

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

UNITED STATES OF AMERICA,

CASE NO. 15-CR-227-A

ATTORNEY AFFIRMATION

-vs-

RICHARD PETIX,

Defendant.

I, Matthew R. Lembke, having been duly admitted to practice law in the Western District of New York, do hereby affirm, under penalty of perjury, as follows:

1. I am an attorney duly licensed to practice in the United States District Court for the Western District of New York.

2. I am co-counsel with Stephen M. Leonardo represent, the defendant, Richard Petix [Petix].

3. I make this affirmation in support of Petix's motion for an additional four day extension (until July 28, 2017) of time to file his statement with respect to sentencing factors and objections to the pre-sentence report.

4. Under the Court's scheduling order, our statement and objections are due on Monday, July 24, 2017. As stated in our Motion for Extension filed on July 17, 2017, we have begun the preparation of these objections.

5. Over the past twelve days (from about Friday, July 14 until, and including today) I have been buried with work on two cases, both of which were on tight timelines and required many hours of work.]

6. One case is a criminal case pending before Judge Wolford, in which, on Friday, July 14, 2017, the government made a motion to revoke my client's pre-trial

release. We had an appearance on this motion on Monday, July 17, 2017, and a hearing on July 21, 2017, which started at 10:00 A.M. and ended at about 4:45 P.M. Between July 17 and July 21, I spent 40 hours preparing for this detention hearing (including working from July 20, 2017 at about 4:00 P.M., straight through the night, until the hearing started at 10:00 A.M. on July 21, 2017.

7. The other case is an Election Law case, in which I filed an Order to Show Cause on Friday, July 21, 2017. Yesterday, July 24, 2017, I was informed that the case had been assigned to acting Cayuga Supreme Court Justice Mark Fandrich. Because of the tight time frames for commencing and serving the pleadings in an action under Article 16 of the New York State Election Law, yesterday afternoon, I drove to Cayuga County (Auburn, New York), picked up the signed original Order to Show Cause, brought it back to Rochester, made several copies, and filed it with the Monroe County Clerk at 4:45 P.M.

8. Most of this morning, I have been arranging and meeting with our process servers to have the petition served (there are seven parties upon whom we are required to make service).

9. As a result, I have not had enough time to finish Mr. Petix's objections.

10. There are a number of legal and factual issues that we will be addressing in our statement and objections, some of which are somewhat complex.

11. Based upon the foregoing, we respectfully request that the Court extend our time to file Petix's statement and objections to Friday, July 28, 2017.

MOTION FOR LEAVE TO FILE OUT OF TIME

12. Furthermore, under the Court's sentencing scheduling order, requests for extensions are required to be filed prior to the due date. I am requesting that the Court exercise its discretion and grant me leave to file this motion out-of-time. The

reasons why I did not make this motion for an extension of time earlier are the same reasons we are requesting an extension to file our objections, at set forth above.

WHEREFORE, it is respectfully requested that the Court grant an order modifying the current scheduling order by extending Petix's time to file Petix's statement and objections to Friday, July 28, 2017; and that the Court grant such other, further and different relief, as to the Court may seem just and proper.

Dated: July 25, 2017

/S/ Matthew R. Lembke
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