

IN THE SUPREME COURT OF FLORIDA

HECTOR ROOS,

Petitioner,

v.

Case No.: SC22-1220

RON DESANTIS, in his
Official Capacity of Governor
of Florida,

Respondent.

_____ /

**Motion to File Amended Emergency Petition for Writ of Quo Warranto
and Writ of Mandamus**

Pursuant to Florida Rule of Appellate Procedure 9.040(d), Petitioner Hector Roos respectfully asks the Court to grant him leave to file an Amended Emergency Petition for Writ of Quo Warranto and Writ of Mandamus.

On September 19, 2022, the Petitioner filed an Emergency Petition for Writ of Quo Warranto and Writ of Mandamus against Respondent Ron DeSantis in his official capacity as the governor of Florida. The petition was filed in response to the September 14 flights that the Respondent arranged transporting immigrants from Texas to Massachusetts. The petition challenges the Respondent's authority to operate an ongoing program transporting immigrants from other states like Texas to other

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states. The Petitioner filed the petition as quickly as he could given the urgency of the situation and the substantial likelihood of additional transports.

The Court had not yet issued an order to the Respondent to file a response when, on September 21, the Petitioner filed an Amended Emergency Petition for Writ of Quo Warranto and Writ of Mandamus. The Petitioner filed that amendment in order to clarify the relevant facts and his arguments as well as to include additional supporting legal authority.

The same day, the Court entered an order striking the amendment. The Court provided the Petitioner with the opportunity to file the instant motion. As directed, the motion is accompanied by the proposed Amended Emergency Petition for Writ of Quo Warranto and Writ of Mandamus.

Under Rule 9.040(d):

At any time in the interest of justice, the court may permit any part of the proceeding to be amended so that it may be disposed of on the merits. In the absence of amendment, the court may disregard any procedural error or defect that does not adversely affect the substantial rights of the parties.

See *also* Order on Petitioner's Motion for Rehearing or, in the alternative, Motion for Leave to Amend Emergency Petition for Writ of Quo Warranto and Writ of Mandamus, *Thompson v. DeSantis*, No. SC20-985 (Fla. Sept. 8, 2020), <https://efactssc->

public.flcourts.org/casedocuments/2020/985/2020-

[985_disposition_150541_d18a.pdf](#) (articulating the analysis under Rule 9.040(d) and granting the petitioner's post-decision motion to amend her petition to change the requested relief).

The Court should permit the amendment for four reasons. First, it is in the interest of justice that this amendment be permitted. The proposed amended petition clarifies the relevant facts and the Petitioner's arguments on the merits. The proposed amended petition also elaborates, factually and legally, the basis for invoking the Court's jurisdiction. Thus, the proposed amended petition will better facilitate the Court's disposition of the case on the merits. Second, amendment will not prejudice the Respondent because the substantive arguments and requested relief are the same as in the original petition and, as noted, the Court has not yet issued an order on the original petition. Third, this would be the first amendment, so the Petitioner has not abused the privilege to amend. Fourth, and finally, amendment would not be futile.

The Petitioner has contacted Ryan Dean Newman, Esq., general counsel for the Respondent, to obtain the Respondent's position on this motion and the Respondent takes no position on the motion.

WHEREFORE, the Petitioner respectfully requests that this Court grant this motion to amend the original petition and accept the Petitioner's Amended Emergency Petition for Writ of Quo Warranto and Writ of Mandamus.

CERTIFICATE OF SERVICE

I CERTIFY that a copy hereof has been furnished by e-service to Ryan Dean Newman, General Counsel, Executive Office of the Governor, ryan.newman@eog.myflorida.com; gov.legal@eog.myflorida.com, counsel for Respondent Ron DeSantis on this 23rd day of September, 2022.

Dated: September 23, 2022

Respectfully submitted,

/s/ Hector Roos

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