

STATE OF MICHIGAN  
COURT OF CLAIMS

ERVIN JOSEPH LAMIE,

Plaintiff,

v

**OPINION AND ORDER**

Case No. 24-000024-MZ

KENNETH S. HOOPES and  
COUNTY OF MUSKEGON,

Hon. Sima G. Patel

Defendants.

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**OPINION AND ORDER GRANTING DEFENDANTS' 3/26/2024 MOTION FOR  
SUMMARY DISPOSITION IN LIEU OF AN ANSWER**

Before the Court is defendants' motion for summary disposition under MCR 2.116(C)(4), (7), and (8). For the reasons explained in this opinion and order, the Court GRANTS defendants' motion for summary disposition.

I. BACKGROUND

Plaintiff commenced this action against defendants, Kenneth S. Hoopes and the County of Muskegon, for actions that arise from court proceedings that occurred in *LaMie v Stewart*, Muskegon Circuit Court case nos. 2023-002202-CH and 2023-00333-NZ.<sup>1</sup> Plaintiff alleges that Muskegon Circuit Court Judge Hoopes accepted a "falsified and fraudulent" affidavit from defense counsel in *LaMie*, to support defendant's motion to set aside a default and, as a result, plaintiff

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<sup>1</sup> Plaintiff also references federal case number 17-cv-11109.

alleges his due process rights were violated. Thereafter, plaintiff filed a motion requesting that Muskegon Circuit Court Judge Hoopes recuse himself from the *LaMie* matter, but the motion was denied.

Plaintiff asserts claims of “treason to the Constitution,” “judicial fraud on the Court,” failure/refusal to uphold provisions of the U.S. Code, violations of the U.S. Code, due process violations, and violations of the judicial oath of office. Plaintiff maintains that Muskegon Circuit Court Judge Hoopes is not entitled to judicial immunity for his actions.

On March 26, 2024, defendants moved for summary disposition under MCR 2.116(C)(4), (7), and (8) in lieu of an answer to the complaint. Defendants assert that this Court does not have subject matter jurisdiction, defendants are entitled to immunity under the Governmental Tort Liability Act, MCL 600.601 *et seq.*, defendant Hoopes is entitled to absolute judicial immunity, and plaintiff has failed to plead facts upon which relief may be granted. Plaintiff’s response to the motion was due on April 9, 2024 pursuant to Court of Claims LCR 2.119(C)(2). Plaintiff failed to file a response to defendants’ motion.

## II. STANDARDS OF REVIEW

Summary disposition is proper under MCR 2.116(C)(4) when a court lacks jurisdiction over the subject matter. *Wells Fargo Rail Corp v Michigan*, 344 Mich App 351, 358; 1 NW3d 373 (2022). When reviewing a motion under MCR 2.116(C)(4), a court must determine “whether the affidavits, together with the pleadings, depositions, admissions, and documentary evidence, demonstrate a lack of subject-matter jurisdiction.” *Id.* (cleaned up).

MCR 2.116(C)(7) provides for summary disposition on the basis of “immunity granted by law.” When determining whether a claim is barred under MCR 2.116(C)(7), “a trial court should

examine all documentary evidence submitted by the parties, accept[s] all well-pleaded allegations as true, and construe[s] all evidence and pleadings in the light most favorable to the nonmoving party.” *Dougherty v Detroit*, 340 Mich App 339, 345; 986 NW2d 467 (2021) (cleaned up).

“A motion under MCR 2.116(C)(8) tests the *legal sufficiency* of a claim based on the factual allegations in the complaint.” *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). A court must accept all factual allegations as true and review the matter on the pleadings alone. *Id.* at 160.

### III. ANALYSIS

“The Court of Claims is a court of legislative creation. Its statutory powers are explicit and limited.” *Council of Orgs & Others for Ed About Parochiaid v Michigan*, 321 Mich App 456, 466; 909 NW2d 449 (2017) (cleaned up). “MCL 600.6419, which *specifically outlines* the jurisdiction of the Court of Claims, contains a requirement that the action be ‘against the state or any of its departments or officers . . . .’” *Id.* at 467 (emphasis in original); MCL 600.6419(1)(a). Included in the statutory definition of “the state or any of its departments or officers” is

any state governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of the state, or an officer, employee, or volunteer of this state or any governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of this state, acting, or who reasonably believes that he or she is acting, within the scope of his or her authority while engaged in or discharging a government function in the course of his or her duties. [MCL 600.6419(7).]

Plaintiff’s complaint asserts numerous claims against Muskegon Circuit Court Judge Hoopes, but plaintiff has failed to plead any specific facts or claims against the county. Notwithstanding plaintiff’s failure to plead any claims against the county, the county is a local government and thus is not subject to the Court of Claims’ jurisdiction. See MCL 600.6419(7);

*Doan v Kellogg Community College*, 80 Mich App 316, 320; 263 NW2d 357 (1977) (counties, cities, villages, and townships are “governmental instrumentalities [that] are never within the jurisdiction of the Court of Claims”). “Where a court lacks jurisdiction over the subject matter of a suit, any action with respect to such a cause, other than dismissal, is absolutely void.” *Council of Orgs*, 321 Mich App at 466 (cleaned up). Accordingly, the county is entitled to summary disposition under MCR 2.116(C)(4).

Defendants next argue that Muskegon Circuit Court Judge Hoopes is a local official and thus plaintiff’s claims against Hoopes are not within the jurisdiction of the Court of Claims. The Michigan Supreme Court has stated that the following four factors should be examined to determine if an entity is a state agency that is subject to the jurisdiction of the Court of Claims:

(1) whether the entity was created by the state constitution, a state statute, or state agency action, (2) whether and to what extent the state government funds the entity, (3) whether and to what extent a state agency or official controls the actions of the entity at issue, and (4) whether and to what extent the entity serves local purposes or state purposes. [*Manuel v Gill*, 481 Mich 637, 653; 753 NW2d 48 (2008).]

The test requires an examination of the “totality of the circumstances” to determine “the core nature of an entity” so as to ascertain “whether it is predominantly state or predominantly local[.]”

*Id.* at 653-654. This Court adopts the *Manuel* test to determine whether a circuit court judge is a state official under MCL 600.6419(7).

The first inquiry is “whether the entity was created by the state constitution, a state statute, or state agency action.” *Manuel*, 481 Mich at 653. Circuit courts are created by the state constitution, Const 1963, art 6, § 11, and are part of the state’s one court of justice, Const 1963, art 6, § 1. But a circuit court judge is nominated and elected at a non-partisan election in the circuit in which he or she resides and holds court in the county or counties within the circuit in which the

judge is elected, Const 1963, art 6, §§ 11, 12. “The state is divided into judicial circuits,” MCL 600.501, which includes the fourteenth judicial circuit for Muskegon County, MCL 600.515(1), where defendant Hoopes serves as a circuit court judge. Because the state constitution addresses circuit court judges as part of local government and because their authority is limited to their respective counties, the first *Manuel* factor weighs in favor of a determination that a circuit court judge is a local, not state official. See *Manuel*, 481 Mich at 653.

The second *Manuel* inquiry is “whether and to what extent the state government funds the entity.” *Id.* Although trial courts “have always been regarded as part of state government, they have operated historically on local funds and resources.” *Cameron v Monroe Co Probate Court*, 457 Mich 423, 427; 579 NW2d 859 (1998) (cleaned up); see also *Judicial Attorneys Ass’n v State*, 459 Mich 291, 299; 586 NW2d 894 (1998) (noting that the chief judges of the trial courts in this state “are dependent on over 150 separate local governmental units for the bulk of the operational funding for their courts.”). MCL 600.591(1) dictates that “[t]he county board of commissioners in each county shall annually appropriate, by line-item or lump-sum budget, funds for the operation of the circuit court in that county.” However, the state pays the circuit judges’ annual salaries and the counties have the option to pay the judges “an additional salary as determined from time to time by the county board of commissioners.” MCL 600.555(1). Although the counties fund the circuit courts, the state funds the circuit court judges’ salaries. Accordingly, this factor weighs in favor of a determination that a circuit court judge is a state official.

The next inquiry is “whether and to what extent a state agency or official controls the actions of the entity at issue.” *Manuel*, 481 Mich at 653. “The rule is well settled that under our form of government the Constitution confers on the judicial department all the authority necessary to exercise its powers as a co-ordinate branch of the government.” *Gray v Clerk of Common Pleas*

*Court*, 366 Mich 588, 595; 115 NW2d 411 (1962). Pursuant to this authority, the Michigan Supreme Court is vested with broad powers of superintending control and supervisory authority over all lower courts. See Const 1963, art 6, §§ 4 and 13; *Lapeer Co Clerk v Lapeer Circuit Judges*, 465 Mich 559, 569, 640 NW2d 567 (2002). “[B]ut the day-to-day operation of the state’s trial courts is in the hands of the chief judges of each court.” *Judicial Attorneys*, 459 Mich at 299. And MCL 600.601 sets forth the jurisdiction and powers of the circuit court. Pursuant to its rule-making authority, the Michigan Supreme Court has promulgated rules conferring broad discretion and power on trial courts to manage their dockets. See *Maldonado v Ford Motor Co*, 476 Mich 372, 376; 719 NW2d 809 (2006) (“[T]rial courts possess the inherent authority . . . to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.”). Further, “Michigan case law provides that a trial judge has wide discretion and power in matters of trial conduct.” *People v Conley*, 270 Mich App 301, 307–308; 715 NW2d 377 (2006) (cleaned up). Because circuit court judges have substantial discretion to carry out their duties, the fact that the Supreme Court has supervisory authority over ministerial matters does not transform what is otherwise a local official into a state official.

The final inquiry is “whether and to what extent the entity serves local purposes or state purposes.” *Manuel*, 481 Mich at 653. As discussed above, a circuit court judge’s authority only extends to matters in his or her respective county and it is within the circuit court judge’s discretion to carry out his or her duties. Because a circuit court judge serves primarily local purposes within his or her respective county, this factor also weighs in favor of a determination that a circuit court judge is a local official.

Considering *Manuel*’s four-factor inquiry, the Court concludes, under the totality of the circumstances, that the core nature of a circuit court judge is that of a local official and thus the

jurisdiction of the Court of Claims does not extend to him. See MCL 600.6419(1)(a); see also *Mays v Snyder*, 323 Mich App 1, 47; 916 NW2d 227 (2018) (“The jurisdiction of the Court of Claims does not extend to local officials.”). Accordingly, defendant Hoopes is entitled to summary disposition under MCR 2.116(C)(4).

Because this Court does not have subject matter jurisdiction, it must dismiss this action. *Council of Orgs*, 321 Mich App at 466

### III. CONCLUSION

For the reasons stated in this opinion and order, IT IS ORDERED that defendants’ motion for summary disposition is GRANTED.

This is a final order that resolves the last pending claim and closes the case.

Date: May 28, 2024



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Hon. Sima G. Pate  
Judge, Court of Claims

