Mimi Stewart's and Speaker of the House of Representative Brian Egolf's Response to Larry Marker's Motion to Intervene was served on the following on February 22, 2022, by the method reflected:

Person Served

All parties and counsel of record

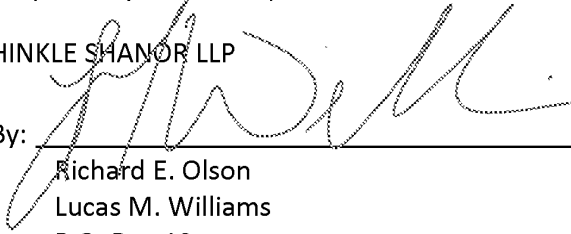
Method

E-File/E-Service

Respectfully Submitted,

HINKLE SHANOR LLP

By: _____


Richard E. Olson
Lucas M. Williams
P.O. Box 10
Roswell, New Mexico
(575) 622-6510 telephone
(575) 623-9332 facsimile

Attorneys for Mimi Stewart and Brian Egolf