STATE OF MICHIGAN

COURT OF CLAIMS

ROBERT DAVIS,

Plaintiff,

v

Case No. 26-000147-MB

JOCELYN BENSON, in her official capacity as the duly elected Secretary of State,

Hon. Michael J. Riordan

Defendant.
_____ /

OPINION AND ORDER DENYING PLAINTIFF'S 7/13/26 MOTION FOR AN EVIDENTIARY HEARING AND DISCOVERY SUBPOENAS, AND GRANTING DEFENDANT'S 7/28/26 MOTION FOR SUMMARY DISPOSITION

Plaintiff Robert Davis challenged the candidacy of Kahlilia Davis (no relation to plaintiff) for 36th District Court Judge, asserting that she falsely attested in her Affidavit of Identity (AOI) that neither she nor her campaign committee had any outstanding election-related statements, reports, fees, or fines. Plaintiff filed a Campaign Finance Complaint with defendant Secretary of State (SOS) Jocelyn Benson on June 12, 2026, one day after this Court granted K. Davis relief from the April 30, 2026 SOS decision disqualifying her from running for judicial office. On June 8, 2026, an amendment to Mich Admin Code, R 168.5 went into effect, removing a good-cause exception to the one-week deadline for filing challenges to candidate AOIs. This led plaintiff to seek an expedited declaratory ruling from the SOS regarding the validity of the amended administrative rules and his filing of the present lawsuit, claiming that the SOS failed to follow the procedures outlined in the Administrative Procedures Act (APA), MCL 24.201 *et seq*., in

promulgating various Rule amendments and that the SOS was required by MCL 168.558(4) of the Michigan Election Law to decertify K. Davis's candidacy.

First, the record shows that nothing prevented plaintiff from timely raising his challenge to K. Davis's AOI on April 28, 2026, as required by Rule 168.5(1). Moreover, plaintiff does not show that the SOS failed to comply with the APA in amending the relevant administrative rules. Because plaintiff did not timely challenge K. Davis's AOI, the SOS was required to reject his complaints. Thus, the Court GRANTS defendant's motion for summary disposition, DENIES plaintiff's motion for an evidentiary hearing and the issuance of discovery subpoenas, and DISMISSES plaintiff's action in its entirety and with prejudice.

I. BACKGROUND

On the April 21, 2026 deadline, K. Davis filed an AOI to initiate her candidacy for a nonincumbent 36th District Court Judge position. By signing the AOI, K. Davis certified that "all statements, reports, late filing fees, and fines due from [her] or any candidate committee organized to support [her] election under the Michigan Campaign Finance Act [MCFA] have been filed or paid." Plaintiff believes this statement is false for reasons relating to K. Davis's participation in the 2022 and 2024 election cycles.

K. Davis previously served as a 36th District Court Judge. In 2022, K. Davis was disqualified from running for reelection because she misrepresented in her AOI that neither she nor her committee had any outstanding reports and fees. *Khalilia Davis v Secretary of State*, order of the Court of Appeals, entered August 22, 2022 (Docket No. 362455). Also in 2022, the Judicial Tenure Commission investigated K. Davis and recommended that the Michigan Supreme Court impose discipline. K. Davis's term expired on December 31, 2022, and in June 2023, the Supreme

Court determined that K. Davis had engaged in misconduct while serving as a judge of the 36th District Court. Our Supreme Court "impose[d] a six-year conditional suspension without pay on" K. Davis and directed that "[s]hould [K. Davis] be elected or appointed to judicial office during that time, she [would] nevertheless be debarred from exercising the power and prerogatives of the office until at least the expiration of the suspension." *In re Davis*, 511 Mich 1003, 1004; 991 NW2d 212 (2023) (quotation marks and citations omitted).

In 2024, K. Davis filed an AOI and nominating petitions to run for a nonincumbent 36th District Court Judge position. Plaintiff filed suit in this Court in *Robert Davis v Benson*, Docket No. 24-000069-MM, to challenge K. Davis's candidacy. Plaintiff asserted that K. Davis misrepresented in her AOI that she and her committee had filed all required statements and reports and paid all required fines and fees. K. Davis was permitted to intervene as amicus in that proceeding. In a June 3, 2024, opinion, Court of Claims Judge CHRISTOPHER P. YATES ultimately entered a declaratory judgment that K. Davis was disqualified from running as a judicial candidate and a writ of mandamus compelling the SOS to decertify her candidacy but on an alternate ground: our Supreme Court had suspended K. Davis from serving as a judge.

As noted, K. Davis filed an AOI and nominating petitions on April 21, 2026 to again run as a nonincumbent for 36th District Court Judge and Rule 168.5(1) required that any challenge to a candidate's AOI be filed within seven days of the filing deadline, which was April 21, 2026.

Plaintiff failed to file a timely challenge to K. Davis's filing and is now seeking relief from this Court for his failure to do so.[1]

On April 30, 2026, the SOS notified K. Davis that she was disqualified from running for judicial office and the SOS would not certify her candidacy. The SOS relied on Judge YATES's June 3, 2024 Opinion and Order in Docket No. 24-000069-MM, as requiring the disqualification of K. Davis's candidacy. K. Davis filed suit in *Khalilia Davis v Benson*, Court of Claims Docket No. 26-000091-MB, to challenge her disqualification. On June 11, 2026, Judge JAMES ROBERT REDFORD entered an Opinion and Order ruling that no controlling legal precedent prevented K. Davis from running for office. Judge REDFORD directed the SOS to canvass the signatures on K. Davis's nominating petitions, review her candidacy documents, and certify her candidacy if she met all statutory requirements. The SOS has since certified K. Davis's candidacy for the November 2026 General Election and indicated that her name will appear on the ballot.

On June 12, 2026, plaintiff filed a Campaign Finance Complaint with the SOS, challenging K. Davis's candidacy. He asserted that K. Davis made a false statement in her AOI for the 2026 election. Specifically, plaintiff alleged that K. Davis's campaign committee exceeded the $1,000 threshold and yet failed to file campaign finance reports in the 2022 election cycle. On June 18, 2026, plaintiff filed a second Campaign Finance Complaint, alleging that K. Davis failed to disclose additional campaign activity leading up to the 2024 election cycle. According to the SOS, K. Davis's responses to those complaints were due August 3 and August 7, respectively. The

[1] At that time, Rule 168.5(1) provided that "the filing official shall reject any challenge received more than 7 days after the deadline for the filing of the [AOI]." Subsection (3) gave the filing official discretion to accept a belated challenge "on a showing of good cause."

Court has no information regarding whether those responses were filed or what action the SOS has taken in regard to plaintiff's Campaign Finance Complaints since those responses.

On June 29, 2026, plaintiff sought a declaratory ruling from the SOS regarding the two Campaign Finance Complaints he filed relating to K. Davis. The next day, the SOS acknowledged receipt of plaintiff's request for a declaratory ruling and his Campaign Finance Complaints. The SOS declined plaintiff's declaratory ruling request as follows:

> Because the question of whether a committee that you are not involved with has violated the MCFA is not an issue that will affect your course of action, you are not an interested person under [Mich Admin Code, R 169.6(1)]. Further, the issues raised in your declaratory ruling request about whether the committee violated the MCFA must be addressed under the MCFA's complaint process, and are indeed being addressed using that process since they are the subject of pending complaints. Because your request concerns an active campaign finance complaint, it is not a proper declaratory ruling request and the Department finds that it is frivolous o[n] its face.

Knowing that the validity, interpretation, and application of various administrative rules were relevant to his claims, plaintiff filed a request for an expedited declaratory ruling pursuant to MCL 24.264 of the APA on July 7, 2026. He specifically challenged the amendments of Mich Admin Code, Rules 168.1, 168.5, and 168.6, which went into effect on June 8, 2026.

Plaintiff then filed this suit to challenge K. Davis's placement on the ballot on July 13, 2026. He alleges that K. Davis made a false statement in her AOI because she and her campaign committee still have outstanding campaign finance reports from the 2022 and 2024 election cycles. In Count I of his complaint, plaintiff contends that the SOS did not follow the procedures as set forth in the APA when promulgating the amendments to Rules 168.1, 168.5, and 168.6, thus rendering them void and invalid. In Count II, plaintiff seeks a declaratory judgment that the SOS had a duty to not certify K. Davis's candidacy under MCL 168.558(4) because her AOI contained

a false statement. And in Count III, plaintiff seeks a writ of mandamus to compel the SOS to decertify K. Davis's candidacy.

On July 13, 2026, plaintiff also moved for an emergency evidentiary hearing and sought the issuance of discovery subpoenas. On July 14, 2026, the Court entered an emergency scheduling order and ruled that it would order a hearing if it deemed it necessary.

Consistent with the emergency scheduling order, the SOS moved for summary disposition in response to the complaint on July 28, 2026. On that day, the Court denied K. Davis's motion to intervene in this action but granted her permission to participate as amicus.

On July 29, 2026, plaintiff filed a renewed expedited request for a declaratory ruling from the SOS, expanding upon his challenge to the method used to promulgate the amendments to Rules 168.1 and 168.5. The next day, plaintiff filed an amended complaint, claiming he could do so as of right under MCR 2.118(A)(1), adding a new count based on this expanded challenge. Plaintiff also filed a response to defendant's motion for summary disposition, asserting that the amended complaint rendered the motion moot.

This Court initially entered an amended scheduling order granting defendant additional time to file a response to the amended complaint. On further consideration, however, the Court vacated the amended scheduling order and struck plaintiff's amended complaint. Plaintiff filed two motions for reconsideration, which this Court denied. Plaintiff filed an emergency application for leave to appeal to the Court of Appeals, which was also denied. *Robert Davis v Secretary of State*, order of the Court of Appeals, entered August 10, 2026 (Docket No. 381934).

On August 7, 2026, plaintiff filed his response to the SOS's motion for summary disposition several hours late, although plaintiff had more than adequate time to craft his response and the Court previously had denied his motion for a time extension.[2]

II. VALIDITY OF ADMINISTRATIVE RULES

The SOS seeks dismissal of plaintiff's challenge to the validity of the amended administrative rules under MCR 2.116(C)(8). "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) (emphasis in original). The Court "must accept all factual allegations as true, deciding the motion on the pleadings alone." *Id*. at 160. Summary disposition is warranted only "when a claim is so clearly unenforceable that no factual development could possibly justify recovery." *Id*.

The parties rely on documents beyond the complaint in their arguments, making review under MCR 2.116(C)(10) appropriate. "A motion under MCR 2.116(C)(10) . . . tests the *factual sufficiency* of a claim." *Id*. (emphasis in original) The Court must review the evidence submitted by the parties in the light most favorable to the nonmoving party and dismiss the action if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. *Id*.

Mich Admin Code, Rules 168.1, 168.5, and 168.6 are found within the rules promulgated by the Department of State Bureau of Elections and govern disqualification from the ballot based

[2] The Court will not extend these proceedings further to the detriment of the SOS and the challenged candidate by taking further action in regard to plaintiff's request for any additional extensions of time.

upon the contents of an AOI. Adopted in the spring of 2026 and effective June 8, 2026, the challenged Rules were amended as follows:

R 168.1 Definitions.

Rule 1. As used in these rules:

(a) "[AOI]" or "affidavit" means the filing made ~~pursuant to~~ **under** [MCL 168.558].

(b) "Compliance statement" means the statement required by [MCL 168.558(4)], that the candidate does not owe any statements, reports, fines, or late filing fees.

(c) "Filing official" means the township, city, or court clerk, or the [SOS] with which the[AOI] is filed.

~~(d) "Good cause" means 1 or more of the following reasons:~~

~~(i) The incapacitating physical illness, hospitalization, accident involvement, death, or incapacitation for medical reasons of the challenger or candidate or a member of the immediate family of the challenger or candidate.~~

~~(ii) Other unique, unintentional factors beyond the control of the challenger or candidate not stemming from a negligent act or nonaction so that a reasonably prudent person would excuse the failure to comply on a temporary basis.~~

~~(e)~~(d) "Notice of error or omission" means the notice issued ~~pursuant to~~ **under** [MCL 169.216].

* * *

R 168.5 [AOI] challenge.

Rule 5. (1) ~~Except as provided in subrule (3) of this rule, t~~ **T**he filing official shall reject any challenge received more than 7 days after the deadline for the filing of the [AOI].

(2) ~~Except as provided in subrule (3) of this rule, t~~ **T**he filing official shall reject any challenge that is not in the form of a signed and notarized complaint.

~~(3) The filing official may exercise discretion to accept a challenge that does not meet the requirements in subrules (1) and (2) upon a showing of good cause.~~

R 168.6 Candidate response to challenge.

> Rule 6. (1) ~~Except as provided in subrule (3) of this rule, t~~ **T**he filing official shall render a decision without consideration of a candidate's response to a challenge to the candidate's [AOI] if the response is received more than 7 days after the candidate was provided with the challenge.
>
> (2) ~~Except as provided in subrule (3) of this rule, t~~ **T**he filing official shall decline to consider a response that is not signed.
>
> ~~(3) The filing official may exercise discretion to accept a challenge that does not meet the requirements in subrules (1) and (2) upon a showing of good cause.~~

In Count I, plaintiff relies on MCL 24.264 of the APA to challenge the validity of the promulgation process. MCL 24.264 provides, in relevant part:

> Unless an exclusive procedure or remedy is provided by a statute governing the agency, the validity or applicability of a rule, including the failure of an agency to accurately assess the impact of the rule on businesses, including small businesses, in its regulatory impact statement, may be determined in an action for declaratory judgment *if the court finds that the rule or its threatened application interferes with or impairs, or imminently threatens to interfere with or impair, the legal rights or privileges of the plaintiff*. . . . An action for declaratory judgment may not be commenced under this section unless the plaintiff has first requested the agency for a declaratory ruling and the agency has denied the request or failed to act upon it expeditiously. This section shall not be construed to prohibit the determination of the validity or applicability of the rule in any other action or proceeding in which its invalidity or inapplicability is asserted. [Emphasis added.]

The SOS contends that plaintiff has not demonstrated that his legal rights or privileges have been or will be interfered with or impaired by the application of the amended Rules, precluding the Court from entering a declaratory judgment under the statutory language. The Court acknowledges the language cited by the SOS from Judge BROCK A. SWARTZLE's opinion in *Robert Davis v Benson*, Docket No. 25-000083-MZ (June 16, 2025), questioning the current plaintiff's standing as a Highland Park resident to challenge candidates for mayor of Detroit. However, plaintiff is challenging the validity of the administrative rule amendments because the amendments prevent him from raising a challenge to a candidate's AOI. In *Robert Davis v Benson*, Opinion

and Order of the Court of Claims, entered May 26, 2026 (Docket Nos. 26-000099-MB, 26-000103-MB, and 26-000104-MB), p 12, this Court, Judge SIMA PATEL, presiding, ruled:

> The SOS promulgated Rule 168.5, which requires filing officials to "reject any challenge" that is filed beyond the deadline or that is not filed in the form of a signed and notarized complaint. The SOS imposes no limit on who may challenge a candidate's AOI. The SOS thereby permits anyone to challenge a candidate's AOI, irrespective of whether the challenger is entitled to vote for the challenged candidate.

The Court of Appeals did not address this Court's conclusion that anyone may challenge a candidate's AOI under Rule 168.5 in affirming this Court's decision. See *Robert Davis v Benson*, unpublished per curiam opinion of the Court of Appeals, issued June 2, 2026 (Docket Nos. 380907 and 380909), p 5 ("For purposes of the instant opinion only, this Court will assume without deciding that there is a right to challenge an AOI as has been asserted by plaintiff's complaints."). For purposes of this case only, the Court will proceed on the assumption that any person is permitted to challenge any candidate's AOI. Because plaintiff did challenge K. Davis's AOI on its face, an amendment to the Rule limiting the time in which to bring such a challenge does interfere with or impair plaintiff's legal rights or privileges. Whether that interference is permissible is now the issue before us.

The SOS next contends that plaintiff has not stated a claim upon which relief can be granted because the amendments to the Rules were properly promulgated. MCL 168.31(1) requires the SOS to "issue instructions and promulgate rules pursuant to the [APA] for the conduct of elections and registrations in accordance with the laws of this state." *O'Halloran v Secretary of State*, 515 Mich 606, 630-631; 29 NW3d 429 (2024). "The APA outlines a formal process that must be followed for an agency to promulgate a rule that has the force and effect of law." *Id*. at 636. The

Court of Appeals described this formal process in *Mich Charitable Gaming Ass'n v State*, 310 Mich App 584, 594-597; 873 NW2d 827 (2015):

> An agency wishing to create a rule must first make a request for rulemaking authority to [the Office of Regulatory Reinvention (ORR), which has since been replaced by the Michigan Office of Administrative Hearings and Rules (MOAHR)]. MCL 24.239. After receiving rulemaking approval, the agency must submit a draft of the proposed rules to [MOAHR], which gives approval to proceed with a public hearing. MCL 24.239a(1). If [MOAHR] grants approval for a public hearing, it "shall immediately provide a copy of the proposed rules to" [the Legislature's Joint Committee on Administrative Rules (JCAR)]. MCL 24.239a(2). Before adopting a rule, an agency or [MOAHR] must provide notice of a public hearing and offer "an opportunity to present data, views, questions, and arguments." MCL 24.241(1). In addition to providing notice to the public, the agency must give notice of the public hearing to "the committee," [i.e., JCAR,] which may in turn, "meet to consider the proposed rule, take testimony, and provide the agency with the committee's informal response to the rule." MCL 24.242(5). The agency must also send the proposed rules to [the Legislative Service Bureau (LSB)] for approval. MCL 24.245(1). At least 28 days before the public hearing, the agency must prepare a regulatory impact statement and small business impact statement and submit them to [MOAHR] and JCAR. MCL 24.245(3)-(4).
>
> Following the public hearing and before the agency proposing the rule has formally adopted the rule, the agency must prepare a report "containing a synopsis of the comments contained in the public hearing record, a copy of the request for rule-making, and the regulatory impact statement. . . ." MCL 24.245(2). The APA acknowledges that the agency may make changes to the rules following the public hearing. Specifically, MCL 24.245(2) states that in the agency report, "the agency shall describe any changes in the proposed rules that were made by the agency after the public hearing." [MOAHR] is required to submit to JCAR, by notice of transmittal, copies of the rule, agency reports containing the request for rulemaking, a copy of regulatory impact statements, and certificates of approval from LSB and [MOAHR]. MCL 24.245(2). Further, [MOAHR] must electronically submit to JCAR the noted documents, plus any agency reports prepared in accordance with the statute. MCL 24.245(2). The agency, too, must electronically submit the records described within one year of the date of the last public hearing on the proposed rule "unless the proposed rule is a resubmission under [MCL] 24.245a(7)."
>
> After it receives the notice of transmittal specified in the preceding paragraph, JCAR is to take one of three actions within 15 session days. See MCL 24.245a(1) and (2). The first such option is to object to the rule. MCL 24.245a(1) provides, in pertinent part, "[e]xcept as otherwise provided in subsections (7) to (9)," after JCAR receives the "notice of transmittal," it has 15 session days to consider the rule and to object to the rule by filing a notice of objection, which must

> be approved by a concurrent majority of committee members. MCL 24.245a(1). JCAR can only object to a rule if it determines that one or more statutorily enumerated conditions exist. MCL 24.245a(1)(a) through (g). If JCAR objects within 15 session days, "the committee chair, the alternate chair, or any member of the committee shall cause bills to be introduced in both houses of the legislature simultaneously. Each house shall place the bill or bills directly on its calendar." MCL 24.245a(3). The bills referred to in the statute must contain one or more of the following: (a) a rescission of the rule, (b) a repeal of the statutory provision under which the rule was authorized, or (c) a bill staying the effective date of the proposed rule for up to one year. MCL 24.245a(3)(a) through (c).
>
> As to JCAR's remaining options, it can elect to waive, by concurrent majority, the 15 session days. MCL 24.245a(1). If JCAR does so, [MOAHR] may immediately file the rule with the [SOS], and the rule will take effect upon filing. MCL 24.245a(2). Alternatively, if JCAR does nothing within 15 session days, [MOAHR] may file the rule with the [SOS], and the rule will go into effect. MCL 24.245a(2).

Here, the SOS provided an affidavit from Director of Elections Jonathan Brater regarding the process taken to promulgate the Rule amendments at issue. He attested that the SOS's request for rulemaking authority was approved on October 21, 2025. The SOS received approval to conduct a public hearing on January 30, 2026. That hearing was held on March 6, 2026. Brater attested that plaintiff did not attend the public hearing and submitted no public comments. The SOS sent the final draft of the Rules along with supporting documentation to MOAHR on March 9, 2026. MOAHR reviewed the Rules and the request for formal certification before forwarding the materials to the LSB. Brater attested that on March 27, 2026, the LSB formally certified the amended Rules and transferred the amended Rules to JCAR. Exhibit G to plaintiff's complaint, however, sets the date of transfer to JCAR as March 31, 2026.

Plaintiff challenges the adoption of the amended Rules by JCAR because he asserts that JCAR has not met in 2026. MCL 24.245a(1) states that JCAR has 15 session days after notice of transmittal

> in which to consider the rule and do 1 of the following:

> (a) Object to the rule by approving a notice of objection under subsection (2) and filing the notice with the office.
>
> (b) Propose that the rule be changed. If the committee proposes that a rule be changed under this subdivision, [MCL 24.245c] applies.
>
> (c) Decide to introduce bills under subsection (5) to enact the subject of the rule into law.
>
> (d) Waive any remaining session days. If the committee waives the remaining session days, the clerk of the committee shall promptly notify the office of the waiver by electronic transmission.

The SOS admits that JCAR took none of these actions.

If JCAR takes no action within 15 session days, MCL 24.245a(3) requires the Rule be deemed approved:

> If the committee does not approve a notice of objection, propose that the rule be changed, or decide to introduce bills under subsection (5) within the time period prescribed in subsection (1), or if the committee waives the remaining session days under subsection (1), the office may immediately file the rule, with the certificate of approval required under [MCL 24.245(1)], with the [SOS]. The rule takes effect immediately on being filed with the [SOS] unless a later date is indicated in the rule.

This was the course of events that occurred in this case. Even if JCAR has not met in 2026, JCAR's inaction for 15 session days meant the Rule amendments were approved. The Rules were filed with the SOS and went into effect on June 8, 2026, as demonstrated by Exhibit H to plaintiff's complaint.

Plaintiff further contends that the Rule amendments are invalid because the House Fiscal Agency did not issue findings pursuant to MCL 24.245(5).

MCL 24.245 outlines various steps in the Rule promulgation process. Subsection (5) states:

> The [JCAR] shall electronically transmit to the senate fiscal agency and the house fiscal agency a copy of each rule and regulatory impact statement filed with the committee and a copy of the agenda identifying the proposed rules to be considered by the committee. The senate fiscal agency and the house fiscal agency shall analyze each proposed rule for possible fiscal implications that, if the rule were adopted, would result in additional appropriations in the current fiscal year or commit the legislature to an appropriation in a future fiscal year. The senate fiscal agency and the house fiscal agency shall electronically report their findings to the senate and house appropriations committees and to the committee before the date of consideration of the proposed rule by the committee. [MCL 24.245(5).]

Plaintiff submitted a Freedom of Information Act (FOIA) request to the Legislature seeking copies of the House and Senate Fiscal Agencies' reports regarding the proposed Rule amendments. On July 10, 2026, the Legislature provided the Senate Fiscal Agency's report, but Legislative Counsel did "not possess the House Fiscal Agency document."

The SOS contends that even if the House Fiscal Agency did not prepare a report on these Rule amendments, this absence would not render the Rules invalid. Plaintiff has cited no caselaw supporting that the failure of one fiscal agency to provide a report regarding a proposed Rule renders the promulgation process incomplete and the Rule invalid. The Court could find no caselaw analyzing MCL 24.245(5). Indeed, in describing the "elaborate procedure for rule promulgation" in *Mich Farm Bureau v Dep't of Environment, Great Lakes, & Energy*, 515 Mich 481, 507 n 18; 28 NW2d 629 (2024), the Supreme Court failed to mention this step of the process. Reading MCL 24.245(5) in harmony with other statutory provisions, however, it becomes clear that the House Fiscal Agency's inaction did not render the Rule amendments invalid.

MCL 24.245a(1) gives JCAR 15 session days after receiving "a notice of transmittal under [MCL 24.245(2)]" to take action. MCL 24.245(2) states:

> Except as provided in subsection (6), after notice is given as provided in this act and before the agency proposing the rule [here the SOS] has formally adopted the rule, the agency shall prepare an agency report containing a synopsis

> of the comments contained in the public hearing record, a copy of the request for rule-making, and the regulatory impact statement required under subsection (3). In the report, the agency shall describe any changes in the proposed rules that were made by the agency after the public hearing. The [ORR, now MOAHR] shall transmit by notice of transmittal to the [JCAR] copies of the rule, the agency reports containing the request for rule-making, a copy of the regulatory impact statement, and certificates of approval from the [LSB] and the [MOAHR]. The [MOAHR] shall also electronically submit to the committee a copy of the rule, any agency reports required under this subsection, any regulatory impact statements required under subsection (3), and any certificates of approval required under subsection (1). The agency shall electronically transmit to the committee the records described in this subsection within 1 year after the date of the last public hearing on the proposed rule.

The SOS and MOAHR complied with MCL 24.245(2) and provided all necessary materials along with notice to JCAR. It was then JCAR's duty to submit materials to the House and Senate Fiscal Agencies under MCL 24.245(5), and JCAR did so. The 15-session-day deadline to act was triggered by the SOS's and MOAHR's provision of notice under MCL 24.245(2). There is no statutory provision pausing or tolling that 15-session-day deadline while the House and Senate Fiscal Agencies conduct their review. Accordingly, if either the House or Senate Fiscal Agency fails to provide a report within those 15 days and JCAR remains silent, the Rules are deemed approved MCL 24.245a(3). That is exactly what happened here.

Accordingly, the Court concludes that the amendments to Rules 168.1, 168.5, and 168.6 that took effect on June 8, 2026, are valid and are not void. Plaintiff cannot support his claim to the contrary. The Court GRANTS the SOS's motion for summary disposition of Count I.

III. COUNTS II AND III

In Counts II and III, plaintiff seeks a declaratory judgment that K. Davis's AOI contained a false statement and, therefore, a declaratory judgment and writ of mandamus that the SOS is required to disqualify and decertify K. Davis's candidacy.

Having rejected plaintiff's challenge to the validity of the amended Rules, the Court must dismiss plaintiff's claims challenging K. Davis's AOI. Rule 168.5(1) requires a filing official to reject any challenge to a candidate's AOI received more than seven days after the filing deadline. i.e., after April 28, 2026. Plaintiff could have filed a challenge to K. Davis's AOI by April 28, 2026, but chose not to. The filing official did not disqualify K. Davis until April 30, 2026; therefore, any challenge timely filed by plaintiff on April 28 would have been ripe for consideration.

By the time the SOS had disqualified K. Davis and this Court overruled that decision in Docket No. 26-000091-MB, Rule 168.5 had been amended. The filing official no longer has discretion to consider a challenge raised beyond the seven-day deadline. This Court cannot compel the SOS to consider plaintiff's challenge to K. Davis's AOI when the SOS had no duty to, and was actually prohibited from, considering his belated challenge.

Accordingly, the Court also GRANTS the SOS's motion for summary disposition of Counts I and II.

IT IS ORDERED:

1. Plaintiff's motion for an emergency evidentiary hearing and discovery subpoenas is DENIED.
2. Defendant's motion for summary disposition is GRANTED.
3. The Court DISMISSES plaintiff's complaint in its entirety with prejudice.
4. This is a final order resolving all issues in this case.

Date: August 21, 2026

Michael J. Riordan
Judge, Court of Claims