# STATE OF MICHIGAN

# COURT OF CLAIMS

ROBERT DAVIS,

Plaintiff,

v

Case No. 26-000145-MB

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

Hon. Sima G. Patel

Defendant.
_____ /

**ORDER DENYING PLAINTIFF'S MOTION TO STRIKE AND SECOND AMENDED SCHEDULING ORDER**

On July 15, 2026, plaintiff filed a motion to strike the affidavit of Jonathan Brater filed with defendant's July 13, 2026 motion for summary disposition and the corrected "fully executed" affidavit filed as a replacement on July 14, 2026. At 4:30 p.m. on July 15, 2026, plaintiff filed an amended complaint as permitted by MCR 2.118(A)(1). In his response to defendant's July 13, 2026 motion for summary disposition filed on July 15, 2026, plaintiff contended that his amended complaint adding two additional counts rendered defendant's July 13, 2026 motion for summary disposition moot.

The Court agrees that because plaintiff has filed a first amended complaint as of right, the Court may no longer consider defendant's July 13, 2026 motion for summary disposition. The Court also may no longer consider the exhibits presented with that motion, rendering plaintiff's July 15, 2026 motion to strike the affidavit of Jonathan Brater MOOT.

The filing of plaintiff's first amended complaint also requires the Court to enter an amended scheduling order.

Moreover, on July 10, 2026, plaintiff filed an emergency motion for an evidentiary hearing and issuance of discovery subpoenas. The Court will not address this discovery-based request until it has resolved defendant's first pleading in response to the first amended complaint.

Plaintiff is directed to serve the first amended complaint and this order on the challenged candidate by **4:00 p.m. on Thursday, July 16, 2026.**

Defendant is directed to respond to the first amended complaint by **4:00 p.m. on Monday, August 3, 2026.**

If defendant responds with a motion for summary disposition, plaintiff must file a response by **4:00 p.m. on Thursday, August 6, 2026**. Defendant must file a reply by **4:00 p.m. on Monday, August 10, 2026**. If the Court denies defendant's motion for summary disposition, defendant must file a response to plaintiff's emergency motion for an evidentiary hearing and issuance of discovery subpoenas within 4 days of the Court's order.

If defendant responds to the first amended complaint with an answer and affirmative defenses, defendant is directed to file a response to plaintiff's emergency motion for an evidentiary hearing and issuance of discovery subpoenas contemporaneously.

The Court will schedule oral argument and/or an evidentiary hearing if the Court determines it is required.

Because time is of the essence, the parties are directed, in addition to filing all pleadings with the Clerk, to e-mail all pleadings to Court of Claims Commissioner Amber Tykoski at atykoski@courts.mi.gov. Any questions may be directed to Ms. Tykoski as well.

Date: July 16, 2026

Sima G. Patel
Judge, Court of Claims