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.
_____ /

OPINION AND ORDER GRANTING DEFENDANT'S 8/3/26 MOTION FOR SUMMARY DISPOSITION AND DENYING PLAINTIFF'S 7/10/26 EMERGENCY MOTION FOR AN EVIDENTIARY HEARING AND DISCOVERY SUBPOENAS

On July 8, 2026, plaintiff Robert Davis filed suit against defendant Secretary of State (SOS) Jocelyn Benson, contending that she improperly advised the Wayne County Clerk (WCC) that candidate Vanessa Moss's Affidavit of Identity (AOI) was accurate and truthful. Plaintiff also filed an emergency motion for a declaratory judgment and writ of mandamus.

On July 10, plaintiff filed an emergency motion for an evidentiary hearing and for the issuance of discovery subpoenas. He also withdrew his July 8 emergency motion for a declaratory judgment and writ of mandamus. The Court issued an emergency scheduling order and indicated that oral argument would be scheduled if the Court deemed it necessary.

On July 13, the SOS timely sought summary disposition in her first responsive pleading. The SOS's motion was based on the substantive merits of plaintiff's claims but also contended

that the challenged provision of the Michigan Campaign Finance Act (MCFA), MCL 169.201 *et seq*., did not provide a private cause of action and that plaintiff did not pursue an administrative remedy as required by statute. The SOS provided an affidavit from Director of the Bureau of Elections (BOE) Jonathan Brater that was not signed before a notary. The SOS provided a fully executed affidavit the following day.

On July 15, plaintiff made a series of filings. Plaintiff provided notice that he had filed with the SOS an expedited request for a declaratory ruling earlier that day regarding the validity of Mich Admin Code, R 168.314 and Mich Admin Code, R 169.28. Plaintiff filed a first amended complaint, adding two counts challenging the validity of those administrative rules. Plaintiff filed a response asserting that his amended complaint rendered the SOS's motion for summary disposition moot. Even so, he sought to strike Brater's affidavit appended to the summary disposition motion.

On July 16, the Court issued an order, finding that the filing of the first amended complaint rendered the SOS's initial motion for summary disposition moot, but also rendered moot plaintiff's motion to strike the attached affidavit. The Court set a new scheduling order for response to the amended complaint.

On August 3, the SOS responded to the amended complaint with a new motion for summary disposition. In addition to the grounds raised in the first motion, the SOS sought dismissal on laches grounds and challenged the merits of plaintiff's two additional counts. Plaintiff timely responded on August 6, and the SOS filed a timely reply on August 10.

The Court GRANTS the SOS's motion for summary disposition and DISMISSES plaintiff's action in its entirety and with prejudice. Therefore, the Court DENIES plaintiff's motion for an evidentiary hearing and issuance of discovery subpoenas.

I. BACKGROUND

Vanessa Moss ran as a nonincumbent candidate for 36th District Court Judge in 2024. The Committee to Elect Vanessa Moss to 36th District Court (Committee) was formed to run her campaign. Moss did not immediately dissolve the Committee after she lost the election. Because 2025 was not an election year, MCL 169.233(1)(c) required the Committee to file campaign statements by July 25 and October 25, 2025.[1] Neither Moss nor the Committee did so.

Moss decided to run as a nonincumbent candidate for Wayne Probate Court Judge in the 2026 election. The Committee was required at that time to file a January 2026 campaign statement. The SOS notified Moss and the Committee on February 4, 2026, that the January 2026 campaign statement was late.

On March 19, 2026, Moss filed both the January 2026 campaign statement and a request to dissolve the Committee covering the period from December 7, 2024 through December 10,

[1] MCL 169.233(1)(c) states:

> A committee . . . shall file complete campaign statements as required by this act and the rules promulgated under this act according to the following schedule:
>
> * * *
>
> (c) For candidate committees only, in a year in which there is no election for the candidate the candidate committee is supporting or opposing:
>
> (*i*) Not later than July 25 with a closing date of July 20 of that year.
>
> (*ii*) Not later than October 25 with a closing date of October 20 of that year.

2025, pursuant to MCL 169.224(7).[2] The relevant Rule promulgated by the SOS was, at that time, Rule 169.28, which stated:

> (1) A committee which determines it will no longer receive contributions or make expenditures may dissolve by filing a form prescribed by the [SOS].
>
> (2) A dissolution shall consist of a campaign statement that covers the period from the closing date of the last report filed to the date of dissolution and shall include a statement as to the disposition of residual funds.
>
> (3) A committee may not dissolve if it has assets, outstanding debts, or unpaid late filing fees.[3]

Moss timely filed with the WCC on April 21, 2026, an AOI and nominating petitions to run as a nonincumbent candidate for Wayne Probate Court Judge. In her AOI, Moss certified: "At this date, all statements, reports, late filing fees, and fines due from me or any candidate committee organized to support my election under the [MCFA] have been filed or paid." Seven days later, plaintiff timely filed a sworn complaint with the WCC challenging the validity of Moss's AOI. Plaintiff contended that the SOS's online campaign finance database indicated that the Committee failed to file campaign statements in July 2025, October 2025, and January 2026. Plaintiff acknowledged that Moss's request to dissolve her Committee was pending but stated his belief that the request would be denied because of the outstanding filings.

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[2] MCL 169.224(7) states in relevant part:

> Upon the dissolution of a committee, the committee shall file a statement indicating dissolution with the filing officials with whom the committee's statement of organization was filed. Dissolution of a committee must be accomplished pursuant to rules promulgated by the [SOS] under the [Administrative Procedures Act (APA), MCL 24.201 *et seq.*].

[3] Effective June 15, 2026, Rule 169.28 was rescinded and the operative language was moved to Rule 168.314.

The WCC sought verification from the SOS regarding the accuracy of Moss's statement that she had paid all fees and filed all necessary reports as of April 21, 2026. The SOS responded on May 11, 2026, asserting that Moss had filed a dissolution request for the Committee on March 19, 2026, covering the period from December 7, 2024 through December 10, 2025, as well as her January 2026 Campaign Statement. The SOS advised that the dissolution request "satisfied all of the failure to file notices from 2025" and therefore, "[t]he [C]ommittee currently has no outstanding filings and does not currently owe any late filing fees that would disqualify [Moss] based on filing an AOI." Based on this communication, the WCC denied plaintiff's sworn complaint.

On May 22, 2026, more than a month after Moss filed her AOI, the BOE notified Moss and the Committee that the January 2026 Campaign Statement was due on February 4, 2026, but was not filed until March 19, 2026 when Moss filed the committee dissolution request, justifying the imposition of a $500 late filing fee. Moss paid the late fee. The BOE also denied the Committee's dissolution request.

II. PLAINTIFF'S COMPLAINT

As noted, plaintiff filed his initial complaint on July 8, 2026, raising two counts. Plaintiff reasserted those counts in his amended complaint. Plaintiff contends the SOS provided incorrect guidance to the WCC and seeks a declaratory judgment regarding the proper interpretation of the law and the propriety of the SOS's guidance. He contends that the SOS could only waive the filing of campaign statements required by the MCFA under MCL 169.215(18), which provides, in relevant part:

> The [SOS] may waive the filing of a campaign statement required under [MCL 169.233] . . . or [MCL 169.235] if the closing date of the particular campaign statement falls on the same or a later date as the closing date of the next campaign statement filed by the same person, or if the period that would be otherwise covered by the next campaign statement filed by the same person is 10 days or less.

Plaintiff argues that neither statutory exception applied in this case and, therefore, the SOS could not excuse Moss's 2025 campaign statements and improperly advised the WCC that Moss's AOI was accurate.

Plaintiff continues that Moss's AOI was also false because she knew late filing fees would be assessed and that she had not paid them. Because the AOI contained a false statement, plaintiff asserts that the SOS was required to advise the WCC that Moss was disqualified pursuant to MCL 168.558(4), which states, in relevant part:

> An [AOI] must include a signed and notarized statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the [MCFA] have been filed or paid. . . . 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 [AOI] that contains a false statement with regard to any information or statement required under this section.

In his July 15 amended complaint, plaintiff adds challenges to Rule 169.28, which was rescinded effective June 15, 2026, and Rule 168.314, which took the place of the former Rule 169.28. These Rules both state that a committee dissolution request for a certain period takes the place of filing campaign statements for that period. Plaintiff contends that the SOS failed to follow the rulemaking provisions of the APA in promulgating these rules.

III. SOS MOTION FOR SUMMARY DISPOSITION

In response to the initial complaint, the SOS moved for summary disposition under MCR 2.116(C)(4), (8), and (10). The SOS later moved for summary disposition of the amended complaint, raising laches in addition to reciting the original grounds relied upon.

The SOS contends that this Court lacks jurisdiction to consider plaintiff's first two counts. Plaintiff essentially argues that the SOS and her staff misinterpreted or misapplied MCL 169.215(18) of the MCFA. MCL 169.215(17) states that there is no private cause of action under the MCFA and, except as otherwise provided in MCL 169.257, "the remedies provided in this act are the exclusive means by which this act may be enforced and by which any harm resulting from a violation of this act may be redressed." The remedies provided in the MCFA, the SOS asserts, are limited to seeking declaratory rulings from or filing administrative complaints with the SOS pursuant to MCL 169.215(1)(e), (2), and (5). Because plaintiff did not seek a declaratory ruling from or file an administrative complaint with the SOS regarding the interpretation and application of MCL 169.215(18), the SOS contends that plaintiff did not exhaust the available administrative remedies and this suit is premature.

The SOS also argues that she did not err in interpreting or applying MCL 169.215(18) and, therefore, did not improperly advise the WCC. MCL 169.224(7) permitted the SOS to promulgate rules governing committee dissolution. The SOS explains that Rule 169.28, and now Rule 168.314, provides that a committee dissolution request consists "of a campaign statement that covers the period from the closing date of the last report filed to the date of dissolution." Accordingly, the March 19, 2026 dissolution request for the year 2025 satisfied the reporting requirements for the July 2025 and October 2025 failure to file notices. Further, the SOS notes

that Moss's dissolution request was not denied until May 22, 2026, and her committee was not assessed a $500 late fee for the January 2026 campaign statement until that time. "The timing of the assessment was consistent with procedures during a busy election cycle," the SOS states.

The SOS cites *Rocha v Secretary of State*, order of the Court of Appeals, entered June 2, 2022 (Docket No. 361578), in support of its position that although the Committee dissolution was later denied and a late fee was later assessed, as of the date of the AOI filing, no reports or fees were outstanding. *Rocha* was an original action for a writ of mandamus filed in the Court of Appeals. The Court of Appeals denied the candidate's request for relief following his disqualification, explaining:

> MCL 168.558(4) requires that an [AOI] "include a signed and notarized statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee . . . have been filed or paid. . . ." Pursuant to MCL 168.558(4), defendants are prohibited from certifying the name of a candidate "who executes an [AOI] that contains a false statement with regard to any information or statement required under this section." Plaintiff was assessed a late fee on February 16, 2022. When he executed his [AOI] on February 18, 2022, that fee had not been paid. While plaintiff claims to have lacked actual knowledge of the late fee at the time he executed his AOI, MCL 168.558(4) does not require actual knowledge by the candidate. We also conclude that this fee was "required of the candidate," MCL 168.558(4), when it was assessed on February 16, 2022. While the due date for payment was March 18, 2022, the fee was still required of plaintiff as soon as it was assessed. We further reject plaintiff's argument that his November 29, 2021 AOI controls the analysis. Plaintiff withdrew that AOI and filed a new AOI to run for election in a different district on February 18, 2022. That February 18, 2022 AOI contained a false statement regarding the payment of fees. As such, the plain language of MCL 168.558(4) prohibits defendants from certifying plaintiff for the August 2, 2022 primary election. [*Id.* at 1.]

The Supreme Court denied the plaintiff's application for leave to appeal. *Rocha v Secretary of State*, 509 Mich 1025, 1026; 974 NW2d 822 (2022). Based on the *Rocha* analysis, Moss's AOI did not include a false statement.

In relation to plaintiff's new counts challenging the validity of Rules 169.28 and 168.314, the SOS raises the doctrine of laches, seeking dismissal of the amended complaint in its entirety. The SOS urges that plaintiff understands the emergency nature of these proceedings as the general election ballots must be sent to the printer by September 4, 2026. And yet plaintiff waited until the day the SOS's first response was due to file an amended complaint and then contended that the SOS's motion for summary disposition was moot. Plaintiff thereby "intentionally derailed the ability of this Court to decide his 'emergency' motion and this lawsuit." The SOS further argues that there was no reason to wait to file his additional claims. Rule 169.28 had been in place for several decades and had already been rescinded. And Rule 168.134 only became effective after Moss filed her AOI. The SOS contends plaintiff failed to adequately exhaust his administrative remedies by waiting to request a declaratory ruling from the SOS until the day he filed his amended complaint. Moreover, the SOS contends that it has been prejudiced by plaintiff's delay. The SOS has repeatedly been required to respond to plaintiff's belated election challenges and has been given inadequate time to do so. By extending the length of these trial court proceedings, plaintiff has additionally prevented the opportunity for meaningful appellate review.

IV. PLAINTIFF'S SUMMARY DISPOSITION RESPONSE

Plaintiff retorts that his claims are not barred by laches. Mere delay is not enough for laches to apply; the delay must result in prejudice so severe it would be inequitable to enforce the plaintiff's rights. In this instance, there was no primary election and the deadline for sending ballots overseas is not until September 19. Plaintiff claims his original and amended complaints were both filed with adequate time to resolve the issues before the ballot printing date. The Court issued expedited scheduling orders to ensure the swift resolution of this case. Moreover, the Board of Canvassers will not certify the primary election results until August 24. Further, laches cannot

apply because the SOS came into this action with unclean hands by violating the rules and statutes applicable to AOI challenges.

Plaintiff next contends that this Court has jurisdiction to consider his challenges under the APA. He cites *Warren Consol Sch Dist v Sch Dist of the City of Hazel Park*, ___ Mich ___; ___ NW3d ___ (2026) (Docket No. 167643), which held that when an agency declines to issue a declaratory ruling, the requesting party is not required to appeal the decision through MCL 24.303 through MCL 24.306 of the APA and instead may file suit for a declaratory judgment. However, plaintiff never explains how *Warren Consol Sch Dist* could apply in this case where he did not request a declaratory ruling from the SOS until the day he filed his amended complaint.

Plaintiff challenges the SOS's reliance on MCR 2.116(C)(8) in moving for summary disposition given that it relies on materials beyond the complaint in seeking dismissal. And summary disposition is not supported under (C)(10), plaintiff argues, because there is evidence that Moss made a false statement in her AOI and yet the SOS advised that her candidacy be certified.

V. LEGAL PRINCIPLES

Summary disposition is warranted under MCR 2.116(C)(4) when a plaintiff has not exhausted his administrative remedies before filing suit. *Citizens for Common Sense in Gov't v Attorney General*, 243 Mich App 43, 50; 620 NW2d 546 (2000).

"A motion 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). The Court "must accept all factual allegations as true, deciding the motion

on the pleadings alone." *Id*. at 160. Summary disposition is warranted only "when a claim is so clearly unenforceable that no factual development could possibly justify recovery." *Id*.

"A motion under MCR 2.116(C)(10), on the other hand, tests the *factual sufficiency* of a claim." *Id*. The Court must review the evidence submitted by the parties in the light most favorable to the nonmoving party and dismiss the action if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. *Id*.

Plaintiff seeks a declaratory judgment, which is governed by MCR 2.605.

> The court rule provides, in pertinent part, that in 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) (cleaned up).]

Plaintiff also seeks a writ of mandamus. "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). And, 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 and administrative rule construction. "Principles of statutory interpretation apply to the construction of administrative rules." *Romulus v Mich Dep't of Environmental Quality*, 260 Mich App 54, 65; 678 NW2d 444 (2003).

> When interpreting a statute, [the] foremost rule of construction is to discern and give effect to the Legislature's intent. Because the language chosen is the most reliable indicator of that intent, [a court will] enforce clear and unambiguous statutory language as written, giving effect to every word, phrase, and clause. If the statutory provision at issue is clear and unambiguous, it must be enforced as written, and no judicial construction is permitted or required. [*Lockport Twp v Three Rivers*, 319 Mich App 516, 520; 902 NW2d 430 (2017) (cleaned up).]

VI. COUNTS III AND IV

A. FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES

On July 15, 2026, plaintiff filed an expedited request for a declaratory ruling with the SOS regarding the validity of Rules 169.28 and 168.314 in an attempt to render moot the SOS's motion for summary disposition under MCR 2.116(C)(4). This was too late to save plaintiff's challenges to the administrative rules. And plaintiff's reliance on *Warren Consol Sch Dist* actually works against him in this regard.

In *Warren Consol Sch Dist*, ___ Mich at ___; slip op at 9-10, the Michigan Supreme Court considered MCL 24.263 and MCL 24.264 of the APA. The Supreme Court concluded that MCL 24.263 permits, but does not require, an individual to seek a declaratory ruling from a state agency about the applicability of particular facts to a statute under the agency's administration or a rule or order of the agency before filing suit. MCL 24.264, on the other hand, *requires* an individual to first seek a declaratory ruling when the validity or applicability of an administrative rule is in

question. *Warren Consol Sch Dist*, ___ Mich at ___, slip op at 13-14. Plaintiff is challenging the validity of administrative rules under the SOS's administration. He was required to first seek a declaratory ruling regarding their validity.

By filing his request for a declaratory ruling on the same day he filed an amended complaint to challenge the validity of the rules in question, plaintiff defeated the purpose of MCL 24.264 and more generally of exhaustion principles. A party is "required to exhaust its administrative remedies *before* invoking the court's jurisdiction." *L & L Wine & Liquor Corp v Mich Liquor Control Comm*, 272 Mich App 354, 357; 733 NW2d 107 (2007) (emphasis added).

> Exhaustion of administrative remedies serves several policies: (1) an untimely resort to the courts may result in delay and disruption of an otherwise cohesive administrative scheme; (2) judicial review is best made upon a full factual record developed before the agency; (3) resolution of the issues may require the accumulated technical competence of the agency or may have been entrusted by the Legislature to the agency's discretion; and (4) a successful agency settlement of the dispute may render a judicial resolution unnecessary. [*Citizens for Common Sense in Gov't v Attorney General*, 243 Mich App 43, 52-53; 620 NW2d 546 (2000).]

Although a plaintiff need not exhaust his administrative remedies when such an action would be futile, *id*., futility was not the cause of plaintiff's delay. Rather, plaintiff belatedly determined to add issues to his already pending complaint in an emergency election matter, a suit that needed to be resolved on an expedited schedule. But plaintiff could not truly expect his request for a declaratory ruling would be made in time for this suit to be resolved. In any event, the Court also finds that plaintiff's challenges in the amended complaint to the validity of Rules 169.28 and 168.314 are barred by laches.

B. LACHES

As explained in *Davis v Secretary of State*, 346 Mich App 445, 462; 12 NW3d 653 (2023):

> 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. *Public Health Dep't v Rivergate Manor*, 452 Mich 495, 507; 550 NW2d 515 (1996). The issue of whether relief will be withheld on the basis of laches is contingent upon the facts and circumstances of the particular case. *Henderson v Connolly's Estate*, 294 Mich 1, 19; 292 NW 543 (1940). When no acceptable explanation is proffered for a plaintiff's delay, a plaintiff's requested relief should be barred by unexcused laches. See *id*. Rather, equity will aid the vigilant, not those that "slumber on their rights." *Id*. The purpose of the rule is to promote diligence, discourage laches, and "prevent the enforcement of stale demands." *Id*. 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. *Purcell v Gonzalez*, 549 US 1, 4-6; 127 S Ct 5; 166 L Ed 2d 1 (2006); *New Democratic Coalition v Secretary of State*, 41 Mich App 343, 356-357; 200 NW2d 749 (1972). "[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." *Id*. at 356. "Courts can reasonably endeavor to avoid unnecessarily precipitate changes that would result in immense administrative difficulties for election officials." *Id*. at 357.

As noted by the SOS, Rule 169.28 was promulgated in 1979, and was rescinded effective June 15, 2026, when the operative language was written into Rule 168.314. When the WCC denied plaintiff's sworn complaint challenging the veracity of Moss's AOI on May 11, 2026, she did not include citations to the challenged Rules, but she explained that Moss's dissolution request satisfied the 2025 failure-to-file notices. A brief search of the law applicable to campaign committee dissolutions would have led plaintiff to Rule 169.28 and Rule 168.314. Plaintiff could have sought a declaratory ruling regarding the validity of those Rules in a timely fashion. Instead, plaintiff filed suit almost two months later, on July 8, and then waited another week to seek a declaratory ruling and add these challenges to his complaint on the same date.

Plaintiff contends that the SOS cannot rely on the doctrine of laches because it comes to the Court with unclean hands. The SOS's hands are unclean, plaintiff asserts, because she violated

the Rules and statutes applicable to AOI challenges. "Laches is an equitable doctrine," and "[i]t is well settled that one who seeks equitable relief must do so with clean hands." *Attorney General v PowerPick Players' Club of Mich, LLC*, 287 Mich App 13, 52; 783 NW2d 515 (2010). In *PowerPick*, the Court of Appeals denied the defendant the right to rely on laches or accuse the Attorney General of coming before the Court with unclean hands because "PowerPick's various gambling schemes violated the terms" of several statutes. *Id.* at 52-53. The case before this Court is distinguishable. Even if the SOS did not properly interpret and apply the statutes and Rules relevant to plaintiff's challenge to Moss's AOI, there is no suggestion that the SOS engaged in a criminal scheme. The Court finds that the defense of unclean hands does not apply in this case.

The SOS further argues in support of her laches defense that by delaying in raising these challenges until his amended complaint, plaintiff unnecessarily extended the time needed to resolve this matter in this Court and prejudicially truncated the appellate process. The Court agrees that plaintiff could have raised his challenges much earlier. Further, the Court acknowledges that the volume of litigation each election cycle taxes the time and resources of the Attorney General's office. However, this *standing alone* does not warrant dismissal of plaintiff's claims based on laches. But this concern does not stand alone.

Overall, the Court finds that plaintiff's delay in raising his challenges to the validity of the Rules warrants dismissal based on laches. Plaintiff was on notice by May 11, 2026, that the SOS was relying on administrative rules applicable to campaign committee dissolutions in denying his sworn complaint. With full understanding of the expedited nature of this election suit, plaintiff waited until July 8 to file his initial complaint and until July 15, the day the SOS's first responsive pleading was due, to file an amended complaint adding his challenges to the validity of the administrative rules. Two months is a lifetime in an expedited election lawsuit rife with tight

deadlines. The general election ballots must be sent to the printer by September 4 and absent voter ballots must be mailed overseas by September 19. Plaintiff knew or should have known of his challenge to the validity of the administrative rules before he filed his initial complaint. Instead, plaintiff waited until the SOS responded to the complaint before adding these counts and declaring that the SOS's work up to that point was moot. The Court GRANTS the SOS's motion for summary disposition and DISMISSES Counts III and IV on laches grounds.

VII. COUNTS I AND II

The Court concludes that plaintiff's Counts I and II lack merit, requiring dismissal as well. Both counts are based on plaintiff's position that Moss made a false statement in her April 21, 2026 AOI that neither she nor the Committee had outstanding reports, fees, or fines.

MCL 169.233(1) requires candidate committees to file campaign statements as required under the MCFA. MCL 169.233(1)(c) provides the schedule for submitting campaign statements in nonelection years. However, the MCFA also permits a candidate to dissolve her campaign committee. MCL 169.224(7) of the MCFA governs the method of dissolving a campaign committee:

> Upon the dissolution of a committee, the committee shall file a statement indicating dissolution with the filing officials with whom the committee's statement of organization was filed. Dissolution of a committee must be accomplished pursuant to rules promulgated by the [SOS] under the [APA].

Beyond the requirement of filing a dissolution statement, the Legislature left it to the SOS to decide how dissolution would be accomplished.

The Committee in this case filed a statement of dissolution with the SOS on March 19, 2026. At that time, Rule 169.28, which had been promulgated by the SOS consistent with MCL 168.224(7), controlled and provided, as previously stated, that:

> A dissolution shall consist of a campaign statement that covers the period from the closing date of the last report filed to the date of dissolution and shall include a statement as to the disposition of residual funds. [Rule 169.28(2).]

The Committee's March 19, 2026 dissolution request covered the period from December 2024 through December 2025. It "consist[ed] of a campaign statement" for that period. Stated differently, the dissolution statement took the place of the two outstanding campaign statements for 2025. Individual campaign statements for July and October 2025 were no longer due. On March 19, 2026, Moss belatedly filed a campaign statement for January 2026. Although filed late, neither Moss nor the Committee had any outstanding reports due on April 21, 2026, when she filed her AOI.

The SOS ultimately assessed a $500 late fee against Moss and the Committee on May 22, 2026. That fee was not outstanding on the date Moss filed her AOI. Accordingly, Moss was not untruthful in her AOI. MCL 168.558(4) provides that an AOI "must include a signed and notarized statement that *as of the date of the affidavit*," the candidate has filed "all statements, reports, late filing fees, and fines *required of* the candidate or any candidate committee." (Emphasis added.) Moss may have been aware that a late fee would be assessed against her at some point. However, on April 21, 2026, no fee or fine had been assessed and were not "required of" her or the Committee.

In the original action of *Rocha*, order of the Court of Appeals, entered June 2, 2022 (Docket No. 361578), the Court of Appeals similarly considered whether a candidate made a false

statement in his AOI. In that case, the SOS assessed a late fee against the candidate on February 16, 2022. The candidate filed his AOI two days later and attested he did not owe any outstanding fees. The Court of Appeals ruled that actual knowledge of the assessment of the late fee was not required under MCL 168.558(4). Again, the Supreme Court denied leave in *Rocha*, 509 Mich 1025 (2022).

In the current matter, although Moss may have been aware that a late fee would be assessed in the future, it was not actually assessed until May 22. "Assess" is defined in *Black's Law Dictionary* (12th ed), in relevant part as "1. To calculate the amount or rate of (a tax, fine, etc.). 2. To impose (a tax, fine, etc.). . . ." When Moss filed the January 2026 Campaign Statement on March 19, 2026, she could predict that the SOS would calculate and impose a late fee against her. But the SOS did not calculate or impose the late fee until May 22, 2026. The Court concludes that because the fee had yet to be assessed, it was not "required of" Moss on the date she filed her AOI.[4]

Accordingly, plaintiff cannot demonstrate that the SOS violated the applicable statutes and Rules, precluding the issuance of a declaratory judgment. And plaintiff cannot demonstrate a clear duty to disqualify Moss from appearing on the general election ballot, requiring dismissal of plaintiff's claim for a writ of mandamus.

[4] The SOS also argues that plaintiff failed to exhaust his administrative remedies in this regard. The remedies provided in the MCFA, the SOS asserts, are limited to seeking declaratory rulings from or filing administrative complaints with the SOS pursuant to MCL 169.215(1)(e), (2), and (5). However, plaintiff filed a sworn complaint raising substantively similar challenges to Moss's AOI on April 28, 2026, which the SOS denied. Moreover, as found in *Rocha*, MCL 24.263 permits, but does not require, an individual to seek a declaratory ruling from the responsible agency regarding the application of particular facts to a statute.

IT IS ORDERED:

1. The Court DENIES plaintiff's motion for an evidentiary hearing and discovery subpoenas.

2. The Court GRANTS defendant's August 3, 2026 motion for summary disposition.

3. Plaintiff's complaint is DISMISSED in its entirety and with prejudice.

4. This order resolves the last pending claim and closes the case.

Date: August 13, 2026

Sima G. Patel
Judge, Court of Claims

