STATE OF MICHIGAN

COURT OF CLAIMS

KEVIN HOGAN,

Plaintiff,

v

Case No. 26-000093-MZ

STATE OF MICHIGAN, JOCELYN BENSON, in her official capacity as Michigan Secretary of State, and the MICHIGAN BUREAU OF ELECTIONS,

Hon. Randy J. Wallace

Defendants.
_____ /

OPINION AND ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY DISPOSITION AND DISMISSING CASE

Before the Court is defendants' motion for summary disposition under MCR 2.116(C)(7) and (8). For the reasons discussed below, the Court DENIES summary disposition under MCR 2.116(C)(7), GRANTS summary disposition under MCR 2.116(C)(8) in favor of defendants, and DISMISSES the case.

I. BACKGROUND

Plaintiff wants to appear on the ballot for the August 4, 2026 gubernatorial Democratic Party primary election. Alternatively, plaintiff wants to appear on the November 3, 2026 general election ballot as a candidate with no party affiliation. According to plaintiff, the Bureau of Elections (BOE) "refused to accept" plaintiff's Affidavit of Identity (AOI) for the primary election because it was not submitted simultaneously with nominating petitions. Plaintiff's complaint (1)

does not identify the date on which he filed his AOI, (2) does not identify the date the BOE refused to accept the AOI, (3) does not contain any factual allegations describing efforts to gather signatures for nominating petitions, and (4) does not allege that he collected any signatures at all.

On May 7, 2026, plaintiff filed a complaint asking this Court to declare that the primary ballot-access requirements for Democratic Party or Republican Party (major party) gubernatorial candidates, including the 15,000 signature requirement on nominating petitions, are discriminatory and place an unconstitutional ballot-access burden on underrepresented racial minority candidates such as himself—an "Indigenous (Native American)"—who lack the time and financial resources to gather 15,000 valid signatures on nominating petitions within the "winter-dominated" 180-day period before the petitions are filed. On the same date, plaintiff also moved for an injunction, asking the Court to enjoin defendants from enforcing the signature requirement and to direct the BOE to place his name on the August 4, 2026 primary ballot. Alternatively, plaintiff asks this Court to direct the BOE to place his name on the November 3, 2026 general election ballot as a gubernatorial candidate with no party affiliation.

Plaintiff also asks the Court to declare that defendant Jocelyn Benson's dual role as the current Michigan Secretary of State and as a Democratic candidate for governor creates a conflict of interest because "the official who controls ballot-access enforcement, petition-review procedures, administrative timing, and candidate recognition is simultaneously a competitor in the same election." He alleges that defendant Benson's dual role "has contributed to discriminatory enforcement, administrative delays, inconsistent guidance, and unequal access to the electoral process." Regarding the allegation that defendant Benson has unequal access to the electoral process, plaintiff contends that some media outlets rejected his request for equal-time political coverage.

Defendants moved for summary disposition under MCR 2.116(C)(7) and (8) in lieu of answering the complaint. Defendants first argue that plaintiff's claims must be dismissed under MCR 2.116(C)(7) because plaintiff's complaint does not conform to the requirements of the Court of Claims Act (COCA), MCL 600.6401 *et seq*. Specifically, defendants argue that plaintiff's complaint lacked a signature and verification by the complaint before an officer authorized to administer oaths as required by MCL 600.6431(2)(d).

Second, defendants argue that they are entitled to summary disposition under MCR 2.116(C)(8) because plaintiff's claims are barred by the doctrine of laches. Although plaintiff's complaint does not identify the date the BOE refused to accept plaintiff's AOI for the primary election, defendants contend that the refusal could not have occurred any later than the April 21, 2026 statutory deadline for filing nominating petitions for the primary election, meaning that plaintiff waited 17 days to file this lawsuit. They additionally contend that the procedural requirement of gathering valid signatures on nominating petitions for gubernatorial candidates seeking to appear on the primary election ballot has been a consistent part of the Michigan Election Law for decades and has existed in its current form since 2012. They argue that plaintiff unreasonably delayed bringing this action, did not seek expedited relief, and did not serve process on defendants until May 28, 2026. They also argue that because of deadlines in the Michigan Election Law relating to the certification of candidates and the mailing of ballots, they have been prejudiced by the delay.

Lastly, defendants argue that similar ballot-access requirements for major-party United States Senate candidates seeking to be placed on the primary election ballot, including the 15,000 signature requirement, have been upheld against a constitutional challenge that the requirement imposes an undue burden on constitutional rights. *Scott v Benson*, unpublished opinion of the

United States District Court of the ED of Michigan, issued April 27, 2026 (case no. 26-cv-11142) (*Scott I*). *Scott I* is pending before the United States Court of Appeals, Sixth Circuit, which denied an emergency motion seeking an injunction pending appeal after finding that the plaintiff's constitutional argument is unlikely to succeed on appeal. *Scott v Benson*, unpublished order of the United States Court of Appeals, Sixth Circuit, issued May 29, 2026 (Docket No. 26-1411) (*Scott II*). Defendants argue that the federal courts' analyses are apt, and that plaintiff's challenge to a requirement for an identical number of signatures under the same theory fails for the same reasons identified by the federal courts.

In response to defendants' motion for summary disposition, plaintiff asserts that he complied with the requirements of the COCA when he filed a notarized verification for his complaint on May 19, 2026, in response to a show-cause order issued by this Court.

Plaintiff also denies that laches applies. He asserts that he twice filed AOIs before the statutory deadline. He contends that he mailed the first AOI to the BOE on April 16, 2025, and that the AOI was "returned with no explanation." He contends that he mailed the second AOI to the BOE "shortly after May 20, 2025" and that this AOI was not returned. Plaintiff asserts that "[w]hen he inquired, the Bureau responded that the Affidavit 'must be accompanied by signature petitions.' " With respect to the delay in filing plaintiff argues that "any timing issues were caused by the Bureau's unexplained affidavit rejection, its later imposition of a new affidavit requirement having affidavit acceptance only if accompanied with signature petitions," and "process-server failures." Lastly, he argues that defendants wrongfully rely on distinguishable federal law.

In reply to plaintiff's response, defendants argue that they were served only with plaintiff's May 7, 2026 unverified complaint that contains no signature but only plaintiff' typed name.

Defendants state that they were not served with plaintiff's response to this Court's show-cause order. Defendants also argue that plaintiff's response to their motion for summary disposition fails to refute either plaintiff's unreasonable delay in filing this action or the prejudice caused to defendants as a result of the delay. To the extent that plaintiff's response can be read to suggest the BOE was responsible for making sure that plaintiff understood the legal requirements for his candidacy, defendants state that the BOE provides a guide, dated March 2025, for candidates seeking the office of governor that expressly explains filing and petition requirements for major party candidates.[1] They note that the guide has been available to plaintiff since before he first attempted to file his AOI.

II. ANALYSIS

A. STANDARD OF REVIEW

Under MCR 2.116(C)(7), summary disposition is appropriate when "immunity granted by law" bars the plaintiff's claims. In assessing a motion under that rule, the Court must review the "affidavits, pleadings, and other documentary evidence," to determine whether immunity applies as a matter of law. *McLean v Dearborn*, 302 Mich App 68, 72-73; 836 NW2d 916 (2013). If "no facts are in dispute" and "reasonable minds could not differ regarding the legal effect of those facts," whether the claim is barred is an issue of law for the court." *Dextrom v Wexford Co*, 287 Mich App 406, 429; 789 NW2d 211 (2010). Immunity is the applicable defense when a governmental entity seeks summary disposition for failure to comply with the notice requirements of the COCA. *McCahan v Brennan*, 492 Mich 730, 736-738; 822 NW2d 747 (2012).

[1] https://www.michigan.gov/sos/-/media/Project/Websites/sos/Elections/Ballot-Access/FC-GDE-1-Filing-Req-for-Governor.pdf (accessed July 8, 2026). The guide also explains filing and petition requirements for candidates without political party affiliation.

A motion under MCR 2.116(C)(8) examines the legal sufficiency of the claims based on the pleadings alone. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). The Court must accept the factual allegations in the complaint as true. *Id*. at 160. The motion is properly granted if the claim is so clearly unenforceable as a matter of law that no factual development would justify relief. *Id*.

B. COMPLIANCE WITH THE COCA

Defendants argue that plaintiff's complaint fails to comply with the verification requirements of the COCA. The requirements of the COCA are conditions precedent to "successfully expose the defendant state agencies to liability." *Fairley v Dep't of Corrections*, 497 Mich 290, 298; 871 NW2d 129 (2015). MCL 600.6431(2)(d) of the COCA requires a plaintiff to file either a written claim or a written notice of intention to file a claim against the state that contains a signature and verification by the claimant before an officer authorized to administer oaths. The failure to comply with the notice-and-verification requirements of the COCA mandates dismissal of the case. *Elia Cos, LLC v Univ of Mich Regents*, 511 Mich 66, 68; 993 NW2d 392 (2023).

The "Signature and Verification" page in section IX of plaintiff's May 5, 2026 complaint states only, "Sincerely, Kevin Hogan" and includes his address and contact information. Plaintiff's name is typed and is not preceded by /s/.[2] This is not an acceptable electronic signature. Further,

[2] Under MCR 1.109(E)(1), a signature, as required by the court rules, means a written signature as defined by MCL 8.3q or an electronic signature as defined by the subrule. Under MCR 1.109(E)(4), an electronic signature is acceptable in accordance with the subrule. Under MCR 1.109(E)(4)(a), "an electronic signature means an electronic sound, symbol, or process, attached to or logically associated with a record and executed by a person with the intent to sign the record. The following form is acceptable: /s/ John L. Smith."

the complaint is neither verified nor notarized. Given these deficiencies, this Court issued a show-cause order on May 11, 2026, indicating that the case would be dismissed unless plaintiff showed cause why the matter should not be dismissed or otherwise complied with the verification requirements of MCL 600.6431(2)(d) within 14 days. In response to the show-cause order, plaintiff timely filed a "Verification Under MCL 600.6431(2)(d)" that contains a handwritten signature and verification before a notary. Plaintiff did not, however, file proof of service, as required by the court rules, to show that he served the verification on defendants. Thus, at this point, granting summary disposition under MCR 2.116(C)(7) to defendants and dismissal of the case without prejudice would be appropriate. However, for the reasons discussed below, the Court DISMISSES plaintiff's complaint WITH PREJUDICE.

C. LACHES

Defendants argue that this case should be dismissed because plaintiff unreasonably delayed bringing this action and they have been prejudiced by the delay.

The Court of Appeals explained the doctrine of laches in *Davis v Secretary of State*, 346 Mich App 445, 462; 23 NW3d 653 (2023) (citations deleted):

> Laches is an equitable tool that may be used to remedy the inconvenience or prejudice to a party caused by an improper delay in asserting a right. The issue of whether relief will be withheld on the basis of laches is contingent upon the facts and circumstances of the particular case. When no acceptable explanation is proffered for a plaintiff's delay, a plaintiff's requested relief should be barred by unexcused laches. Rather, equity will aid the vigilant, not those that "slumber on their rights." The purpose of the rule is to promote diligence, discourage laches, and "prevent the enforcement of stale demands." As the Court of Claims observed, legal challenges that affect elections are especially prone to causing profound harm to the public and to the integrity of the election process the closer in time those challenges are made to the election, making laches especially appropriate to apply in such matters. "[E]lections require the existence of a reasonable amount of time for election officials to comply with the mechanics and complexities of our election

> laws." "Courts can reasonably endeavor to avoid unnecessarily precipitate changes that would result in immense administrative difficulties for election officials."

Plaintiff stated in his response to defendants' motion for summary disposition that he was advised by the BOE after he submitted his second AOI around May 20, 2025, that the AOI "must be accompanied by signature petitions.' " By plaintiff's own admission, he was aware sometime in 2025[3] that "[w]hen filing a nominating petition . . . a candidate shall file with the officer with whom the petition[] is filed 2 copies of an affidavit of identity."[4]

Plaintiff waited until May 7, 2026—nearly a year after filing his AOI and learning of the requirement of filing nominating petitions with the AOI, and 16 days after the statutory deadline for major party candidates to file AOIs and nominating petitions—to file this action to challenge an election law that has long been a part of the Michigan Election Law and has existed in its current form since 2012.[5] Plaintiff did not request expedited relief in his complaint, nor did he move to expedite this matter in this Court. Further, plaintiff did not serve process of the complaint on defendants until May 28, 2026,[6] just eight days before the June 5, 2026 deadline for the Secretary

[3] It is unclear from plaintiff's complaint and response to defendants' motion whether he submitted any additional AOIs before the April 21, 2026 deadline for filing an AOI and nominating petitions for the August 2026 primary election.

[4] MCL 168.558(1).

[5] See MCL 168.53, which provides: "To obtain the printing of the name of a person as a candidate for nomination by a political party for the office of governor under a particular party heading upon the official primary ballots, there shall be filed with the secretary of state nominating petitions signed by a number of qualified and registered electors residing in this state as determined under section 544f . . . . Beginning January 1, 2014, nominating petitions shall be received by the secretary of state for filing in accordance with this act up to 4 p.m. of the fifteenth Tuesday before the August primary." Under section 544f, MCL 168.54, the minimum number of signatures of qualified and registered electors necessary for nominating petitions for the office of governor is 15,000.

[6] Plaintiff presents evidence that the process server had difficulty serving the Attorney General. The Attorney General is not a defendant in this case.

of State to certify candidates eligible to appear on the August 2026 primary ballot and for ballots to be sent to the printer, and 23 days before the deadline for ballots to be transmitted or mailed to military or overseas voters[7] and for country clerks to deliver absent voter ballots for the August primary to local clerks[8]. Plaintiff's delay prejudiced defendants. This situation is precisely why the laches doctrine exists. The Court therefore GRANTS defendants' motion for summary disposition of plaintiff's claims for declaratory and injunctive relief related to the August 2026 primary election process WITH PREJUDICE under MCR 2.116(C)(8).

To the extent that plaintiff argues that defendant Benson's dual role as the current Michigan Secretary of State and as a Democratic candidate for governor creates a conflict of interest, he has offered no facts to support his allegations that her dual rule has contributed to "discriminatory enforcement, administrative delay, inconsistent guidance, and unequal access to the electoral process."[9] Further, defendant Benson announced in January 2025 that she was seeking the Democratic nomination for governor, yet plaintiff waited more than 16 months, and just over one month before the certification of candidates for the August primary, to challenge her candidacy. The claims related to defendant Benson's candidacy are similarly barred by laches. The Court therefore GRANTS defendants' motion for summary disposition of plaintiff's claims concerning defendant Benson's alleged conflict of interest WITH PREJUDICE under MCR 2.116(C)(8).

D. SIGNATURE REQUIREMENT FOR NOMINATING OR QUALIFYING PETITIONS

---

[7] See MCL 168.759a(5); Const 1963, art 2, § 4(1)(b).

[8] See MCL 168.714.

[9] Plaintiff's complaint contains allegations regarding media outlets covering defendant Benson's candidacy but not covering his candidacy. Any disputes that plaintiff has with the media should be directed to the entities that own those outlets and not to the defendants in this case.

Plaintiff alternatively requests an order directing the BOE to place his name on the November 3, 2026 general election ballot for governor with no party affiliation. Although plaintiff did not raise claims specific to the general election process, the Court presumes that plaintiff similarly requests a declaration that the requirement for gubernatorial candidates seeking the office of governor without political party affiliation to gather signatures on qualifying petitions is discriminatory and places an unconstitutional burden on "underrepresented racial minority candidates," as well as an injunction preventing defendants from enforcing the requirement.

Candidates seeking the office of governor may do so without political party affiliation are eligible to appear only on the November general election ballot. A candidate without political party affiliation seeking the office of governor must file an AOI in duplicate and qualifying petitions no later than 4:00 p.m. on the 110th day before the general election—here, 4:00 p.m. on July 16, 2026.[10] The candidate must submit at least 12,000[11] valid signatures to the BOE but may submit up to 60,000 signatures.[12] The qualifying petition must be signed by at least 100 registered electors in each of at least half of the congressional districts in the state.[13] All signatures submitted on qualifying petitions must have been collected within the preceding 180-day period. Signatures dated more than 180 days prior to the date the petition is filed are invalid.[14]

[10] MCL 168.590c(2).

[11] In *Graveline v Benson*, 430 F Supp 3d 297 (ED Mich, 2019), the number of signatures required for candidates without party affiliation seeking statewide office (i.e., the offices of governor, lieutenant governor, attorney general, secretary of state, and the offices of the United States Senate and President) was reduced from 30,000 to 12,000.

[12] MCL 168.544f.

[13] MCL 168.590b(4).

[14] MCL 168.590b(3).

The United States District Court for the Eastern District of Michigan recently considered nearly identical constitutional arguments made by a plaintiff who wanted to appear on the primary ballot for the August 2026 primary election, to be considered as the Republican party's nominee for United States Senate. The plaintiff did not collect the number of voter signatures required under Michigan law—15,000—to qualify.[15] The plaintiff claimed, in part, that the 15,000 signature requirement to qualify for inclusion on the Republican Party primary ballot for U.S. Senate violated her constitutional rights because it was unduly burdensome. The plaintiff also moved for a temporary restraining order and preliminary injunction, seeking to enjoin the defendants from enforcing the signature requirement and ordering them to place her name on the August 2026 primary ballot.

The district court in *Scott I* denied the plaintiff's motion for a temporary restraining order. The district court found that plaintiff was unlikely to succeed on the merits of the constitutional challenge because the 15,000 "signature requirement does not impose a severe or intermediate burden" on any constitutional rights. The Court opined in part:

> The United States Supreme Court and Sixth Circuit Court of Appeals have upheld signature requirements, concluding that "[t]here is surely an important state interest in requiring some preliminary showing of a significant modicum of support before printing the name of a political organization's candidate on the ballot—the interest, if no other, in avoiding confusion, deception, and even frustration of the democratic process at the general election." As the Sixth Circuit has expressed, signature requirements "ensure[ ] that a candidate has a modicum of support before appearing on the ballot in order to further the State's interest in a fair and orderly

[15] Like candidates seeking the Democratic Party or Republican Party nomination to the office of governor, candidates seeking the Democratic Party or Republican Party nomination for U.S. Sente must submit at least 15,000 valid signatures and may submit up to 30,000 signatures. The petition must be signed by at least 100 registered electors in each of at least half of the congressional districts in the state. MCL 168.93; MCL 168.544f.

> election by avoiding ballot overcrowding, frivolous candidates, and voter confusion."
>
> The Supreme Court and Sixth Circuit have upheld ballot-access laws requiring candidates to obtain signatures equal to one-percent (1%) of registered voters, finding those requirements to be reasonable and nondiscriminatory. The Supreme Court has upheld laws requiring signatures from as much as 5% of registered voters from a relevant geographic area. The Second Circuit Court of Appeals upheld a 5% signature requirement for a candidate to appear on the ballot for a major party primary ballot[.] The 15,000 signature requirement here is considerably less than 1% of the 5,479,720 votes cast for the same senate seat in 2020. [*Id*. (citations omitted).]

The plaintiff appealed to the United States Court of Appeals for the Sixth Circuit and moved for an emergency injunction pending appeal. *Scott II*. The Sixth Circuit denied the plaintiff's motion for an emergency injunction pending appeal.[16] The Sixth Circuit agreed with the district court's finding that plaintiff was unlikely to success on the merits of her constitutional challenge. The Sixth Circuit reasoned, in part:

> The Supreme Court and this Circuit have clearly held that states have a valid and important interest in verifying that candidates have this preliminary modicum of support. And we have explicitly recognized that "a state's interest in verifying a candidate has a modicum of support justifies a burden of requiring signatures of five percent" or "one percent" of voters. As the district court observed, Michigan's "15,000 signature requirement here is considerably less than 1% of the 5,479,720 votes cast for the same senate seat in 2020." And beyond vague and unsupported assertions that it is operationally difficult for some smaller candidates to collect 15,000 signatures, Peters Scott has not presented evidence explaining how the requirement imposes an impermissible burden on prospective candidates. In addition, Michigan allows major-party candidates like Peters Scott to collect those signatures over an extended period of time—in this case, since November 4, 2020—further minimizing the burden. When Plaintiff's interest in appearing on the ballot is weighed against the state's interest in conducting orderly, fair, and efficient elections in a manner calculated to avoid voter confusion, it becomes clear that Plaintiff's constitutional argument is unlikely to succeed on the merits. [*Scott II* (citations omitted).]

[16] Plaintiff's appeal is still pending in the Sixth Circuit.

Plaintiff's challenge here is also a challenge to the signature requirement for a statewide office and is similarly based on the alleged burden of gathering signatures without paid petition circulators. The federal court's analysis and reasoning is appropriate here and is hereby adopted. The Court concludes that the signature requirement for gubernatorial candidates with no party affiliation does not impose an impermissible burden on prospective candidates. The Court therefore GRANTS summary disposition of plaintiff's claims for declaratory and injunctive relief related to the general election process WITH PREJUDICE under MCR 2.116(C)(8).[17]

IT IS SO ORDERED. This opinion and order resolves the last pending claim and closes the case.

Date: July 9, 2026

Hon. Randy J. Wallace
Judge, Court of Claims

[17] Plaintiff's name cannot appear on the November 3, 2026 general election ballot unless he complies with the filing and petition requirements by the statutory deadline.