STATE OF MICHIGAN

COURT OF CLAIMS

ROBERT DAVIS,

Plaintiff,

v

Case No. 26-000135-MB

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

Hon. Michael F. Gadola

Defendant.
_____ /

ORDER REJECTING PLAINTIFF'S 8/3/26 AMENDED COMPLAINT

On June 25, 2026, plaintiff filed this lawsuit for declaratory and mandamus relief in relation to the November 3, 2026 general election. On June 26, 2026, plaintiff filed an emergency motion for an evidentiary hearing and issuance of a nonparty discovery subpoena. Given the time-sensitive nature of this election-related matter, the Court granted expedited consideration and entered a scheduling order on July 15, 2026, directing defendant to respond to the complaint and emergency motion by 4:00 p.m. on July 27, 2026. The scheduling order provided that if defendant responded to the complaint with a motion for summary disposition, then plaintiff would have until 4:00 p.m. on August 3, 2026 to file a response.

Defendant moved for summary disposition on July 27, 2026. At 3:49 p.m. on August 3, 2026, plaintiff filed an amended complaint that adds additional facts as well as an additional count. At 4:04 p.m. on August 3, 2026, plaintiff filed a response to defendant's motion for summary

disposition. Plaintiff argued that defendant's motion for summary disposition was rendered moot by his filing of an amended complaint.

MCR 2.118(A)(1) allows a party to amend a pleading once as a matter of course within 14 days after being served with a responsive pleading by an adverse party. MCR 2.110(A) gives a specific definition of the word "pleading." A motion for summary disposition is not a pleading and does not trigger the 14-day window for amendment of right under MCR 2.118(A)(1). Plaintiff must move to amend the complaint under MCR 2.118(A)(2).[1] Plaintiff did not do so. The Court therefore rejects plaintiff's 8/3/26 amended complaint.

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

Date: August 4, 2026

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

[1] MCR 2.118(A)(2) provides, in relevant part: "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."