

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

CASE NO. 15-CR-227-CJS

-vs-

**ATTORNEY DECLARATION IN
SUPPORT OF MOTION**

RICHARD PETIX,

Defendant.

I, Matthew R. Lembke, having been duly admitted to practice law in the Western District of New York, do hereby declare:

1. I am an attorney duly licensed to practice in the United States District Court for the Western District of New York.
2. I represent the defendant, Richard Petix [Petix].
3. I make this motion in support of Petix's request for an adjournment of Petix's sentencing until August 21, 2016 and for and for permission to file a sentencing memoranda on behalf of Petix on or before August 16, 2017.
4. Under the current scheduling order, Petix's sentencing is scheduled for Monday, August 14, 2017. As a result, Petix's sentencing memorandum was required to be submitted on Friday, August 4, 2017 (ten days before sentencing).

5. It was Mr. Leonardo's and my intention to have the sentencing memorandum submitted to the Court on or before the August 4, 2017 due date.

6. I was primarily responsible for the preparation of this document.

7. But to state it plainly, I am representing a client in an election law case, which, by the nature of the proceeding, has an significantly accelerated schedule.

8. The return date of the proceeding was Friday, August 4, 2017 at 3:00 P.M.

9. We received responding papers from the respondents in that case on August 2, 2017. As a result, I spent just about every waking hour from noon on August 2, 2017, until 5:00 P.M. on August 4, 2017 working on our reply to the response in the election law case.

10. As it so happens, my family and I were scheduled to leave on our annual summer vacation on August 4, 2017.

11. Because of my schedule, we didn't leave until about 7:00 PM. We arrived at our overnight destination at 2:30 AM on Saturday and were up at 8:00 AM to continue to our final destination.

12. It is for this reason that I am so late in requesting an adjournment of the sentencing and extension of time to file a memorandum of sentencing.

13. I learned this morning about, and read, the letter that Mr. Petix sent to the Court. This is another thing that needs to be addressed before sentencing.

14. For the reasons set forth above, we respectfully request that the Court grant us leave to file this motion for an adjournment and extension out-of-time and that the Court grant the relief requested above.

WHEREFORE, it is respectfully requested that the Court grant an order modifying the current scheduling order by adjourning Petix's sentencing, permitting him to file sentencing memoranda less than 10 days in advance of sentencing, and, if necessary, modifying the dates for responses or replies to our sentencing memoranda; and that the Court grant such other, further and different relief, as to the Court may seem just and proper.

Dated: August 9, 2017

S/MATTHEW R. LEMBKE
Matthew R. Lembke

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