STATE OF MICHIGAN

COURT OF CLAIMS

ROBERT DAVIS,

Plaintiff,

v Case No. 26-000147-MB

JOCELYN BENSON, in her official capacity as the duly elected Secretary of State, Hon. Michael J. Riordan

Defendant.
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ORDER VACATING 7/31/26 AMENDED SCHEDULING ORDER, STRIKING 7/30/26 AMENDED COMPLAINT, AND SETTING BRIEFING SCHEDULE

Upon further consideration of the various pleadings and motions filed in this emergency election matter, and on the Court's own motion:

1. The Court VACATES the July 31, 2026 Amended Scheduling Order.
2. The Court STRIKES plaintiff's July 30, 2026 amended complaint.
3. Plaintiff is DIRECTED to file a substantive response to defendant's July 28, 2026 motion for summary disposition by **4 p.m. on Friday, August 7, 2026**. Any reply must be filed by defendant by **4 p.m. on Tuesday, August 11, 2026**.
4. The Court will schedule an evidentiary hearing or oral argument if the Court determines it is required.
5. Plaintiff is DIRECTED to serve this order upon the challenged candidate by **4 p.m. on Wednesday, August 5, 2026**.

On July 13, 2026, plaintiff filed a complaint and emergency motion for an evidentiary hearing. Defendant responded by moving for summary disposition on July 28, 2026. At 3:33 p.m. on July 30, 2026, plaintiff filed an amended complaint. Upon initial review, the Court believed

this amendment was permitted by MCR 2.118(A)(1). Upon further consideration, however, the Court determines that plaintiff was not permitted to file an amended complaint as of right.

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 STRIKES plaintiff's July 30, 2026 amended complaint.

Because plaintiff's initial complaint will now be considered, defendant's July 28, 2026 motion for summary disposition is not moot. As provided above, the Court will allow plaintiff the opportunity to substantively respond to the motion.

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: August 5, 2026

Michael J. Riordan
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."