

STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT COURT

REPUBLICAN PARTY OF NEW MEXICO
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUAL GONZALES JR,
BOBBY AND DEE ANN KIMBRO,
And PEARL GONZALES

Plaintiffs.

LARRY MARKER

Intervening Plaintiff.

Vs.

Case No. D-506-CV-202200041

MAGGIE TOULOUSE OLIVER in her official
Capacity as New Mexico Secretary of State.
MICHELLE LUJAN GRISHAM in her official
Capacity as Governor of New Mexico, HOWIE
MORALES in his official capacity as New Mexico
Lieutenant Governor and President of New Mexico
Senate, MIMI STEWART in her official capacity
As President Pro Tempore of the New Mexico
Senate and BRIAN EGOLF in his official capacity
As Speaker of the New Mexico House of
Representatives.

Defendants.

**INTERVENING PLAINTIFFS REPLY TO
EXECUTIVE DEFENDANTS RESPONSE TO MOTION TO INTERVENE**

Larry Marker (Intervener) files this Reply to the Executive Defendants Response in
opposition to Intervention of Larry Marker.

Interveners Additional Claim:

1-Intervener in his Complaint clearly averred an additional claim unique to himself.

2-Intervener has claimed an additional violation of his constitutionally protected rights in relation to Article 2 Section 8, Plaintiffs have only claimed a violation of Article 2 Section 18. Please see Interveners Complaint filed January 31st 2022.

Interveners Requested Remedy Distinguishable:

3-Intervener in his Complaint requested relief that does intersect Plaintiffs requested relief, even so Interveners request in the alternative is clearly distinguishable.

4-Plaintiff does in fact ask the Court declare Senate Bill 1 (Exhibit A Interveners Complaint) map illegal adopt a specific map known as concept E Justice Chaves Map (Exhibit C Interveners Complaint).

5-Intervener is requesting alternative relief distinguishable by simply requesting the Court find the Senate Bill 1 map illegal and return the matter of redistricting to the Legislature. The relief requested by Intervener allows for Judicial Economy and further avoids the issue of separation of powers.

6-Relief as requested by Plaintiff would require the Court to choose a specific new map from two of the maps presented by the redistricting Committee.

7-Intervener does support Plaintiffs request nonetheless as expressed prior concerns of separation of powers and judicial economy are considered in Interveners alternative requested relief. Please see paragraph 20 page 7 of Interveners complaint.

8-Additionally Interveners Relief request when granted allows the Court to provide a ruling that expedites this matter while not hindering the current election process.

General relative facts:

9-Intervenor is the only Plaintiff in the instant matter that was removed completely from his community of common interest.

10-Intervenor did make a request to Plaintiff that he and his unique interest be included in this matter. That request was obviously ignored by Plaintiff.

11-The president of the Republican Party did in fact on February 26th 2022 make the statement while addressing the recent preprimary convention the fact that the Republican Party would dismiss their complaint if fund raising goals were not met.

12-The Court does not make rulings on hypothetical events, nevertheless the fact that the balance of Plaintiffs legal fund is approximately \$150,000.00 short of the \$200,000.00 goal is relevant to Intervenors adequate representation.

13-Defendant claims motivation for radical redistricting was to create unified priorities and assure advocacy from the entire delegation, nevertheless their pleading provides an example of why communities of interest and tradition should be represented by a member of that community, please see Defendants Response to Intervenors Motion, page 6 at III "The Motion" the third line Defendant states Intervenor lives in Chavez County. Intervenor lives in Chaves County that simple mistake by prominent individuals from a District one urban area may seem insignificant nevertheless, this does clearly signify a lack of commonality, tradition and even the most basic knowledge of Southern New Mexico its people and history.

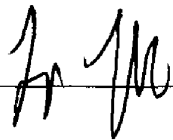
14-The previous Congressional District map is still well within population deviation and applicable Federal laws should it be reinstated.

15-Intervenor and Plaintiffs do have in common a question of law and fact that being stated Intervenors claims and requested remedy are clearly distinguishable, either set of facts do establish grounds for Intervention by right or permission.

Conclusion:

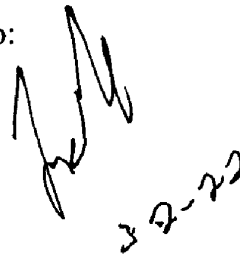
Intervening Plaintiff did file his Motion to Intervene under NMRA 1-024 A,2 with this reply Intervener is filing a Request that in the Alternative this Court consider NMRA 1-024 B,2. "Permissive Intervention". Intervening Plaintiff is Requesting this Court Deny Defendants request that would prevent Intervening Plaintiff from exercising his right to adequate representation, redress and due process in this matter. A denial of Intervention would further violate Intervenors rights as protected by Article II Section 18 of the Constitution of the State of New Mexico.

Respectfully Submitted:
Larry Marker
P.O. Box 3188
Roswell, NM 88201
575-910-0300
larrym_gdc@hotmail.com

 Date 3-2-22

I certify a copy of this Reply was sent electronically to:

Counsel for Plaintiffs.
Brownstein Hyatt Farber Schreck, LLP.
Eric R Burris
Hal D Stratton
201 E Third Street NM Suite 1800
Albuquerque NM 87102-4386
505-244-0770
eburris@bhfs.com



Handwritten signature and date: 3-2-22

Harrison & Hart LLC.
Cater B Harrison IV
924 Park Ave. SW Suite E
Albuquerque NM 87102
505-312-4245
Carterharrisonhartlaw.com

Brownstein Hyatt Farber Schreck LLP
Christopher O. Murray (pro hac vice)
Julian R Ellis Jr. (pro hac vice)
410 Seventeenth Street Suite 2200
Denver Colorado 80202-4432
303-223-1100
cmurry@bhfs.com
jellis@bhfs.com

Counsel for the Defendants:
Holly Agajanian
Chief General Counsel to Governor to Michelle Lujan Grisham
holly.agajanian@state.nm.us

Kyle P. Duffy
Maria S. Dudley
Associate General Counsels to Governor Michelle Lujan Grisham
490 Old Santa Fe Trail, Suite 400 Santa Fe, New Mexico 87501
(505) 476-2200
kyle.duffy@state.nm.us
maria.dudley@state.nm.us