STATE OF MICHIGAN

COURT OF CLAIMS

PETER BORMUTH,

Plaintiff,

v

Case No. 25-000097-MZ

JOCELYN BENSON, in her official capacity as Secretary of State,

Hon. Brock A. Swartzle

Defendant.
_____/

ORDER STRIKING PLAINTIFF'S 7/16/25 AMENDED COMPLAINT

Plaintiff filed a complaint in this action on June 11, 2025. On July 15, 2025, defendant moved for summary disposition under MCR 2.116(C)(7), (8), and (10). On July 16, plaintiff filed an amended complaint.

MCR 2.118(A) reads in pertinent part:

> (1) A party may amend a pleading once as a matter of course within 14 days after being served with a responsive pleading by an adverse party, or within 14 days after serving the pleading if it does not require a responsive pleading.
>
> (2) Except as provided in subrule (A)(1), a party may amend a pleading only by leave of the court or by written consent of the adverse party. Leave shall be given when justice so requires.

Read together, these two subrules clearly indicate that a party's ability to amend a pleading by right is limited to the two situations outlined in subrule (A)(1). Subrule (A)(2) specifically states that "[*e*]*xcept as provided in subrule (A)(1)*, a pleading may be amended by leave only." (Emphasis added.)

Because plaintiff had filed a complaint, defendant is generally required to file a responsive pleading. MCR 2.110(B)(1). Accordingly, the second exception does not apply. Further, because a motion for summary disposition is not a responsive pleading, MCR 2.110(A), the first exception is not applicable. The clear language of MCR 2.118(A) indicates that under the circumstances of this case, plaintiff was required to seek leave of the Court to amend. Because plaintiff never brought a motion for leave to amend, the Court STRIKES the July 16, 2025 amended complaint.

IT IS SO ORDERED. This is not a final order and does not close the case.

Date: August 11, 2025

Hon. Brock A. Swartzle
Chief Judge, Court of Claims