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.
_____ /

OPINION AND ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY DISPOSITION AND DISMISSING CASE

Plaintiff, Robert Davis, filed this suit seeking a declaratory judgment that defendant, Secretary of State Jocelyn Benson (the SOS), has a clear legal duty under MCL 168.558(4) of the Michigan Election Law, MCL 168.1 *et seq*., not to certify to the election commissions of each county the names of Eli Savit and Garlin Gilchrist II as the Michigan Democratic Party's (MDP) candidates for the offices of Michigan Attorney General and Secretary of State, respectively, for the November 3, 2026 general election ballot. Plaintiff contends that Savit and Gilchrist were nominated for these offices at the MDP's April 19, 2026 endorsement convention and, because each failed to timely file an affidavit of identity (AOI) within one business day after being nominated in accordance with MCL 168.558(1), the SOS cannot certify their names to the board of election commissioners for the November 3, 2026 general election. Plaintiff also seeks a writ of mandamus compelling the SOS not to certify the names. Because Savit and Gilchrest were not nominated at the MDP's April 19, 2026 endorsement convention, the Court GRANTS the SOS's

motion for summary disposition under MCL 2.116(C)(8) and DISMISSES the complaint in its entirety WITH PREJUDICE. The Court also DENIES plaintiff's emergency motion for an evidentiary hearing and issuance of a nonparty subpoena to the MDP as MOOT.

I. BACKGROUND

A. AOI FILING REQUIREMENTS FOR CANDIDATES FOR STATE OFFICES

The Michigan Election Law requires that candidates for state offices, among others, file an AOI with the relevant filing official. MCL 168.558(1) provides, in pertinent part:

> When filing a nominating petition, qualifying petition, filing fee, or affidavit of candidacy for a federal, county, state, city, township, village, metropolitan district, or school district office in any election, a candidate shall file with the officer with whom the petitions, fee, or affidavit is filed 2 copies of an affidavit of identity. A candidate nominated for a federal, state, county, city, township, or village office at a political party convention or caucus shall file an affidavit of identity within 1 business day after being nominated with the secretary of state.
>
> The AOI must contain
>
> the candidate's name and residential address; a statement that the candidate is a citizen of the United States; the title of the office sought including the jurisdiction, district, circuit, or ward; the candidate's political party or a statement indicating no party affiliation if the candidate is running without political party affiliation; the term of office; the date of the election in which the candidate wishes to appear on the ballot; a statement that the candidate meets the constitutional and statutory qualifications for the office sought; other information that may be required to satisfy the officer as to the identity of the candidate; and the manner in which the candidate wishes to have his or her name appear on the ballot. [MCL 168.558(2).]

Under MCL 168.558(4), "An officer shall not certify to the board of election commissioners the name of a candidate who fails to comply with this section, or the name of a candidate who executes an affidavit of identity that contains a false statement with regard to any information or statement required under this section."

B. THE MDP'S SPRING AND FALL CONVENTIONS

On December 12, 2025, the MDP issued its Call to Convention for the MDP's 2026 State Endorsement Convention to be held on April 19, 2026 (the "spring call").[1] Page one of the spring call stated that "[t]he purposes of the MDP's 2026 endorsement convention shall be to endorse Democratic candidates to the November General Election," including candidates for Secretary of State and Attorney General. The MDP's rules for the endorsement convention provided the "method of nomination for endorsement," which required candidates seeking endorsement to file a Declaration of Candidacy Form with the MDP.[2] The Declaration of Candidacy Form was required to be filed by March 20, 2026. The form stated that the "[f]ailure to file timely will result in a candidate's disqualification" from seeking an endorsement.[3]

The MDP held its endorsement convention on April 19, 2026.[4] The MDP endorsed Savit as a candidate for the office of Attorney General and endorsed Gilchrist as a candidate for the office of Secretary of State. Plaintiff does not support either candidate.

On June 5, 2026, the MDP issued its Call to Convention for the MDP's 2026 Fall State Convention to be held on August 29, 2026 (the "fall call").[5] Page one of the fall call states that "[t]he purposes of the MDP's 2026 Nominating Convention shall be to formally nominate

[1] Exhibit F to complaint.

[2] Exhibit E to complaint

[3] Exhibit G to complaint.

[4] The Michigan Republican Party held its endorsement convention on March 28, 2026.

[5] Exhibit H to complaint.

Democratic candidates to the November General Election," including candidates for Secretary of State and Attorney General.[6]

On June 25, 2026, plaintiff filed the present suit. On June 26, 2026, plaintiff filed an "emergency motion for evidentiary hearing and issuance of nonparty subpoena to Michigan Democratic Party to produce certain relevant documents and to appear and provide sworn testimony." The Court entered an order that granted expedited consideration and established a briefing schedule. The SOS filed a combined response to the complaint and to the emergency motion. The SOS moved for summary disposition under MCR 2.116(C)(8) in lieu of an answer, arguing that plaintiff's complaint must be dismissed because the MDP has not nominated candidates for office and, therefore, the deadline for the MDP's nominated candidates to file an AOI has not been triggered. Plaintiff responded and defendant replied to plaintiff's response. Because the briefing is adequate to decide the issues, the Court dispenses with oral arguments under Court of Claims LCR 2.119(E)(3).

II. ANALYSIS

A. STANDARD OF REVIEW

A motion for summary disposition 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). "A motion under MCR 2.116(C)(8) may only be granted when a claim is so clearly unenforceable that no factual development could possibly justify recovery." *Id*. at 160.

[6] The Michigan Republican Party's fall convention will be held on August 22, 2026.

B. LEGAL PRINCIPLES

Plaintiff seeks a declaration that the SOS has a clear legal duty not to certify to the election commissions of each county the names of Savit and Gilchrist as the MDP's candidates for the offices of Michigan Attorney General and Secretary of State, respectively, for the November 3, 2026 general election ballot because each failed to file an AOI by the deadline set forth in MCL 168.558(1).

> MCR 2.605 governs a trial court's power to enter a declaratory judgment. The court rule provides, in pertinent part, that "[i]n a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted. MCR 2.605(A)(1). [*Van Buren Charter Twp v Visteon Corp*, 319 Mich App 538, 545; 904 NW2d 192 (2017).]

Plaintiff also seeks a writ of mandamus compelling the SOS not to certify the names of Savit and Gilchrist as the MDP's candidates for Michigan Attorney General and Secretary of State, respectively, to the November 3, 2026 general election ballot.

"Mandamus is not a matter of right, but rather one of grace and of discretion." *Toan v McGinn*, 271 Mich 28, 33; 260 NW 108 (1935). This "extraordinary remedy" is available only when the party seeking it shows that: (1) it has a "clear, legal right to performance of the specific duty sought," (2) the opposing party "has a clear legal duty to perform," (3) "the act is ministerial," and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518-519; 866 NW2d 817 (2014). A "ministerial act" is one "where the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment." *Keaton v Beverly Hills*, 202 Mich App 681, 683-684; 509 NW2d 544 (1993), quoting *Delly v Bureau of State Lottery*, 183 Mich App 258, 260-261; 454 NW2d 141 (1990). A "clear,

legal right" is one either "clearly founded in, or granted by, law; [or] a right which is inferable as a matter of law from uncontroverted facts, regardless of the difficulty of the legal question to be decided." *Univ Med Affiliates, PC v Wayne Co Executive*, 142 Mich App 135, 143; 366 NW2d 277 (1985).

This case also involves questions of statutory interpretation. "The principal goal of statutory interpretation is to give effect to the Legislature's intent, and the most reliable evidence of that intent is the plain language of the statute." *South Dearborn Environmental Improvement Ass'n, Inc v Dep't of Environmental Quality*, 502 Mich 349, 360-361; 917 NW2d 603 (2018). Every word or phrase of a statute is given its plain and ordinary meaning, unless a term has a special, technical meaning or is defined in the statute. *Guardian Environmental Servs, Inc v Bureau of Const Codes and Fire Safety*, 279 Mich App 1, 6; 755 NW2d 556 (2008). If the statutory language is unambiguous, the plain meaning reflects the Legislature's intent and the statute must be applied as written. *Honigman Miller Schwartz & Cohn LLP v City of Detroit*, 505 Mich 284, 294; 952 NW2d 358 (2020).

III. ANALYSIS

At the outset, the Court rejects plaintiff's contention in his response to the SOS's motion for summary disposition that the Court, when deciding a motion under MCR 2.116(C)(8), cannot consider documents attached to the complaint. A motion under this subrule tests the legal sufficiency of the complaint solely on the basis of the pleadings. Under MCR 2.113(C)(2) an attachment to a pleading is a part of the pleading. Further, the documents at issue here that the Court has considered—exhibits E, F, G, and H—are publicly available documents that plaintiff relied on in support of the factual allegations in his complaint.

MCL 168.596 of the Michigan Election Law provides:

> The state convention held for the purpose of nominating candidates for state offices to be voted for at the November election shall be known as the "fall" state convention and the county convention held for the purpose of electing delegates to the fall state convention shall be known as the "fall" county convention. The state convention held not less than 37 days before the first Monday of April in every odd numbered year shall be known as the "spring" state convention, and the county convention held for the purpose of electing delegates to the spring state convention shall be known as the "spring" county convention.[7]

Under MCL 168.591(1), "the state convention of all political parties for the nomination of candidates for state offices in the even numbered years shall commence not less than 60 days before the general November election. The date, time, and location of the state convention shall be designated by the state central committees of the various political parties in their call for a state convention. The calls shall be issued at least 60 days before the August primaries." See also MCL 168.598(1) On May 31, 2026, the Michigan Democratic Central Committee approved the call for its fall convention that will be held on August 29, 2026. The MDP sent that call to all its members on June 5, 2026.

After a political party holds its fall convention, the party must forward to the Secretary of State a list of the names of all candidates nominated at the state convention. MCL 168.686.[8] After

[7] Spring conventions are held in odd years for the purposes of electing committees and officers. MCL 168.597.

[8] MCL 168.686 states, in relevant part:

> Within 24 hours after the conclusion of the state convention before a general election, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention. Not more than 1 business day after the state convention, the chairperson and secretary of the state central committee shall forward to the secretary of state, a typewritten or printed list of the names and residence, including the street address if known, of all candidates nominated at the state convention.

receiving the list of nominees, the Secretary of State "shall forward a copy" of the list received to the board of election commissioners of each county. *Id*. A candidate nominated for a state office at a political party convention "shall file an affidavit of identity within 1 business day after being nominated with the secretary of state." MCL 168.558(1).

The Michigan Election Law generally regulates the political party conventions in the State of Michigan. See *Heitmanis v Austin*, 899 F2d 521, 522 (CA 6, 1990). It clearly provides that political parties will hold a fall nominating convention where the parties will determine the nominees at the convention[9], that the parties must forward to the Secretary of State a list of the names of all candidates nominated at the state convention,[10] that nominated candidates shall file an AOI within one business day after being nominated with the Secretary of State,[11] that the Secretary of State (or relevant officer) shall not certify to the board of election commissioners the name of a candidate who fails to comply with MCL 168.558(1),[12] and that the Secretary of State forward a list of candidates nominated at the convention to the board of election commissioners of each county.[13]

Plaintiff contends that the MDP's spring endorsement convention nominated Savit and Gilchrist for state office. Plaintiff focuses on the language in MCL 168.558(1) that "[a] candidate *nominated* for a . . . state . . . office at *a* political party convention . . . shall file an affidavit of identity within 1 business day after being *nominated* with the secretary of state." Plaintiff argues

[9] MCL 168.596.

[10] MCL 168.686.

[11] MCL 168.558(1).

[12] MCL 168.558(4).

[13] MCL 168.686.

that the MDP's spring endorsement convention was "a" political party convention and that the MDP "nominated" Savit and Gilchrist for a state office at that convention.

The Michigan Election Law does not require an endorsement convention. The endorsement convention is entirely a creature of internal Democratic party rules and procedures, legally unrelated to the formal nominating process outlined in state law. The documents attached to plaintiff's complaint show that the endorsement convention and the nominating convention are different events with different purposes. The MDP chose to issue a spring call for an endorsement convention "to *endorse* Democratic candidates to the November General Election (emphasis added)." The term "endorse" means "to approve openly," "to express support or approval of publicly and definitely," such as "a mayoral candidate." *Meriam-Webster's Collegiate Dictionary* (11th ed). The term "nominate" means "to propose as a candidate for election to office." *Id*. At the endorsement convention the MDP publicly expressed support for the candidacies of Savit and Gilchrist—that is, the MDP endorsed Savit's and Gilchrist's candidacies—but the MDP did not propose Savit and Gilchrist as candidates for election to office to the Secretary of State. In accordance with the Michigan Election Law, the MDP will nominate its candidates for office at the fall nominating convention and will provide the names of its candidates to the Secretary of State after the fall nominating convention.

Savit and Gilchrist were not nominated for office at the MDP's endorsement convention and were not required to file an AOI with the Secretary of State within one business day after the endorsement convention. Plaintiff is not entitled to a declaration that the SOS has a duty not to certify to the election commissions of each county the names of Savit and Gilchrist as candidates for the offices of Michigan Attorney General and Secretary of State, respectively, to the November 3, 2026 general election ballot, nor is he entitled to a writ of mandamus compelling her to do the

same. The Court therefore GRANTS summary disposition of the declaratory judgment and mandamus claims in favor of the SOS.

The Court DENIES as MOOT plaintiff's motion for an evidentiary hearing and the issuance of a nonparty subpoena.

IT IS SO ORDERED. This is a final order that resolves the last pending claim and closes the case.

Date: August 14, 2026

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