

**Council of the City of N.Y. v Adams**

2025 NY Slip Op 31941(U)

June 2, 2025

Supreme Court, New York County

Docket Number: Index No. 154909/2025

Judge: Mary V. Rosado

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. MARY V. ROSADO PART 33M

Justice

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THE COUNCIL OF THE CITY OF NEW YORK,
Plaintiff-Petitioner,

For a Judgment Under Article 30 and 78 of the Civil Practice
Law and Rules

INDEX NO. 154909/2025

MOTION DATE 05/23/2025

MOTION SEQ. NO. 004

MAYOR ERIC ADAMS, in his official capacity as Mayor of
the City of New York, RANDY MASTRO, in his official
capacity as First Deputy Mayor, and the NEW YORK CITY
DEPARTMENT OF CORRECTION,

Defendants-Respondents.

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DECISION + ORDER ON
MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 004) 66, 67, 68, 72, 81,
82, 83, 84, 85, 86

were read on this motion to/for Council Members Holden, Vernikov, and Paladino's
request for leave to appear as Amici Curiae.

Upon the foregoing documents, and after a final submission date of June 2, 2025, New
York City Council Members Robert F. Holden, Vickie Paladino, and Inna Vernikov's ("Movants")
application seeking leave to appear as amici curiae is granted.

In deciding the Movants' application, the Court is guided by the factors identified by
Justice Doris Ling-Cohan in her oft cited decision, Kruger v Bloomberg, 1 Misc.3d 192, 198 (Sup.
Ct., New York County 2003). Those factors are:

- (1) whether the movant seeking amicus curiae status moves by order to show cause
in a timely fashion so as not to interfere with the main action;
(2) whether the affirmation in support indicates the movant's interest in the case at
bar;
(3) whether the affirmation in support makes a showing that (a) the parties to the
action are not capable of a full presentation of the issues and the movant is able
to remedy this deficiency, or (b) the movant invites the court's attention to

arguments which otherwise might escape consideration, or (c) the amicus curiae brief would be of special assistance to the court;

(4) whether the amicus curiae application or status would substantially prejudice the rights of the parties; and

(5) whether the case concerns questions of important public interest.

Here, although the Movants seek leave via order to show cause, their application is late. The application was filed on May 23, 2025, at 4:25 p.m. The hearing date for which Movants seek leave to appear as amici is June 3, 2025 – Movants offered little more than a week to any party who might oppose this application and less time for the Court to decide whether leave is appropriate. They could have and should have moved for leave alongside the other amici, on May 12, 2025. Therefore, the first factor weights against Movants. Moreover, the application does not contain any affirmation from the individual council members stating their interest but relies solely on an affirmation from the Movants' counsel, which is devoid of any probative value (*see, e.g. Berkshire Bank v Fawer*, 187 AD3d 535 [1st Dept 2020] citing *Zuckerman v City of New York*, 49 NY2d 557, 563 [1980]). Thus, the Court finds the second factor also weighs against Movants as they have failed to personally set forth their interest in this matter.

As to the third factor, the Court finds that the proposed brief largely reiterates positions maintained by Defendants-Respondents, and there is no showing that the interests and arguments set forth by the Movants will go unnoticed or fall to the wayside as they align almost identically with Defendants-Respondents' interests. Therefore, the third factor therefore also weighs against Movants.

As to the fourth factor, the Court is concerned that granting leave to individuals like Movants to appear as amici may open the flood gates to any person who claims to have an interest in the litigation, thereby prejudicing the main parties by having to review constantly and potentially

oppose applications to appear as amici. It is well known that amici are usually “large organizations or associations that represent a particular interest group.” (*Deblase v Hill*, 83 Misc 3d 1242[A] at \*4 [Sup. Ct. Kings County 2024] quoting *Kruger v Bloomberg*, 1 Misc 3d 192, 196 [Sup Ct, NY County 2003]). On this principle, the Court finds granting leave to these individual council members to appear as amici may prejudice and delay the proceedings. If these individuals are allowed to appear as *amici*, where will the Court draw the line for other individuals who claim to have an interest or stake in this litigation? The Court finds amicus applications from large organizations representing interest groups are preferred over atomized individuals. Therefore, the fourth factor weighs against the Movants.

However, the Court finds the fifth factor weighs in the Movants favor. Given the issues at stake in this litigation, the Court finds the fifth factor weighs so heavily in Movants’ favor that the Movants’ failure to succeed on the other four factors is not dispositive.

The Court is mindful that in some other case, given the numerous factors which weighed against Movants, their application would be denied. However, given the weighty issues before the Court, and this Court has granted leave to various non-profit organizations supporting Plaintiff-Petitioner’s request for injunctive relief, the Court, in the interest of justice and ensuring stakeholders on both sides of this litigation are heard, grants the Movants’ application. The granting of this application will not change the hearing date of June 3, 2025, at 10:00 a.m. in 60 Centre Street, Room 300.

Accordingly, it is hereby,

ORDERED that the order to show cause seeking leave to appear as *Amici Curiae* filed by New York City Council Members Robert F. Holden, Vickie Paladino, and Inna Vernikov is granted; and it is further

ORDERED that the proposed amicus brief (NYSCEF Doc. 68) shall be deemed filed *nunc pro tunc* upon the service of a copy of this Decision and Order with notice of entry on all parties via NYSCEF; and it is further

ORDERED that within one day of entry, counsel for Movants shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

6/2/2025  
DATE

Mary V Rosado JSC  
HON. MARY V. ROSADO, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE