



STATE OF MICHIGAN
 JOCELYN BENSON, SECRETARY OF STATE
 DEPARTMENT OF STATE
 LANSING

May 26, 2020

REVIEW OF NOMINATING PETITION

Rodney J. Leon
 Candidate for Judge of the 39th Circuit Court
 Regular Term, Non-Incumbent Position

NUMBER OF VALID SIGNATURES REQUIRED: 200 signatures.¹

TOTAL FILING: 207 signatures.

RESULT OF FACE REVIEW: 0 valid signatures, 207 invalid signatures.

Total number of signatures filed	207
Incomplete heading (omitted date of August 4, 2020 primary) <i>Less:</i>	207
TOTAL	0

INCOMPLETE HEADING: Among other information, the heading of the nominating petition must include the date of the primary election; MCL 168.544c requires that the petition “must be in the following form: ^[2]

NOMINATING PETITION
 (PARTISAN)

We, the undersigned, registered and qualified voters
 of the city or township of , in the county
 (strike 1)
 of and state of Michigan, nominate,
 ,
 (Name of Candidate)
 ,
 (Street Address or Rural Route) (City or Township)
 as a candidate of the party for the
 office of ,
 ,
 (District, if any)
 to be voted for at the primary election to be held on
 the day of , 20

¹ Pursuant to MCL 168.544f, candidates seeking this office must submit a minimum of 400 valid signatures to qualify for placement on the ballot. Mr. Leon qualifies for a 50% reduction in the number of required signatures pursuant to the May 20, 2020 order of the federal District Court for the Eastern District of Michigan in *Esshaki v Whitmer*, https://www.michigan.gov/documents/sos/64_order_grnt_PI_mtn_intervene_691388_7.pdf.

² Under MCL 168.544a, “[t]he form, size and contents of all nonpartisan nominating petitions shall be the same as is provided in section 544c for partisan nominating petitions, except that under the heading ‘nominating petition’ shall be printed in 12-point type the word ‘nonpartisan’. The petition shall contain no reference to any political party.”

In 2016, the Court of Appeals held in an unpublished opinion that omission of the primary election date on a single petition sheet constituted a fatal defect, and that none of the signatures appearing on that sheet could be counted by the filing official. *Aiello v Sabaugh*, unpublished, Dkt. No. 333461 (June 21, 2016):³

The plain language of MCL 168.544c(1) states that the nominating petition “shall be in the following form,” then sets forth the headings and blank spaces for pertinent identifying information such as the location, the identity of the candidate, his or her party, the office sought, and the date of the primary election. This information in the heading is obviously designed to provide all pertinent information in direct, readable form to any registered voters who might be asked to sign the petition. None of this information appears optional or unnecessary. The clear intent is to have the candidate provide all of this information in order to comply with the statute. It would make no sense for the Legislature to mandate use of a form which requires spaces for all of that pertinent information, yet not require the candidate to fill out those spaces to provide that information on the face of the form. The circuit court’s reasoning that §544c merely requires the use of the form without filling in the required information is contrary to the plain meaning and obvious intent behind the statutory language.

Here, Mr. Leon’s nominating petition is insufficient because the heading of every sheet omits the date of the August 4, 2020 primary election, resulting in a loss of 207 signatures.

CHALLENGE: None.

STAFF RECOMMENDATION: Determine petition insufficient.

³ http://publicdocs.courts.mi.gov/opinions/final/coa/20160621_c333461_21_333461.opn.pdf; *Aiello v Sabaugh*, 880 NW2d 533 (MI 2016), lv den, http://publicdocs.courts.mi.gov/sct/public/orders/153982_32_01.pdf.