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MIKE MCKAY

For Van Buren County 7th District Court Judge

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- decade as a State Trooper
- 5,000 cases and over 25 criminal jury trials as a prosecutor

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- his knowledge that the federal judge called the allegations "meritless" and dismissed them.

I continued to campaign with INTEGRITY

➤ WHEN MY OPPONENT SAID I COULDN'T BE FAIR AND IMPARTIAL BECAUSE I AM A:

- former State Trooper
- Assistant Prosecutor

I continued to campaign PROUDLY

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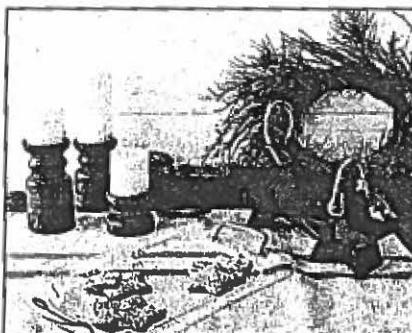
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EXHIBIT

17

PLEASE VOTE NOVEMBER 8TH



McKAY

EXHIBIT
18

7TH DISTRICT COURT JUDGE VAN BUREN COUNTY



Dedicated State Trooper
In the real-world of criminal law, Mike investigated crimes and answered the call for thousands of citizens during his 10 year career in the State Police.



15 Years Experience
In Criminal Law

From uniform to the courtroom, Mike brings the unique experience of conducting criminal investigations in our communities and prosecuting cases in our courtrooms.

Accomplished Prosecutor

Mike has represented Van Buren County in over 5,000 civil hearings and criminal cases as a prosecuting attorney, and handled more than 25 criminal jury trials in cases ranging from assault, to crimes against children to murder.



Community Involvement

- Wings Of God Transition Home For Women, Board Member
- Current Mental Health Treatment Court Attorney
- Past Drug Treatment Court Attorney



"Mike McKay is the candidate to serve Van Buren County. His skill in the courtroom as a prosecutor, knowledge of the law, and experience make him the logical choice. I believe Mike McKay to be the most qualified candidate for District Court Judge."

- John H. Dominguez, Jr.

McKAY FOR JUDGE

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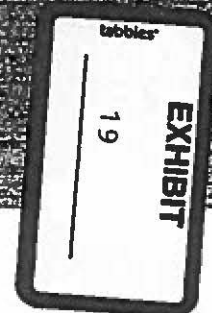
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MIKE MCKAY

- Former State Trooper
- Current Assistant Prosecutor

For District Court
JUDGE

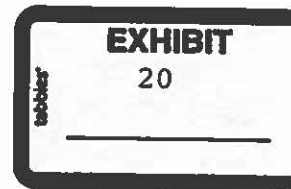
Paid for by the committee - McKay for Judge - PO Box 125, Paw Paw, MI 49079



Lovegrove, Amy (MDOS)

4196.33

From: Lovegrove, Amy (MDOS)
Sent: Wednesday, March 09, 2016 10:12 AM
To: 'mckayforjudge@gmail.com'; 'cutting@ontrakcom.com'
Subject: Candidate Committee Name 517461



Hello,

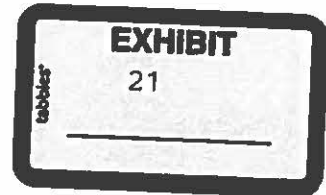
My name is Amy Lovegrove and I am the Campaign Finance Analyst in charge of reviewing your candidate committee MCFA filings. I am emailing you today because you have contacted this office about the name of your candidate committee.

Please be aware, Section 24 of MCFA requires that a candidate committee's name must contain both the first and last name of the candidate, therefore we have amended your committee name to include the candidate's full name. The committee name is now "MICHAEL MCKAY FOR JUDGE". If this is not how you would like the committee name to read, please file an amended Statement of Organization form to amend the committee name.

Please contact me if you have any questions.

Amy Lovegrove
Departmental Analyst
Bureau of Elections
Disclosure Data Division
(517) 241-2545

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN



HLV, LLC, a Michigan limited liability company; LANDWORTHY CONTAINER, LLC; a Michigan limited liability company; and ROBERT BAKER, an individual,

Case No. 1:13-cv-1366-PLM

HON. PAUL L. MALONEY

Plaintiffs,

-vs-

VAN BUREN COUNTY, a municipal corporation; VILLAGE OF PAW PAW, a municipal corporation; PAGE & STEWART, an ad hoc professional partnership; KELLY PAGE, an individual; GARY STEWART, JR., an individual; PAUL HAMRE, an individual; PEGGY GROTE, an individual, MICHAEL MCKAY, an individual, and MICHAEL BEDFORD, an individual,¹

Defendants.

**BRIEF IN SUPPORT OF MOTION TO COMPEL
MICHAEL MCKAY'S COMPLIANCE WITH SUBPOENA**

COME NOW the Plaintiffs, by and through counsel, and in support of their Motion to Compel Michael McKay's Compliance with Subpoena state as follows:

FACTUAL BACKGROUND

The Complaint in this matter alleges inappropriate conduct and relationships between a number of State actors (a then-State Circuit Court Judge, Michael Bedford as a County Prosecutor, and Michael McKay as an Assistant County Prosecutor), with Defendants Kelly Page,

¹ Defendants Van Buren County, Village of Paw Paw, Peggy Grote, Paul Hamre, Michael McKay and Michael Bedford have been dismissed by Orders of this Court dated June 29, 2015 and June 30, 2015. Allegations relating solely to the dismissed Defendants are not repeated in this Amended Complaint pursuant to the Court's Order, but Plaintiffs are not waiving the dismissed allegations and instead preserve the same for appellate purposes.

Gary Stewart, and their firm, Page & Stewart. The former Judge and the Prosecutors have been dismissed by this Honorable Court on the basis of various claims of immunity. This case is now proceeding under 42 USC 1983.

The Plaintiffs served a Subpoena on Michael McKay in the form of attached **Exhibit 1** on August 30, 2016. The Subpoena required production of a number of documents at 9:00 a.m. on September 23, 2016. Prior to that time, Michael McKay filed an Objection to the Subpoena under Fed. R. Civ. P. 45(d)(2)(B) that nearly mimics Michael Bedford's Objection (PageID.2692-2694), except that Paragraph 5 was apparently copied incompletely². (PageID.2703-2705). The core of the Objection is that the requested documents and communications concern "the alleged claims against McKay that have already been dismissed from the subject action... [t]herefore the information sought by the Subpoena would not be relevant..." (§ 5, PageID.2705).

The assertion by Michael McKay belies the fact that, while he has been dismissed as a Defendant due to his assertion of immunity, the allegations in this case remain intact against other parties who have not been dismissed. In short, the fact that Michael McKay may not be accountable for his conduct due to immunity does not mean that the remaining Defendants are also immune. Also, the fact that Michael McKay may have immunity does not mean that the acts did not happen or that the communications did not occur. Nor does it mean that other parties are covered by the immunity that the Court ruled applied to Michael McKay. The remaining Defendants clearly are not entitled to immunity.

LEGAL DISCUSSION

If a person or entity timely files an Objection to a Subpoena under the provisions of Fed. R. Civ. P. 45(b)(2)(B), the rule permits a party to move the Court for an order of compliance

² In Michael McKay's Objection, Paragraph 5 stops mid-sentence without completing the argument it presents. Prior to the abrupt termination of thought, Paragraph 5 in Michael McKay's Objection is quite similar to Paragraph 5 in Michael Bedford's Objection. See PageID.2705 and PageID.2694.

compelling production or inspection of the requested documents. Fed. R. Civ. P. 45(b)(2)(B)(i). A non-party resisting discovery has a “heavy burden” of demonstrating that the discovery sought should not be permitted. *See, e.g., Great Lakes Transp. Holding, LLC v. Yellow Cab Serv. Corp. of Florida, Inc.*, No. 11-50655, 2011 WL 2533653 at *1 (E.D. Mich. June 27, 2011) (citing 9A Wright & Miller, *Federal Practice & Procedure* s 2643, p. 507) (Exhibit 3); *Operating Eng’rs Local 324 Health Care Plan v. Mid Michigan*, No. 10-CV-12987, 2011 WL 1464851, at *2 (E.D. Mich. Apr. 18, 2011) (Majzoub, M.J.) (Exhibit 4).

Persuasive case law within the Sixth Circuit has determined that when a subpoenaed non-party contends that the discovery sought constitutes an undue burden under Fed. R. Civ. P. 45(c)(3), as Michael McKay contends, “that person cannot rely on a mere assertion that compliance would be burdensome and onerous without showing the manner and extent of the burden and the injurious consequences of insisting upon compliance with the subpoena.” *Operating Eng’rs*, 2011 WL 1464851, at *2. In his Objection to the Subpoena, Michael McKay has certainly not made such a showing. Even if he had, in a case wherein the subpoenaed non-party does make such a showing, then the Court must weigh “the likely relevance of the requested material... against the burden... of producing the material.” *EEOC v. Ford Motor Credit Co.*, 26 F.3d 44, 47 (6th Cir. 1994).

The material requested via non-party subpoena to Michael McKay is extremely relevant to the matter at hand. Michael McKay implies that the material would only be relevant if he was still a party to this case. There is, however, a primary problem with Michael McKay’s position: he is no longer party to this case for reasons of immunity, NOT because of any determination that the agreements did not exist. Michael McKay may be immune from suit, but the Defendants in this case are not -- and the material requested seeks communication, contracts, payments, and

evidence of action taken in furtherance of any agreement between Michael McKay and either or all of Defendants. The non-party subpoena contains requests for materials concerning Michael McKay's relationship with either or all Defendants, and requests for materials concerning actions taken by Michael McKay in furtherance of an agreement with either or all Defendants. The agreements that Michael McKay entered into with Defendants are not just relevant to this case, they are a focal point of this case. Michael McKay is no longer party to this case because he was declared immune from damages liability. However, immunity from damages liability does not mean immunity from all discovery. *See, e.g. Chang v. U.S.*, 246 F.R.D. 372 (D.C. 2007). It is vital to the interest of justice that Michael McKay comply with the subpoena and produce the requested documents so that the truth may no longer be hidden and justice may be served.

Michael McKay cannot satisfy the heavy burden of showing that the discovery sought should not be permitted for three reasons. First, Michael McKay has merely asserted in a conclusory fashion that compliance would be burdensome without "showing the manner and extent of the burden and the injurious consequences of insisting upon compliance with the subpoena." *Operating Eng'rs*, 2011 WL 1464851, at *2. Michael McKay has simply stated that the Subpoena is unduly burdensome. Michael McKay has not made any efforts to search for the documents that are responsive to the request, nor has he quantified how many documents are likely to be responsive; and most importantly he has not estimated how long it would take to retrieve and review such documents. Michael McKay is basically seeking to assist the remaining Defendants in keeping the truth from seeing the light of day.³

Second, responding to Plaintiff's specific requests likely will not unduly burden Michael McKay, particularly in light of the materials' clear relevance. Michael McKay is an assistant

³ The nexus between Defendant Page, Michael Bedford and Michael McKay continues to this date as illustrated by the attached news article (Exhibit 2) about Defendant Page's and Michael Bedford's involvement in ripping out the sign of an opponent to Michael McKay's campaign for judgeship in District Court.

county prosecutor. Where an assistant county prosecutor communicated, contracted, and exchanged payments with private attorneys and/or acted in furtherance of such agreements, generally speaking should not be voluminous. However, in the case that Michael McKay often communicated, contracted, and exchanged payments with private attorneys and/or acted in furtherance of such agreements, then the requested materials may be voluminous. If the latter is the case, and Plaintiffs concede that it may be, the requests still should not be burdensome because most of the requested materials concern a certain party or a certain lawsuit, all of which should be categorized accordingly, easy to locate, and manageable in size, and Michael McKay has not said otherwise.

Finally, Michael McKay's non-party status does little to support its undue-burden argument. Michael McKay is a party to the very agreements that are at the core of this lawsuit. Where a non-party plays an "active role" in the conduct at issue in litigation, non-party status does not by itself justify refusal to comply with a subpoena. *Charters v. John Hancock Life Ins. Co.*, No. 09-50157, 2009 WL 818185, at *3 (E.D. Mich. Mar. 27, 2009)(Exhibit 5).

CONCLUSION

For the reasons stated above, Plaintiffs respectfully ask this Court to overrule Michael McKay's objections and compel Michael McKay to promptly comply with the subpoena.

VISSER AND ASSOCIATES, PLLC

Dated: September 28, 2016

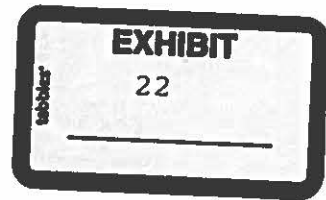
/s/ Donald R. Visser
Donald R. Visser (P27961)
Attorney for Plaintiffs
2480 - 44th St., SE - Ste. 150
Kentwood, MI 49512
(616) 531-9860
donv@visserlegal.com

CERTIFICATE OF SERVICE

I hereby certify that on this September 28, 2016, the foregoing document was served on all parties of record via electronic mail.

By: /s/ Donald R. Visser.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION



HLV, LLC, et al.,

Plaintiffs,

v.

PAGE & STEWART, et al.,

Defendants.

Hon. Paul L. Maloney

Case No. 1:13-cv-01366-PLM

ORDER

This matter is before the Court on plaintiffs' motion to compel Michael McKay's compliance with a third-party subpoena to produce documents. (ECF No. 165). Mr. McKay responded. (ECF No. 171). The Court conducted a hearing on the motion today. Having considered the parties' oral and written submissions, and for the reasons stated on the record, the motion is **GRANTED in part** and **DENIED in part**. Accordingly,

IT IS ORDERED that Mr. McKay shall, within fourteen days of the date of this Order, respond to subpoena requests 17 through 20 to indicate whether there are any responsive documents in his personal possession, custody or control; and if so, to produce them.

IT IS FURTHER ORDERED that Mr. McKay shall, within fourteen days of the date of this Order, respond to subpoena request 21 only to indicate whether any of the following persons have contributed to his judicial campaign and, if so, in what amount: Kelly Page; Gary Stewart, Jr.; Paul Hamre; Peggy Grote; and Michael Bedford.

Plaintiffs' motion (ECF No. 165) is otherwise **DENIED**.

The parties are to bear their own costs.

IT IS SO ORDERED.

Date: October 14, 2016

/s/ Phillip J. Green
PHILLIP J. GREEN
United States Magistrate Judge

Michigan

EXHIBIT

23

Van Buren County public officials accused of tampering with campaign signs



A photo taken by a Paw Paw man allegedly shows Van Buren County Prosecutor, Mike Bedford and General Counsel for the Village of Paw Paw, Attorney Kelly Page placing a large sign in support of Congressman Fred Upton in place of a Martinez for Judge sign on a plot of land across from Paw Paw High School on Sunday, Sept. 18. (Courtesy)



By **Malachi Barrett** | mbarret1@mlive.com

on September 20, 2016 at 1:35 PM, updated September 21, 2016 at 9:43 AM

PAW PAW, MI — A police report was filed against two Van Buren County officials for allegedly removing a campaign sign that they believe shouldn't have been placed.

At 2:30 p.m. on Sunday, Sept. 18, Van Buren County Prosecutor Mike Bedford and General Counsel for the Village of Paw Paw Kelly Page watched Page's son remove a sign for Cirilo Martinez's 7th District Court Judge campaign and helped place a sign for Congressman Fred Upton, R-St. Joseph.

The Martinez for Judge sign was removed from private land on the north side of Red Arrow Highway near Paw Paw High School. The Michigan Department of Transportation requires candidates to obtain approval from the adjacent property owner to place signs.

Rodriguez said the site, which is leased to a local farmer, has had several campaign sign disputes in the past. The farmer, who refused to be identified, said Martinez for Judge staff did not ask him permission to place the sign.

Meanwhile, Martinez campaign media spokesperson Rene Rodriguez said the land owner, First American Homes, gave a staff member verbal permission to place the sign on Aug. 4. The campaign was not contacted to remove it since.

The Martinez campaign filed a police report with the Michigan State Police Sunday afternoon, which Bedford called "nonsense."

Police said it is unlikely that a crime was committed, however the case remains open as of Sept. 20.

Bedford said the trio was placing Upton campaign signs in Paw Paw that day when the farmer gave Page permission via text message to remove the Martinez sign for him. The sign was removed by Page's son and placed on the ground, where it remained undamaged.

"My understanding is that Martinez was given several opportunities to remove the signs, but never had permission from the land owner (in the first place)," Bedford said. "You can designate anyone as an authorized agent to take it down in my opinion. It's not like some vandal was taking signs out in broad daylight on a Sunday."

Rodriguez disagrees, stating the campaign would have removed the sign if asked and the land owner did give permission to place it. Once a property owner asks for a sign to be removed, there is a protocol that campaigns traditionally follow so they don't lose money on damaged or lost signs.

"Typically what happens if there is a sign in question we reach out to the other campaign and take care of it between the campaigns because these signs are costly," he said. "That is not something we had heard from (our opponent, Assistant Prosecutor Mike McKay)."

Their goal isn't to punish anyone, Rodriguez said, but to make sure attempts to remove signs are conducted properly.

"(The incident) is serious in nature because of who these gentleman are," Rodriguez said. "These men are the gatekeepers of justice in Van Buren County."

Rodriguez has worked on campaigns for Upton in the past and said the Congressman wouldn't condone "this type of behavior."

"We would obviously never instruct our volunteers to tamper with any other candidate's signage," said Liz Garey, Upton's campaign director.

Assistant Prosecutor **Mike McKay is also running** for District Court Judge in Van Buren County. Upton is facing off against Democrat Paul Clements and Libertarian Lorence Wenke to represent Michigan's 6th Congressional District.



Congressman Fred Upton '100 percent running for re-election in 2016,' spokesman says

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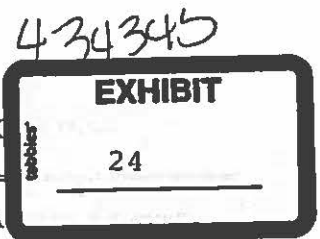
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- An elected candidate who is required to file this Campaign Finance Compliance Affidavit must submit this form to the filing official designated to receive the elected candidate's campaign finance disclosure filings. (The attestation stipulated below may not be altered in any way).
- An elected candidate subject to the Campaign Finance Compliance Affidavit filing requirement who fails to submit this form prior to assuming office is guilty of a misdemeanor.
- If you need information on your current compliance status under the Michigan Campaign Finance Act, contact the Michigan Department of State's Bureau of Elections and/or the appropriate county clerks as necessary.

By signing this affidavit, I swear (or affirm) that the facts contained in the statement set forth below are true.

At this date, all statements, reports, late filing fees, and fines due from me or any Candidate Committee organized to support my election to office under the Michigan Campaign Finance Act, PA 388 of 1976, have been filed or paid.

I further acknowledge that making a false statement in this affidavit is perjury -- a felony punishable by a fine up to \$1,000.00 or imprisonment for up to 5 years, or both. (MCL 168.848, 933 and 936)

Printed Name of Candidate: Michael McKay

Committee ID Number(s): 517461

Telephone Number or Email: (269) 760-6143

Office You Will Assume: Judge District/Circuit #: 7th District

Signature of Candidate: _____

(signature must be witnessed by Notary Public)

Michigan Notary Public, County of: Van Buren Acting in the County of: _____

My commission expires: May 30, 2018

Subscribed and sworn to (or affirmed) before me on this date: Nov 17, 2016

by: Michael McKay (Name of Elected Official).

Debra Staunton
(Name of Notary Public)

Debra Staunton
(Signature of Notary Public)

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"Visit to USPS.com" or local Post Office" for availability

TO: (PLEASE PRINT) PHONE: () - -

ZIP + 4® (U.S. ADDRESSES ONLY)

ORIGIN (POSTAL SERVICE USE ONLY)

☐ 1 Day ☐ 2 Day ☐ Priority ☐ DPO

PD (ZIP Code) **Scheduled Delivery Date** (dd/mm/yyyy)

One Accepted (SECURITY) **Scheduled Delivery Time**

☐ NO 20:00 ☐ 2:00 PM ☐ 12:00 PM

Time Accepted **10:30 AM Delivery Fee**

☐ AM ☐ PM \$

Weight **Postage Insurance Fee**

☐ Pkg ☐ Reg \$

Acceptance Employee Initials

DELIVERY (POSTAL SERVICE USE ONLY)

Delivery Attempt (SECURITY) **Time** **Employee Signature**

☐ AM ☐ PM

Delivery Attempt (SECURITY) **Time** **Employee Signature**

☐ AM ☐ PM

LABEL 11 B, SEPTEMBER 2012 P/N 7500-00-000-000

3-ADDRESSEE COPY

UNITED STATES
POSTAL SERVICE

This packaging is the property of the U.S. Postal Service and is provided solely for use in sending Priority Mail Express™ shipments. Please may not be used for other purposes. This packaging is not for sale. Please do not use for other purposes.



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

December 20, 2016

Rene Rodriguez
50975 Jordan Street
Paw Paw, Michigan 49079

Dear Mr. Rodriguez:

The Department of State received a response to the complaint you filed against Michael McKay, which concerns an alleged violation of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the response is provided as an enclosure with this letter.

If you elect to file a rebuttal statement, you are required to send it within 10 business days of the date of this letter to the Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lori A. Bourbonais".

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Michael McKay

Department of State
Bureau of Elections
Richard H. Austin Building-1st Floor
430 West Allegan Street
Lansing, MI 48918

RECEIVED
11-15-16
7:19 NOV 29 PM 3:15
ELECTIONS/STATE SEAL

Re: Formal complaint filed by Rene Rodriguez against Michael McKay for Judge
Date of correspondence to candidate: 11-15-16

Dear Bureau of Elections,

I am in receipt of the complaint filed by Rene Rodriguez against myself and my campaign regarding allegations of MCL 169.247(1), Mich Admin. R 169.36(2). I will address these alleged violations in the order they appear in the complaint.

1. Exhibit 1-4 do not state the individual or committee paying for the ads.
2. Omission of the "paid for" language.

Exhibit 1 and 3 state "McKay for Judge, PO Box 125, Paw Paw, MI 49079."
Exhibit 2 and 4 do not.

The process for submitting ads to the local newspapers required the campaign to submit artwork to one newspaper (Courier-Leader in Paw Paw) who would reconfigure the piece into a format for dissemination to other papers. Before doing so, the paper would send the campaign a "proof" for approval. On at least one occasion the newspaper mistakenly sent out ads to another paper that had not been approved, either because they were missing information or simply because we decided changes needed to be made (it appears that two of those ads are contained in Exhibit 2 and 4). We had no control over the actions of these media outlets.

In ads that contain the language, "McKay for Judge, PO Box 125, Paw Paw, MI 49079," I am not certain whether we asked that the language, "Paid for ..." be added as I might have assumed that providing the name and address of the committee would have sufficed for informing voters who paid for the advertisement.

3. The committee fails to list its correct name on campaign materials.

It is my recollection that when the Bureau of Elections informed the campaign that "Michael" needed to be added to the committee name, that we already had our first campaign materials either produced or in the process of production. It is also my recollection we were advised by the Bureau of Elections that "McKay for Judge" would be in compliance with the applicable laws and rules regarding campaign materials.

4. The committee omitted 'Michael' in order to "deceive voters of his prior questionable conduct in county litigation."

Regarding this allegation, it is important to know that the complainant, Rene Rodriguez, was the campaign manager for the opponent I defeated in this election. The central theme of the campaign run by Mr. Rodriguez was a lawsuit filed against me as a prosecutor in federal court (this is the "prior questionable conduct in county litigation" he is referring to). Throughout the campaign Mr. Rodriguez repeatedly advertised and made reference to the lawsuit without telling voters that the lawsuit had been dismissed years earlier at the first hearing in federal court. In other words, despite the best efforts of Mr. Rodriguez to mislead voters to the contrary, there was no "prior questionable conduct in county litigation". His allegation that I listed my committee as "McKay for Judge" in an attempt to deceive voters is erroneous and desperate.

If you have any further questions please feel free to contact me anytime. Thank you.

Respectfully,

A handwritten signature in black ink, appearing to read 'Michael McKay', with a stylized flourish at the end.

Michael McKay
269-760-6143



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

November 15, 2016

Michael McKay
P.O. Box 125
Paw Paw, Michigan 49079

COPY

Dear Mr. McKay:

The Department of State (Department) received a formal complaint filed by Rene Rodriguez against you, alleging that you violated section 47(1) of the Michigan Campaign Finance Act (MCFA), 1976 PA 388, MCL 169.247(1), by failing to include a complete and correct identification statement on certain campaign materials. A copy of the complaint is provided as an enclosure with this letter.

The MCFA and corresponding administrative rules require a person who produces printed material that relates to an election to include the phrase "Paid for by [name and address of the person who paid for the item]." MCL 169.247(1), Mich. Admin. R 169.36(2). A knowing violation constitutes a misdemeanor offense punishable by a fine of up to \$1,000.00, imprisonment for up to 93 days, or both. MCL 169.247(6).

In support of his complaint, Mr. Rodriguez provided multiple pictures of campaign ads which used some variation of the phrase, "Mike McKay [,] The Strong Choice [,] Vote November 8 [,]" The proper paid-for-by statements on these materials appear to be missing.

The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true.

If you wish to file a written response to the complaint, you are required to do so within 15 business days of the date of this letter. Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. If you fail to submit a response, the Department will render a decision based on the evidence furnished by the complainant.

A copy of your reply will be provided to Mr. Rodriguez, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether "there may be reason to believe that a violation of [the MCFA] has occurred [,]" MCL 169.215(10). Note that the Department's enforcement powers include the possibility of entering a conciliation agreement, conducting an

Campaign Finance Complaint Form
Michigan Department of State

RECEIVED/FILED
MICHIGAN DEPT OF STATE

2016 NOV -1 PM 3:08

This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (the MCFA, 1976 PA 388, as amended; MCL 169.241-169.247). All information on the form must be provided along with an original signature and evidence. Please print or type all information.

I allege that the MCFA was violated as follows:

Section 1. Complainant

Rene Rodriguez

(269) 599-2180

50975 Jordan Street

Paw Paw

Michigan

49079

Section 2. Alleged Violator

Michael McKay

P.O. Box 125

Paw Paw

Michigan

49079

Section 3. Alleged Violations (Use additional sheet if more space is needed.)

Section(s) of the MCFA violated:

MCL 169.247 states "Printed matter or radio or television paid advertisement having reference to election, candidate, or ballot question; name and address; identification or disclaimer; size and placement; rules; exemption; statement that payment made "with regulated funds"; communication exempted under section 6(2)(j); violation as misdemeanor; penalty; prerecorded telephone message.

Mr. McKay has consistently and flagrantly violated this and various other statutes in his quest to be voted in as 7th District Court Judge. Attached please find a series of advertisements (Exhibit 1-4) that: 1) Do not state the individual or committee paying for the Ads; 2) total omit the "PAID FOR" required language; 3) The committee fails to list its correct name on any document as ordered to do in the e-mail communication sent to them by Amy Lovegrove with the corrected name of "Michael McKay for Judge."; 4) In not including his first name he has deceived the voters of his prior questionable conduct in county litigation.

Evidence of his violations are Exhibit 1-4 which are news paper ads published two weeks before the primaries and two weeks before the general election.

Section 4. Certification (Required)

I certify that to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of this complaint is supported by evidence.

X

Signature of Complainant

Date

10/31/16

Section 5. Certification without Evidence (Supplemental to Section 4)

Section 15(6) of the MCFA (MCL 169.215) requires that the signed certification found in section 4 of this form be included in every complaint. However, if, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence, you may also make the following certification:

I certify that to the best of my knowledge, information, or belief, there are grounds to conclude that the following specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry. Those specific contentions are:

X

Signature of Complainant

Date

Section 15(8) of the MCFA provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. The person may be required to pay a civil fine of up to \$1,000.00 and some or all of the expenses incurred by the Michigan Department of State and the alleged violator as a direct result of the filing of the complaint.

Mail or deliver the completed complaint form with an original signature and evidence to the following address:

Michigan Department of State
Bureau of Elections
Richard H. Austin Building – 1st Floor
430 West Allegan Street
Lansing, Michigan 48918

COMPLAINT PROCESS

Section 15 of the MCFA governs the filing and processing of complaints. If you believe someone has violated the MCFA, you may file a written complaint. The complaint **must** include all of the following:

- Your name, address and telephone number.
- The alleged violator's name and address.
- A description in reasonable detail of the alleged violation, including the section or sections of the MCFA you believe were violated, an explanation of how you believe the MCFA was violated, and any other pertinent information.
- Evidence which supports your allegations.
- A certification that:

To the best of your knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of the complaint is supported by evidence.

- If after a reasonable inquiry under the circumstances, you are unable to certify that certain specifically identified factual contentions of the complaint are supported by evidence, you may also certify that:

To the best of your knowledge, information, or belief, there are grounds to conclude that those specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry.

- Your signature immediately after the certification or certifications.

WARNING: Section 15(8) of the MCFA (MCL 169.215) provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. Under section 15(16) of the MCFA (MCL 169.215), the Secretary of State may require a person who files a complaint with a false certification to:

- Pay the Department some or all of the expenses incurred by the Department as a direct result of the filing of the complaint.
- Pay the alleged violator some or all of the expenses, including, but not limited to, reasonable attorney fees, incurred by that person as a direct result of the filing of the complaint.
- Pay a civil fine of up to \$1,000.00.

A complaint may be dismissed if any required information is not included, or if the complaint is determined to be frivolous, illegible, or indefinite. All parties are notified of dismissed complaints.

When a complaint meets the above requirements, the Department notifies the alleged violator that a complaint has been filed and provides a copy of the complaint. The alleged violator will have an opportunity to file a response. The complaint filer will have an opportunity to file a rebuttal to any response. All parties receive periodic reports concerning the actions taken by the Department on a complaint.

If the Department finds no reason to believe that the allegations are true, the complaint will be dismissed.

If the Department finds that there may be reason to believe your allegations are true, the Department must attempt to correct the violation or prevent further violations by informal methods such as a conference, conciliation, or persuasion, and may enter into a conciliation agreement with the alleged violator.

If the Department is unable to correct the violation or prevent further violations informally, an administrative hearing may be held to determine whether a civil violation of the MCFA has occurred, or the matter may be referred to the Attorney General for the enforcement of criminal penalties. An administrative hearing could result in the assessment of a civil penalty. Such a hearing would be conducted in accordance with the Michigan Administrative Procedures Act. An order issued as a result of such a hearing may be appealed to the appropriate circuit court.

Accepted complaints and all supporting documentation including responses and rebuttal statements are made available on the Department's website as required by the MCFA at the conclusion of the process.

Questions? Contact us at:

Michigan Department of State
Bureau of Elections
Richard H. Austin Building – 1st Floor
430 West Allegan Street
Lansing, Michigan 48918
Phone: 517-373-2540
Email: Disclosure@Michigan.gov



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

November 15, 2016

Michael McKay
P.O. Box 125
Paw Paw, Michigan 49079

Dear Mr. McKay:

The Department of State (Department) received a formal complaint filed by Rene Rodriguez against you, alleging that you violated section 47(1) of the Michigan Campaign Finance Act (MCFA), 1976 PA 388, MCL 169.247(1), by failing to include a complete and correct identification statement on certain campaign materials. A copy of the complaint is provided as an enclosure with this letter.

The MCFA and corresponding administrative rules require a person who produces printed material that relates to an election to include the phrase "Paid for by [name and address of the person who paid for the item]." MCL 169.247(1), Mich. Admin. R 169.36(2). A knowing violation constitutes a misdemeanor offense punishable by a fine of up to \$1,000.00, imprisonment for up to 93 days, or both. MCL 169.247(6).

In support of his complaint, Mr. Rodriguez provided multiple pictures of campaign ads which used some variation of the phrase, "Mike McKay [,] The Strong Choice [,] Vote November 8 [.]". The proper paid-for-by statements on these materials appear to be missing.

The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true.

If you wish to file a written response to the complaint, you are required to do so within 15 business days of the date of this letter. Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. If you fail to submit a response, the Department will render a decision based on the evidence furnished by the complainant.

A copy of your reply will be provided to Mr. Rodriguez, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether "there may be reason to believe that a violation of [the MCFA] has occurred [.]". MCL 169.215(10). Note that the Department's enforcement powers include the possibility of entering a conciliation agreement, conducting an

Michael McKay
November 15, 2016
Page 2

administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 47(6) of the Act.

If you have any questions concerning this matter, you may contact me at (517) 241-0395.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori A. Bourbonais". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Rene Rodriguez

Campaign Finance Complaint Form
Michigan Department of State

RECEIVED/FILED
MICHIGAN DEPT OF STATE
2016 NOV -1 PM 3:08

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X

Signature of Complainant

Date

10/31/16

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Michigan Department of State
Bureau of Elections
Richard H. Austin Building – 1st Floor
430 West Allegan Street
Lansing, Michigan 48918
Phone: 517-373-2540
Email: Disclosure@Michigan.gov



MIKE MCKAY

**7TH DISTRICT COURT JUDGE
VAN BUREN COUNTY**

**THE STRONG
CHOICE
FOR A
RULE OF LAW JUDGE**

EXHIBIT

12

- Former State Trooper • Current Assistant Prosecutor • Dedicated Public Servant
- Represented Van Buren County in over 5,000 criminal cases • The Experience to be District Court Judge
- Only Candidate with Criminal Trial Experience

Mike McKay is running for District Court Judge in Van Buren County. Here is some background on him and his career.

- BA, Northern Michigan University
- JD, Michigan State University College of Law, with honors
- Served as a State Trooper for ten years at MSP South Haven
- Current Assistant Prosecutor for Van Buren County

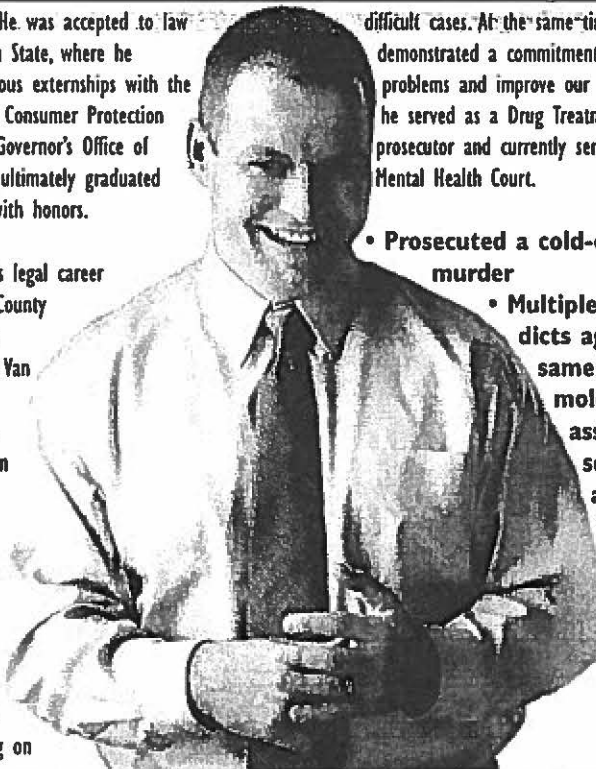
Mike began his career in Van Buren County when the State Police first assigned him as a Trooper at MSP in South Haven. He spent his entire career assigned to our county, which was cut short after he was hit by two cars on M-43 as he investigated a traffic crash.




After leaving the State Police, Mike decided to stay in public service by becom-

ing a prosecutor. He was accepted to law school at Michigan State, where he completed prestigious externships with the Attorney General's Consumer Protection Division and the Governor's Office of Legal Counsel. He ultimately graduated from law school with honors.

Mike began his legal career with the Berrien County Prosecutor's Office before joining the Van Buren County Prosecutor's Office where he has been ever since. As an Assistant Prosecutor for Van Buren County, Mike has established a reputation for fighting for crime victims and taking on



difficult cases. At the same time, Mike has demonstrated a commitment to solve problems and improve our communities he served as a Drug Treatment Court prosecutor and currently serves on the Mental Health Court.

- 
- Prosecuted a cold-case double murder
 - Multiple guilty verdicts against the same serial child molester to assure lengthy sentences and protect future victims
 - Extensive work in the Michigan Court of Appeals

- Served as a Drug Treatment Court prosecutor
- Current Mental Health Court prosecutor

Mike McKay has been a dedicated public servant in Van Buren County, both in uniform and the courtroom. He has the experience to know what it takes to keep our communities SAFE, while at the same time being FAIR and making Van Buren County a better place to live.

Mike and his wife Tiara with their three children - Ian (11) Avery (9) and Jack (5)



McKay for Judge
P.O. Box 125 • Paw Paw, MI 49079
McKayForJudge@gmail.com

VOTE FOR MIKE MCKAY FOR JUDGE NOVEMBER 8

• МСК АУ • МСК АУ • МСК АУ • МСК АУ • МСК АУ •

WIKI

McKAY

**YOUR STRONG CHOICE
7TH DISTRICT COURT JUDGE
VAN BUREN COUNTY**



ONLY CANDIDATE WITH CRIMINAL TRIAL EXPERIENCE

- **Former State Trooper**
- **Current Assistant Prosecutor**
- **Dedicated Public Servant**
- **Represented Van Buren County in over 5,000 criminal cases**
- **Rule of Law Judge**

VOTE NOVEMBER 8

McKAY • McKAY • McKAY • McKAY • McKAY • McKAY

MCKAY • MCKAY • MCKAY • MCKAY • MCKAY

MIKE McKAY



THE STRONG CHOICE

- Former State Trooper
- Current Assistant Prosecutor
- Dedicated Public Servant
- Represented
Van Buren County in over
5,000 criminal cases
- The only candidate with
criminal trial experience

VOTE NOVEMBER 8

7th District Court Judge Van Buren County

McKayForJudge.com
McKayForJudge@gmail.com
760-6143



Paid for by the committee:
McKay for Judge
PO Box 125
Paw Paw, MI 49079

PRESORTED STANDARD
U.S. POSTAGE PAID
KALAMAZOO, MI
PERMIT #36

ECRWSS
RESIDENTIAL CUSTOMER

EXHIBIT B
5

VOTE NOVEMBER 8

MIKE MCKAY

FOR JUDGE

Mike McKay is running for District Court Judge in Van Buren County. Here is some background on him and his career.

- BA, Northern Michigan University
- JD, Michigan State University College of Law, with honors
- Served as a State Trooper for ten years at MSP South Haven
- Current Assistant Prosecutor for Van Buren County

hit by two cars on M-43 as he investigated a traffic crash. A couple of years later Mike was injured again during an assault on a traffic stop. The incident required another surgery and that was the end of his career in uniform.

After leaving the State Police, Mike decided to stay in public service by becoming a prosecutor. He was accepted to law school at Michigan State, where he completed prestigious externships with the Attorney General's Consumer Protection Division and the Governor's Office of Legal Counsel. He ultimately

graduated from law school with honors.

Mike began his legal career with the Berrien County Prosecutor's Office before joining the Van Buren County Prosecutor's Office where he has been ever since. As an Assistant Prosecutor for Van Buren County, Mike has established a reputation for fighting for crime victims and taking on difficult cases. At the same time, Mike has demonstrated a commitment to solve problems and improve our communities - he served as a Drug Treatment Court prosecutor and currently serves on the Mental Health Court.

- Prosecuted a cold-case double murder
- Multiple guilty verdicts against the same serial child molester to assure lengthy sentences and protect future victims
- Extensive work in the Michigan Court of Appeals

- Served as a Drug Treatment Court prosecutor
- Current Mental Health court attorney
- Wings of God Transition Home - Board Member

Mike McKay has been a dedicated public servant in Van Buren County both in uniform and the courtroom. He has the experience to know what it takes to keep our communities SAFE, while at the same time being FAIR and making Van Buren County a better place to live.

Mike and his wife Tiara with their three children - Ian (11), Avery (8) and Jack (5)



McKay for Judge • P.O. Box 125 • Paw Paw, MI 49071
McKayForJudge@gmail.com

Vote for Mike McKay for Judge

7th District Court Judge Van Buren County