STATE OF MICHIGAN

COURT OF CLAIMS

REPUBLICAN NATIONAL COMMITTEE, MICHIGAN REPUBLICAN PARTY, and CINDY BERRY,

Plaintiffs,

v

Case No. 24-000148-MZ

JOCELYN BENSON, in her official capacity as Secretary of State, and JONATHAN BRATER, in his official capacity as Director of Elections,

Hon. Michael F. Gadola

Defendants.
_____/

ORDER DENYING DEFENDANTS' MOTION FOR STAY PENDING APPEAL

Before the Court is defendants' motion under MCR 2.614(D) and MCR 7.209(D) for stay of the Court's December 29, 2025 final order and judgment ("final judgment") pending appeal, as well as a motion for expedited consideration of that motion. The Court GRANTS defendants' motion for expedited consideration. As explained below, the Court DENIES defendants' motion for stay pending appeal.

On December 3, 2025, the Court issued an opinion and order in which it concluded that MCL 168.768 only allows for absentee ballots to be tabulated if the number on the ballot matches the number on the absent voter return envelope and, therefore, an absentee ballot with a missing or mismatched stub cannot by law be tabulated and must be rejected. The Court declared invalid the Secretary's instructions for tabulating absent voter ballots with missing or mismatched stubs as challenged ballots because the instructions conflicted with MCL 168.768.

In its December 29, 2025 final judgment, the Court granted permanent injunctive relief against defendants. The Court ordered defendants to implement the cure procedure set out in the final judgment pending the promulgation of a rule creating an alternative cure procedure remedy for an absent voter ballot that cannot be tabulated because it was returned with a mismatched or missing stub. By agreement of the parties, the Court ordered that the injunction would not apply to the special primary election to be held on February 3, 2026.

Defendants filed a claim of appeal from the final judgment in the Court of Appeals on January 20, 2026. On January 27, 2026, defendants moved in this Court for a stay of the final judgment pending appeal and for expedited consideration of that motion. In response to that motion, plaintiffs contend that a stay of the final judgment pending appeal is not necessary because plaintiffs are not seeking to have the remedies in the final judgment enforced for the May 5, 2026 regular and special elections. To this end, plaintiffs moved on January 30, 2026, to modify the final judgment to expressly state that the injunction does not apply to the May 5, 2026 regular and special elections. Plaintiffs stated that defendants do not oppose modifying the final judgment in this fashion. Today, the Court entered an order granting plaintiffs' motion to modify the final judgment. The permanent injunction, therefore, does not apply to the May 5, 2026 regular and special elections.

On February 2, 2026, the Court of Appeals expedited defendants' appeal and established a briefing schedule that will allow the parties to pursue appellate remedies with enough time to implement the ultimate decision in time for the August 4, 2026 primary elections. Appellate briefing will be completed, at the latest, by March 31, 2026, and the Court of Appeals ordered that the appeal be placed on the first practicable case call after briefing is completed. *Republican Nat'l Committee v Secretary of State*, unpublished order of the Court of Appeals, entered February 2,

2026 (Docket No. 379136). Defendants have not shown a risk of irreparable harm without a stay of the final judgment. The Court therefore DENIES the motion for stay pending appeal.

IT IS SO ORDERED.

Date: February 13, 2026

Hon. Michael F. Gadola
Chief Judge, Court of Claims