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January 30, 2022

### VIA ELECTRONIC MAIL

Hon. Robert T. Lougy, A.J.S.C.  
Superior Court of New Jersey  
Mercer County Civil Courthouse  
175 South Board Street, 3<sup>rd</sup> Floor  
Trenton, New Jersey 08650

Dear Judge Lougy:

The Republican members of the New Jersey Apportionment Commission (the “Commission”) submit this letter in response to the summons it received in Sweeney v. Jones, MER-C-7-22, on January 27, 2022. The Republican commissioners write solely to request their dismissal from this lawsuit and that the Court refrain from enjoining the operations of the Commission as it seeks to resolve the underlying dispute.

Plaintiff Stephen M. Sweeney challenges his removal and replacement as a member of the Commission by LeRoy J. Jones, Jr., the Democratic Co-Chair of the Commission. Mr. Sweeney alleges that Co-Chair Jones and the Commission acted together in removing Mr. Sweeney from his position, but that is not accurate. The Republican members have no say in the makeup of the Democratic delegation and were not consulted concerning Mr. Sweeney’s removal before it occurred. The Republican members took no action to effectuate Mr. Sweeney’s removal or his replacement by Ms. Matos, nor would they have had any power to do so—the Republican members are responsible only for the conduct of their own delegation. Nevertheless, in addition to suing Co-Chair Jones, Mr. Sweeney included the entire Commission—including the Republicans—as a defendant in his lawsuit. The questions about whether the Constitution provides a method or process to remove a commissioner are a matter for the courts to decide and not the commission members themselves.

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The Commission's March 1, 2022 deadline established by the New Jersey Constitution for certifying the results of its work is rapidly approaching. See N.J. Const., Article IV, Section III(4). Any court-ordered pause in the Commission's deliberations at this late date, even if only temporary, would make it even more challenging for certification to occur by the constitutionally prescribed deadline. The adoption of New Jersey's final state legislative map may be delayed beyond the constitutional deadline. This would be inconsistent with the standards set forth by the New Jersey Supreme Court in Crowe v. De Gioia, 90 N.J. 126 (1982). When a matter "presents and issue of significant public importance requires the court to consider the public interest in addition to the traditional Crowe factors." N.J. Election Law Enforcement Comm'n v. DiVincenzo, 445 N.J. Super. 187, 195-196 (App. Div. 2016) (quoting Garden State Equal. v. Dow, 216 N.J. 314, 321 (2013)(internal quotations omitted)).

The Commission has three public hearings scheduled over the course of the next week on February 2<sup>nd</sup>, 5<sup>th</sup>, and 9<sup>th</sup>. The Commission's bylaws, available at <https://www.apportionmentcommission.org/constitutionbylaws.asp> (Visited January 28, 2022) make clear the distinction between public hearings and official meetings. There are not yet any official meetings scheduled before March 1, 2022.

The Republican members take no position on any of the additional issues raised by Mr. Sweeney in his Complaint. Thank you for your timely consideration of these arguments.

Sincerely,

/s/Jason Torchinsky

Jason Torchinsky, Esq.\*

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cc: All Counsel of Record (via JEDS and electronic mail)