VERIFIED COMPLAINT

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Robert L. Christman, Allegany County Clerk

Clerk: BG

THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALLEGANY

Adam B. Cyr,
Plaintiff-Petitioner;

– versus –

W. Brooke Harris, *in his capacity as Chairman of* **The Allegany County Board of Legislators,**
Defendant-Respondent.

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VERIFIED COMPLAINT

ADAM B. CYR, the Plaintiff-Petitioner herein, through his attorneys Mark J. Frentzel, Esq., alleges the following:

THE PARTIES

1. Adam B. Cyr ("Cyr"), the Plaintiff-Petitioner, is an individual residing in the County of Allegany, State of New York.

2. Defendant-Respondent W. Brooke Harris is the Chairman of the Allegany County Board of Legislatures ("The Board"), with offices for the transaction of business in Allegany County, State of New York, and is being named in his official capacity as a representative of The Board.

JURISDICTION

3. This Court has jurisdiction over this controversy according to Article 78 of the Civil Practice Law and Rules. Pursuant to Civ. Prac. Law & Rul. §§ 503(a) and 509, venue of this action is proper in Allegany County because both parties reside/do business in that county, and the designation of Allegany County as the place for trial by the Plaintiff-Petitioner.

NATURE OF THE ACTION

4. This is a hybrid action/special proceeding to challenge and have annulled The Board's recent determination that Cyr is ineligible to serve as a member of the Board.

5. Cyr makes his claim under the laws of the State of New York. Any claims based upon the United States Constitution or federal law are expressly reserved for a federal forum. *See England v. Louisana State Bd. of Medical Examiners*, 375 U.S. 411 (1964).

FACTUAL BACKGROUND

6. Cyr, together with his family, has resided at property commonly known as 2703 Pine Grove Road in Wirt, New York in the County of Allegany at all times relevant to this action, and has maintained that residence at all times relevant to this action (the "Domicile").

7. The Petitioner was lawfully and duly elected to The Board and has served as a member of The Board for over three years as a representative of District III.

8. On or about January 17, 2025, the Cyr purchased residential real property commonly known at 2184 Jones Road, Andover, New York within the County of Allegany (the "Andover Property").

9. Cyr purchased the Andover property for investment purposes, and Cyr and his family temporarily resided at the Andover Property while extensive renovation occurred at Cyr's domicile at 2703 Pine Grove Road.

10. On or about February 6, 2025, Cyr received via personal delivery correspondence from Allison B. Carrow, the Allegany County Attorney (Attached as Exhibit "A" to this Verified Complaint, the "Carrow Letter").

11. In the Carrow Letter, Cyr was notified that, pursuant to Pub. Off. Law § 30(1)(d) and Section 5 of Local Law 3 of 1993, in Ms. Carrow's opinion he automatically created a vacancy in his legislative seat.

12. At no time did Cyr fail to maintain his domicile in Wirt, and at no time has Cyr intended to vacate or resign from his seat on The Board by purchasing a second residence.

13. The renovations at Cyr's domicile in Wirt are now complete, and Cyr has moved back to his domicile in Wirt.

14. Cyr has made it known to the electorate at large in Allegany County that he intends to run for County Treasurer, and Cyr often takes positions contrary to that of the majority of The Board.

15. Harris, and his political allies on The Board, have in the past taken action against Cyr. For example, Cyr was not named to chair any sub-committees of the Board in the recent past.

16. Harris, and political allies on The Board, upon information and belief,

took this action against Cyr as political retribution.

17. Cyr's attempted removal from The Board was done without any due process whatsoever at the judicial or administrative level, but occurred based upon the unilateral determination of Ms. Carrow.

18. The Board's illegal and improper actions in attempting to remove Cyr from the Board is an attempt to deprive the voters in District III from their lawfully selected representation.

First Cause of Action
(Declaratory Judgment)

19. All prior paragraphs are repeated and realleged as though set forth again in full.

20. This claim is asserted pursuant to Civ. Prac. Law & Rul. § 3001 for a declaratory judgment for purposes of determining a question of actual controversy between the parties.

21. A declaratory judgment is appropriate where, as here, it will serve to clarify and afford relief from the uncertainty and controversy giving rise to this action.

22. Cyr is irreparably injured by The Board's action, and has no adequate remedy at law.

23. Cyr, and the citizens of District III, will thus suffer irreparable injury and are entitled to a judicial declaration that Cyr is still a member of The Board.

Second Cause of Action
(Article 78 in the Nature of Prohibition)

24. All prior paragraphs are repeated and realleged as though set forth again in full.

25. The actions of the Defendant-Respondent in attempting to unilaterally declare Cyr's position on The Board as having been vacated are a form of calculated political retribution.

26. The Board, upon information and belief, has acted and is about to further act, without jurisdiction and in excess of its powers.

27. The Board utterly lacks the jurisdiction to, without any sort of due process whatsoever, declare Cyr's seat as having been vacated.

28. The Board should be permanently enjoined from barring Cyr from serving on The Board, as elected by the voters in District III on the grounds stated above.

29. Cyr has no adequate remedy at law for the requested relief.

WHEREFORE, the Plaintiff-Petitioner requests the following relief:

a. Declaring the alleged vacation of the Plaintiff-Petitioner's position on The Board as unlawful, null, and void;

b. Enjoining the Defendant-Respondent from implementing or enforcing any further efforts to have the Plaintiff-Petitioner removed on the grounds that his domicile is improper;

c. awarding the Plaintiff-Petitioner costs, disbursements, and attorney's fees of this action; and

d. other such relief as may be just and proper.

Dated: February 10, 2025

MARK J. FRENTZEL, ESQ.

By:
MICHAEL F. McPARTLAN, ESQ.

Attorney for Petitioner
101 Harbor Towne Centre
1763 Baseline Road
Grand Island, New York 14072
Tel. No.: (716) 773-2442

ALLEGANY COUNTY CLERK
FILED
FEB 10 2025
ROBERT L. CHRISTMAN
CLERK

INDIVIDUAL VERIFICATION

STATE OF NEW YORK }
ss.:
COUNTY OF ALLEGANY }

THE UNDERSIGNED, being duly sworn, deposes and says:

1. That deponent is the Plaintiff-Petitioner in the within proceeding;

2. That deponent has read the foregoing Petition and knows the contents thereof;

3. That the same is true to deponent's knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

.....
ADAM B. CYR

Sworn to before me this 10
day of February, 2025:

.....
NOTARY PUBLIC

ALLEGANY COUNTY CLERK
FILED
FEB 10 2025
ROBERT L. CHRISTMAN
CLERK

Mariah Greenman
Notary Public, State of New York
Reg. No. 01GR0015629
Qualified in Allegany County
Commission Expires November 4, 2027

EXHIBIT

A

Allegany COUNTY New York

COUNTY ATTORNEY OFFICE
County Office Building, Room 207
7 Court Street
Belmont, New York 14813
Phone: 585-268-9410
Fax: 585-268-9651

February 6, 2025

Via Personal Delivery Only

Adam B. Cyr
2703 Pine Grove Road
Bolivar, New York 14715

As Allegany County Attorney, I am writing to inform you that, by operation of law, you have vacated your position as an Allegany County Legislator representing District III.

On or around January 1, 2025, you changed the address on both your voter registration and your driver's license to Andover, which is in District IV. Around that same time, your family moved to Andover from your prior residence in Wirt, which is in District III. Such changes are indicative of a change in domicile and, under both N.Y. Pub. Off. Law, § 30(1)(d) and Section 5 of Local Law 3 of 1993, automatically create a vacancy in the legislative seat that you occupied. Your change in voter registration has the same effect. Section 5 of Local Law 3 of 1993 provides that a Legislator must be a qualified voter of a town within his or her district "throughout his or her term of office." In light of the change that you made to your voter registration address, you cannot satisfy that requirement. You were not a qualified voter in District III during at least a portion of January 2025.

Please be advised that all compensation associated with your seat on the Legislature will terminate immediately. You must also turn in all your County-issued property, equipment, etc., as soon as possible. Furthermore, you are no longer authorized or eligible to serve as a Legislator or to act in any way as a representative of the County.

Your contributions to the Allegany County Board of Legislators for the past three years on behalf of District III's residents are appreciated.

Sincerely,

Allison B. Carrow

Allison B. Carrow
Allegany County Attorney

ABC/
cc: Robert L. Christman, Allegany County Clerk (via personal delivery only)
Brenda Rigby Riehle, Allegany County Clerk of the Board of Legislators (via personal delivery only)
Allegany County Board of Elections (via personal delivery only)