

**STATE OF MICHIGAN
SECRETARY OF STATE**

In re: Michigan Campaign Finance Complaint against **“BACK THE BENCH”; Donn Fresard (P36743), Chief of Staff Macomb County Prosecutor; Todd Russell Perkins (P55623); Wayne County Circuit Court Judge Patricia Fresard; Wayne County Circuit Court Judge Kelly Ann Ramsey; Wayne County Circuit Judge Sheila Ann Gibson.**

NOW COMES, ROBERT DAVIS, a natural person, being first duly sworn and deposed, and under the penalty of perjury, states the following:

1. Pursuant to MCL 169.215(5) and (6) of the Michigan Campaign Finance Act (MCFA), I, Robert Davis, hereby submit this complaint against **“BACK THE BENCH”; Donn Fresard (P36743), Chief of Staff Macomb County Prosecutor; Todd Perkins (P55623); Wayne County Circuit Court Judge Patricia Fresard; Wayne County Circuit Court Judge Kelly Ann Ramsey; Wayne County Circuit Court Judge Sheila Ann Gibson** for violating MCL §§ 169.224, 169.224b, 169.232, 169.233, 169.235, 169.247, 169.254 and 169.257 of the MCFA.

2. My address and telephone number are as follows: Robert Davis,
180 Eason, Highland Park, MI 48203, (313) 523-7118.
3. The address for alleged violator **"BACK THE BENCH"** is:
1751 Lochmoor, Grosse Pointe Woods, MI 48236. Phone
number is unknown
4. The address for alleged violator **Donn Fresard (P36743)** is:
1751 Lochmoor, Grosse Pointe Woods, MI 48236. Phone
number is 586-469-7325.
5. The address for alleged violator **Judge Patricia Fresard** is:
1751 Lochmoor, Grosse Pointe Woods, MI 48236. Phone
number is 313-224-5173.
6. The address for alleged violator **Judge Kelly Ann Ramsey** is:
8656 Napier, Northville, MI 48168. Phone number is 313-
224-0391.
7. The address for alleged violator **Judge Sheila Ann Gibson** is:
19540 Afton Road, Detroit, MI 48203. Phone number is
313-224-5430.

8. The address for alleged violator **Todd Russell Perkins** is: **615 Griswold, Suite 400, Detroit, MI 48226. Phone number is 313-964-1702.**

Fundraisers Held By “BACK THE BENCH” and Judges Fresard, Ramsey, and Gibson To Pay For Legal Expenses Associated With Various Civil Cases Filed By Robert Davis And/or Against Michigan Secretary of State In Court of Claims, Court of Appeals, Wayne County Circuit Court, and Michigan Supreme Court

9. In September 2022, Donn Fresard sent out an email to judges and licensed attorneys requesting them to attend a fundraiser at the Atheneum Suite Hotel located in Downtown Detroit, to support the candidacies of Judges Fresard, Ramsey, and Gibson.
10. This fundraiser held at the Atheneum Suite Hotel was also held to raise funds for Judges Fresard, Ramsey, and Gibson to pay for legal expenses associated with the various court cases that were pending in the Court of Claims, Wayne County Circuit Court, Michigan Court of Appeals, and Supreme Court, which sought to have Judges Fresard, Ramsey, and Gibson removed from the November 8, 2022 general election ballot as judicial candidates.

11. The invitation for the fundraiser held in September 2022 at the Atheneum Hotel, which was sent out by Donn Fresard, contained the pictures of Judges Fresard, Ramsey, and Gibson.
12. The invitation for the fundraiser held in September 2022 at the Atheneum Suite Hotel, which was sent out by Donn Fresard, requested that all checks be made payable to "BACK THE BENCH" and listed an address in St. Clair Shores, Michigan.
13. A review of the Michigan Secretary of State's public campaign finance database indicates that "BACK THE BENCH" is **NOT** a registered political action committee (PAC) **NOR** is it registered as an independent committee.
14. Additionally, a review of the Wayne County Clerk's public campaign finance database indicates that "BACK THE BENCH" is **NOT** a registered political action committee (PAC) **NOR** is it registered as an independent committee.
15. In October 2022, Donn Fresard and attorney Todd Perkins sent out a mass email out to judges and licensed attorneys requesting them to attend a fundraiser on November 7, 2022

for Judges Fresard, Ramsey, and Gibson that was to be held at the private residence of retiring 36th District Court Judge Deborah Geroldine Bledsoe Ford's located in Palmer Woods in the City of Detroit.

16. The flyer for the November 7, 2022 fundraiser for Judges Fresard, Ramsey, and Gibson, which was sent out via email by Donn Fresard and attorney Todd Perkins, contained their pictures and listed attorney Todd Perkins as one of the hosts of the fundraiser.
17. The flyer for the November 7, 2022 fundraiser for Judges Fresard, Ramsey, and Gibson, which was sent out via email by Donn Fresard and attorney Todd Perkins, requested that all contributions be made out to "BACK THE BENCH" and listed an address in St. Clair Shores, Michigan.
18. A review of the Michigan Secretary of State's public campaign finance database indicates that "BACK THE BENCH" is **NOT** a registered political action committee (PAC) **NOR** is it registered as an independent committee.

19. Additionally, a review of the Wayne County Clerk's public campaign finance database indicates that "BACK THE BENCH" is **NOT** a registered political action committee (PAC) NOR is it registered as an independent committee.
20. Because "BACK THE BENCH" has **NOT** properly registered as a political action committee or independent expenditure committee with the Wayne County Clerk or the Secretary of State, failure to properly file a statement of organization violates MCL 169.224 of the MCFA.
21. Pursuant to MCL 169.224 of the MCFA, "BACK THE BECNH" was required to file a statement of organization registering as a political action committee once the committee expended and/or received funds advocating and/or promoting a candidate for election to a particular office.
22. Pursuant to MCL 169.224(1), "BACK THE BENCH", and its agents, Donn Fresard and Todd Perkins, **SHALL** be assessed a late filing fee in the amount of \$300 by the Wayne County Clerk's office and/or the Secretary of State for failing to file their statement of organization.

23. MCL 168.244(1) provides, in relevant part: “A person who fails to file a statement of organization required by this subsection shall pay a late filing fee of \$10.00 for each business day the statement remains not filed in violation of this subsection. The late filing fee must not exceed \$300.00. A person who violates this subsection by failing to file for more than 30 days after a statement of organization is required to be filed is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.”
24. “BACK THE BENCH” may also qualify as an “independent expenditure committee” as well.
25. MCL 169.224b(1) provides: “One or more persons may create an independent expenditure committee and shall file a statement of organization under section 24. **An independent expenditure committee shall file campaign statements under sections 33 and 35 and as otherwise provided in this act.**” (emphasis supplied).
26. MCL 169.209(3) defines “independent expenditure committee” to mean “a committee formed under section 24b for

the purpose of making independent expenditures under this act.”

27. MCL 169.209(2) defines “independent expenditure” to mean “an expenditure by a person if the expenditure is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a ballot question committee or a candidate, a candidate committee or its agents, or a political party committee or its agents, and if the expenditure is not a contribution to a committee.”

28. “BACK THE BENCH” has failed to file various campaign finance reports required under MCL §§ 169.233 and 169.235 of the MCFA.

29. I am requesting the Secretary of State to assess late filing fees against Donn Fresard, Todd Perkins, and “BACK THE BENCH” for failing to file a statement of organization in accordance with MCL 169.224.

30. I am requesting the Secretary of State to issue a letter to Donn Fresard, Todd Perkins, and “BACK THE BENCH” directing them to file campaign statements required under

MCL 169.233 and 169.235 and assess the appropriate late filing fees, if necessary.

31. Donn Fresard and Todd Perkins are clearly agents of “BACK THE BENCH” based upon their active participation in soliciting donations for the various fundraisers that were held in support of Judges Fresard, Ramsey and Gibson, which required contributors to make their checks made payable to “BACK THE BENCH”.

Judges Fresard and Gibson Have Failed To Properly Report Expenditures and Contributions For The November 8, 2022 General Election.

32. Despite receiving contributions and making expenditures to lawyers and various courts in an effort to remain on the November 8, 2022 general election ballot, a review of Judges Fresard’s and Gibson’s campaign committees’ campaign finance reports filed with the Secretary of State, Judges Fresard’s and Gibson’s campaign committees have failed to properly report the contributions and expenditures for the 2022 election cycle for the November 8, 2022 general election.

33. Upon information and belief, Judges Fresard and Gibson have used their personal funds to pay for legal expenses associated with the various civil actions they have filed and civil actions that have been filed against them and/or Secretary of State seeking their removal from the November 8, 2022 general election ballot.
34. Judges Fresard and Gibson have employed reputable attorneys Juan Mateo and Gerald Evelyn to represent them in the various civil actions that were filed in the Court of Claims, Wayne County Circuit Court, Court of Appeals, and Michigan Supreme Court.
35. Additionally, Judges Fresard and Gibson have employed attorneys Juan Mateo and Gerald Evelyn to represent them in administrative hearings held before the Wayne County Election Commission.
36. None of these expenditures and/or contributions have been properly reported on their campaign finance reports for the 2022 election cycle.

37. Judges Fresard and Gibson's candidate committees shall be fined in accordance with the MCFA.
38. Additionally, Judges Fresard and Gibson's candidate committees shall be ordered to file the appropriate campaign finance reports that contain the required information detailing their contributions and expenditures.
39. If called and sworn as a witness, I am competent to testify as to the facts stated herein.
40. 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.

FURTHER AFFIANT SAYETH NOT.



ROBERT DAVIS
180 Eason
Highland Park, MI 48203
(313) 523-7118
Davisrobert854@gmail.com

Subscribed and sworn to before me

On this 18th day of November, 2022

Desiree Brengman

Notary Public Signature

Desiree Brengman

Printed Name of Notary Public

State of Michigan, County of Macomb

My Commission Expires 05-08-2024

Acting in the County of Oakland

Cc: Hon. Cathy M. Garrett, Wayne County Clerk
Greg Mahar, Director of Elections for Wayne County
Judicial Tenure Commission
Attorney Grievance Commission
Macomb County Prosecutor Peter Lucido



From: Robert Davis
Sent: Thursday, December 22, 2022 1:15 PM
To: Fracassi, Adam (MDOS); Meingast, Heather (AG); Brater, Jonathan (MDOS)
Cc: Fresard, Patricia; Ramsey, Kelly; Juan Mateo; Gerald Evelyn; Cathy M Garrett; Gregory Mahar; Jennifer Redmond; Gil Flowers; Hubbard, Susan; Rhoades, Amy; Beach, Bryan (AG); Bench", Donn Fresard, Todd Russell Perkins, Judge Patricia Fresard, Judge Kelly Ann Ramsey, Judge Sheila Ann Gibson

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Mr. Fracassi,
Per your December 16, 2022 email, please accept this email as a "supplement" to my original campaign finance complaint filed with your office on November 18, 2022 against Attorneys Donn Fresard, Todd Russel Perkins, and the Committees to Elect Judges Patricia Fresard, Kelly Ann Ramsey and Sheila Ann Gibson. The information provided below is a more detailed and accurate account of the information contained on the flyer/email disseminated by Donn which he emailed to Judges and licensed attorneys for a potentially **unlawful joint fundraiser** held on Monday, November 7, 2022 at the home of retiring 36th District Court Judge Deborah Gerladine Bledsoe Ford. This joint fundraiser was purportedly held to support the Committees to Elect (CTE) Patricia Fresard, Kelly Ann Ramsey, and Sheila Ann Gibson-Manning

The email/flyer that I personally saw and read that was in the possession of a licensed attorney and/or judge, contained and stated the following information:

Fundraiser Hosted by Attorney Todd Perkins
Monday, November 7, 2022 from 5:30 pm to 7:30 p.m. at the home of Judge Deborah Geraldine Bledsoe Ford
Address: 1565 Balmoral, Detroit, MI 48203
Contribute by Check: Checks may be payable to: "Back the Bench" and mailed to: Back the Bench, 27735 Jefferson, St. Clair Shores, MI 48081
Contribute online: <https://www.paypal.me/backthebench>
For questions, contact: Donn Fresard, 586-242-2860
This is a joint fundraiser. All donations will be promptly divided one third each to CTE Patricia Freasrd, CTE Kelly Ann Ramsey, and CTE Sheila Gibson-Manning

I am respectfully demanding and requesting that the Secretary of State's office request Donn Fresard and the CTEs to produce a copy of the foregoing flyer/email for the November 7, 2022 joint fundraiser. This purported joint fundraiser violates the Michigan Campaign Finance Act in many respects, as well as the Michigan Code of Judicial Conduct. After reviewing the campaign finance reports filed by the CTE Patricia Fresard, Kelly Ann Ramsey, and Sheila Gibson, notably, **NONE** of the contributions received from this November 7, 2022 joint fundraiser were properly recorded on any of the CTEs' campaign finance reports. Moreover, as noted in the original complaint, "Back the Bench" is **NOT** registered as a PAC, Super PAC, or any other legal entity authorized to accept campaign donations on behalf of candidates and their candidate committees. Additionally, and perhaps more importantly, the campaign finance act does not authorize for campaign donations to be "divided one third each" amongst various candidate committees. This would constitute fraud,

especially considering the organization that the checks were made payable to: "Back the Bench", is **NOT** a registered PAC or Super PAC.

This "supplement" shall be in addition to the allegations set forth in my original complaint filed with your office on November 18, 2022. **Please confirm receipt of this "supplement" with a reply email.**

Respectfully submitted,
/s/ROBERT DAVIS

ROBERT DAVIS

On Fri, Dec 16, 2022 at 4:27 PM Robert Davis

> wrote:

Mr. Fracassi,

I'm just reviewing your email authorizing me to submit a supplement to my original complaint against the named Judges, Donn Fresard, and Attorney Todd Perkins. How would you like for the supplement to be submitted? As a sworn statement? Or can I submit the supplement as a written email? Please advise.

Robert Davis

On Tue, Dec 6, 2022 at 11:18 AM Robert Davis <

> wrote:

Mr. Fracassi:

I am writing for two reasons: (1) to get an update of the status of the campaign finance complaint; and (2) I would like to supplement my original campaign finance complaint against the unregistered group/PAC, "Back The Bench"; Donn Fresard; and the Committees to Elect Judges Fresard, Ramsey and Gibson. Specifically, I would like to supplement my original campaign finance complaint and provide you with additional and more-specific details with respect to the November 7, 2022 Fundraiser hosted by attorney Todd Perkins at the residence of retiring 36th District Court Judge Deborah Geraldine Bledsoe Ford at 1565 Balmoral, Detroit, MI, which was purportedly held on behalf of the unregistered PAC, "Back the Bench", and the Committees to Elect Judges Fresard, Ramsey, and Gibson

Accordingly, please advise if I am able to file a supplement to my original campaign finance complaint. I would like to file said supplement later today. I will await your response.

Respectfully submitted,
Robert Davis

On Fri, Nov 18, 2022 at 4:31 PM Robert Davis

> wrote:

Dear Mr. Fracassi, Ms. Meingast, and Director Brater:

Attached is my sworn campaign finance complaint against "Back the Bench", Donn Fresard, Todd Russell Perkins, Judge Patricia Fresard, Judge Kelly Ann Ramsey, and Judge Sheila Gibson. This new campaign finance complaint is separate and distinct from any other complaint I may have filed against the named violators. Please confirm receipt of this email and its attachment with a reply email.

Respectfully submitted,
Robert Davis



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

January 11, 2023

Back the Bench
1751 Lochmoor
Grosse Pointe Woods, MI 48236

Hon. Kelly Ann Ramsey
8656 Napier
Northville, MI 48168

Donn Fresard
1751 Lochmoor
Grosse Pointe Woods, MI 48236

Hon. Sheila Ann Gibson
19540 Afton Road
Detroit, MI 48203

Hon. Patricia Fresard
1751 Lochmoor
Grosse Pointe Woods, MI 48236

Todd Russell Perkins
615 Griswold, Suite 400
Detroit, MI 48226

Re: *Davis v. Back the Bench et al.*
Campaign Finance Complaint No. 2022 – 11 – 221 – 24

Dear Back the Bench et al.:

The Department of State (Department) has received a formal complaint filed against you by Robert Davis alleging that you violated the Michigan Campaign Finance Act (MCFA or Act). Mr. Davis submitted a supplemental filing in support of the complaint on December 22, 2022.

The complaint raises two allegations that the Department will consider. First, that a group called “Back the Bench” has solicited contributions and failed to properly register as a political action committee and file reports with the appropriate filing official in violation of section 24. Second, the complaint alleges that Judge Fresard, Judge Ramsey, and Judge Gibson failed to report any contributions derived from that fundraiser in violation of section 33. All remaining allegations of the complaint are dismissed as explained below.

The complaint further alleges that the fundraiser was held “to raise funds for Judges Fresard, Ramsey, and Gibson to pay for legal expenses associated with the various court cases that were pending in the Court of Claims, Wayne County Circuit Court, Michigan Court of Appeals, and Supreme Court, which sought to have Judges Fresard, Ramsey, and Gibson removed from the November 8, 2022 general election ballot as judicial candidates.” The complaint does not provide any support of this assertion, nor does the MCFA regulate the rationale for holding fundraisers.

The complaint also alleges that Judge Fresard and Judge Gibson failed to properly report expenditures when they used personal funds to hire attorneys for litigation related to the November 2022 general election. This subject is currently pending before the Department in a request for a Declaratory Ruling which was submitted prior to receiving the instant complaint, the resolution of which will impact any determination in this complaint. Accordingly, this allegation is dismissed.

Next, the complaint alleges that Back the Bench was required to form and register as an independent expenditure committee. An independent expenditure committee is established under section 24b of the Act which provides that independent expenditure committee may not make contributions to candidate committees. MCL 169.224b. Assuming the facts in the complaint as alleged by Mr. Davis are true, if Back the Bench made contributions to the judges' candidate committees, it is unclear why this action would trigger the requirement for Back the Bench to register as an independent expenditure committee given that the law prohibits independent expenditure committees from making contributions to candidates. Accordingly, this allegation is dismissed.

Finally, Mr. Davis alleges violations of sections 32, 47, 54, and 57 on the first page of his complaint, but makes no mention of allegations that can rationally be understood to be related to those sections; therefore, those allegations are dismissed.

A copy of the complaint is included with this notice.

Section 24 requires committees to file a statement of organization with the proper filing official within 10 days after the committee is formed. MCL 169.224(1). Section 24 details specific requirements for all statements of organization that must be filed. See MCL 169.224(2)-(3). A person who fails to file a timely statement is subject to a civil fine of up to \$1,000. MCL 169.221(13). A person who fails to file a statement of organization shall pay a late filing fee of \$10.00 per business day the report is not filed, not to exceed \$300. MCL 169.224(1). A person failing to file a statement of organization after 30 days is guilty of a misdemeanor punishable by a fine of up to \$1,000. *Id.*

The MCFA requires committees to file contributions and expenditures with the appropriate filing official by specific dates. MCL 169.233(1) – (3). The Act requires a committee that receives or expends more than \$1,000 during any election to file campaign finance reports in compliance with the act. MCL 16.233(6). A person who knowingly omits or underreports expenditures required to be disclosed by the Act is subject to a civil fine of not more than \$1,000 or the amount of the expenditures omitted or underreported, whichever is greater. MCL 169.233(11).

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. The investigation and resolution of this complaint is governed by section 15 of the Act and the corresponding administrative rules, R 169.51 *et seq*. An explanation of the process is included in the enclosed guidebook.

If you wish to file a written response to this 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. Materials may be emailed to BOERegulatory@michigan.gov. 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 answer will be provided to Mr. Davis, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing 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 administrative hearing, or referring this matter to the Attorney General for enforcement.

If you have any questions concerning this matter, you may contact the Regulatory Section of the Bureau of Elections at BOERegulatory@michigan.gov.

Sincerely,

Adam Fracassi, Manager
Regulatory Section
Bureau of Elections
Michigan Department of State

c: Robert Davis

Todd Russell Perkins, Esq.
Mohammed Azeem Nasser, Esq.
Adam G. Clements, Esq.
Robert Gross, Esq.
Joshua Thomas, Esq.
Jeremy Bowie, Esq.
Edward Martell, Esq.
Ken Wilson, Esq. - *Of Counsel*
James Stump, Esq. - *Of Counsel*
Hon. Margie R. Braxton, *ret'd*



FORD BUILDING
615 GRISWOLD SUITE 400
DETROIT, MICHIGAN 48226

313.964.1702 OFFICE
313.964.1980 FAX

January 25, 2023

U. S. Mail/Email

Email:

Michigan Department of State
Bureau of Elections
Regulatory Section
c/o Adam Fracassi, *Manager*
430 W. Allegan, 1st Floor
Lansing, Michigan 48918

Re: *Davis v. Back The Bench, et. al.* – Response; Correspondence
Campaign Finance Complaint No. 2022-11-221-24

Dear Mr. Fracassi:

Please be advised that, while I recognize that I am named in the above-referenced complaint, I should not have any responsibility to this matter. I merely served as a host for a fundraiser for “Back The Bench”. I had no official position or position of authority in any of the campaigns.

If you have any questions or comments, do not hesitate to contact me.

Respectfully,

A handwritten signature in dark ink, appearing to read "Todd Russell Perkins", is written over the word "Respectfully,".

TODD RUSSELL PERKINS
THE PERKINS LAW GROUP PLLC

TRP/cs

CC: Robert Davis (via email)
Back The Bench (via email)
Donn Fresard (via email)
Hon. Patricia Fresard (via email)
Hon. Sheila Ann Gibson (via email)
Hon. Kelly Ann Ramsey (via email)
File

January 26, 2023

Adam Fracassi
Manager, Regulatory Section
Bureau of Elections
Michigan Department of State
Richard H. Austin Building, 1st Floor
430 W. Allegan
Lansing, MI 48918

Re: *Davis v. Back the Bench et al.*
Campaign Finance Complaint No. 2022-11-221-24
January 11, 2023, Letter

Dear Mr. Fracassi:

Please accept this response on behalf of all of the addressees of your January 11, 2023, letter regarding this matter. This response only addresses two claims by Mr. Davis: (1) Back to the Bench failed to register as a political action committee and file reports with the appropriate filing official and (2) Judge Fresard, Judge Ramsey, and Judge Gibson failed to report any contributions derived from that fundraiser. All of Mr. Davis's remaining claims were dismissed.

By way of background, Mr. Davis's campaign finance complaints are part of his failed (and frivolous) attempts to prevent Judge Fresard, Judge Ramsey, and Judge Gibson from holding office as duly elected Wayne County Circuit Court Judges. Indeed, the Michigan Court of Appeals recently detailed that Mr. Davis's legal actions were undertaken with the purpose of harassing Judge Fresard, Judge Ramsey, and Judge Gibson. **Exhibit One, Court of Appeals 1/24/23 Order.** And in another case before the Court of the Appeals, the Presiding Judge has preemptively asked the parties to address whether Mr. Davis's appeal is frivolous. **Exhibit Two, Court of Appeals 12/29/2022 Order.** Thus, Mr. Davis's campaign finance complaints here (which are inextricably linked with his legal actions) must be viewed the prism of his unfounded (and unsuccessful) vendetta to unseat Judge Fresard, Judge Ramsey, and Judge Gibson.

On January 24, 2023, Judge Ramsey received a preliminary ruling from the Michigan Department of State, which validated her use of campaign funds to cover attendant legal expenses. **Exhibit Three, Michigan Department of State 1/24/23 Preliminary Ruling.** And prior to holding the Back the Bench fundraiser, same was properly vetted and approved.

I reviewed the statute and determined that, inasmuch as all the contributions and expenditures were to be properly recorded in the committee statements, the statutory goal of disclosing contributors and expenditures would be satisfied, and that nothing in the statute mandated that a convenience platform such as Back the Bench be registered as any sort of a committee.

Back the Bench is not a candidate committee, nor is it a political action committee, and its sole function was to make it easier for contributors so they could write one check instead of three. No Back the Bench contributor lodged a complaint. All of the money contributed was divided between the three incumbent campaign committees, and all of their reports are filed with every contributor's name, address, occupation, and amount recorded.

Thus, I respectfully request that Mr. Davis's remaining complaints be dismissed, and this matter be closed. Should you require additional information, please feel free to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Donn Fresard", with a stylized, flowing script.

Donn Fresard, Esq.

Back the Bench

Exhibit 1

Court of Appeals, State of Michigan

ORDER

Robert Davis v Wayne Circuit Judge

Docket No. 364222

Michael F. Gadola
Presiding Judge

Christopher M. Murray

Michael J. Riordan
Judges

The motion to file an amicus curiae brief on behalf of defendants is GRANTED. The brief that was received on January 11, 2023, is accepted for filing.

The motion for “summary disposition” is DENIED because it is not the type of pleading or brief that may be filed in response to an original action in this Court. See MCR 7.206(D)(2).

The motion for immediate consideration of the motion to file an amended/corrected response is GRANTED.

The motion to file an amended/corrected response is GRANTED and the amended/corrected response filed with the motion is accepted.

The complaint for quo warranto is DENIED.

The Court also concludes that plaintiff Davis has submitted a frivolous pleading and did so for an improper purpose, i.e., to harass defendants. He is therefore subject to sanctions. MCR 1.109(E)(5)(b)&(c); MCR 1.109(E)(7)(allowing court to impose sanctions for “a party pleading a frivolous claim or defense.”).

Our conclusion is based in large part on the undisputed fact that this is the fifth time Davis has raised the exact issue raised in the current complaint. His arguments were rejected in all prior four cases. See *Davis v Benson et al*, opinion and order of the Court of Claims, issued September 2, 2022 (Docket Nos. 22-00125; 22-000141-MZ; 22-000143-MZ); *Davis v Wayne Co Election Comm et al.*, opinion and order of the Wayne Circuit Court, issued October 28, 2022 (Docket No. 22-008866-AW); *Davis v Third Judicial Circuit*, opinion and order of the Court of Claims, issued November 11, 2022 (Docket Nos. 22-000121-MM; 22-000163-MM), and *Davis v Wayne Co*, opinion and order of the Wayne Circuit Court, issued December 7, 2022 (Docket No. 22-013908-AW). While he has slightly changed the way in which the issue was presented, he has nevertheless persisted in raising the issue despite four prior dismissals on the merits.

Moreover, after the first claim was dismissed for being untimely, he has subsequently filed four repetitive claims, with each one being filed later than the others. And the instant case is essentially an impermissible collateral attack—albeit with a new label—on all the prior actions. Given the repeated dismissals of his claims, including the dismissal of a prior action for quo warranto, we hold that the instant

action is frivolous and that plaintiff Davis signed the complaint in violation of MCR 1.109(E)(5)-(6). Plaintiff Davis could not reasonably believe that, after having four actions dismissed for being untimely, a fifth action, which was filed later still, would somehow be timely or meritorious. Nor could he reasonably believe that he could continue to raise the same issue that has repeatedly been rejected by other courts.

Moreover, in light of the repeat nature of these filings and the number of months he has continued to raise the same issues over and over again, we find that he has brought this complaint for an improper purpose: to harass defendants. Indeed, he has persisted in raising this issue despite having his underlying claim rejected time after time. Even the election—and a prior dismissal of an action for quo warranto—did not stop his efforts. With this being his fifth bite at the apple, there can be no reasonable belief in the merits of plaintiffs' claim, making it apparent that the purpose of this action was to harass defendants.

A document signed in violation of the rule allows the Court, on its own motion or on a motion of a party, to impose sanctions on the signer, "which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the document, including reasonable attorney fees." MCR 1.109(E)(6). The sanctions available under the rule include the relief afforded by MCR 2.625(A)(2) and MCL 600.2591. These sanctions include "reasonable attorney fees" incurred by the prevailing party. MCL 600.2591(2). The party requesting fees bears the burden of demonstrating the reasonableness of the fees. *Pioneer State Mutual Ins Co v Michalek*, 330 Mich App 138, 148; 946 NW2d 812 (2019).

Defendants shall file within 21 days of the Clerk's certification of this order a brief outlining the reasonable costs and attorney fees incurred in defending this action, including all appropriate exhibits supporting those fees and costs. Plaintiff Davis may file a response within 14 days from the date defendants' brief is filed with this Court. The need for any further proceedings will be determined by the Court.


Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

January 24, 2023
Date


Chief Clerk

Exhibit 2

Court of Appeals, State of Michigan

ORDER

Robert Davis v County of Wayne

Docket No. 364133

LC No. 22-013902-AW

Noah P. Hood
Presiding Judge

Christopher M. Murray

Michael J. Riordan
Judges

The motion for immediate consideration is GRANTED.

The motion to expedite is GRANTED. The appellant's brief shall be due no later than 14 days from the filing of the transcript with the trial court clerk. The appellees' brief shall be due 7 days from the service of the appellant's brief. No reply brief or extension of time will be allowed except by order of the Court.

The Court directs the parties to address the issue of whether plaintiff's appeal is frivolous in light of *Davis v Secretary of State*, unpublished opinion of the Court of Claims, issued November 11, 2022 (Docket No. 22-121), and *Davis v Wayne County Election Commission*, unpublished opinion per curiam of the Court of Appeals, issued June 2, 2022 (Docket No. 361546).

The Clerk of the Court is directed to place this matter on the next available case call after the expiration of the time to file appellees' brief.


Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

December 29, 2022
Date


Chief Clerk

Exhibit 3



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

January 24, 2023

Kelly Ann Ramsey for Judge 2022
Richard L. Cunningham, Treasurer
9311 E. Outer Drive
Detroit, MI 48213

Dear Mr. Cunningham:

The Department of State (Department) acknowledges receipt of your letter dated November 12, 2022, in which you sought a declaratory ruling or interpretive statement under the Michigan Campaign Finance Act (Act or MCFA).

In accordance with publication and public comment period requirements, the Department posted your request on its website and informed email subscribers of the deadline to file written comments. MCL 169.215(2). The Department did not receive any public comments during the initial public comment period.

The MCFA and Administrative Procedures Act (APA), 1969 PA 306, MCL 24.201 et seq., require the Department to issue a declaratory ruling if an interested person submits a written request that presents a question of law and a reasonably complete statement of facts. MCL 24.263, 169.215(2). If the Department declines to issue a declaratory ruling, it must instead offer an interpretive statement "providing an informational response to the question presented[.]" MCL 169.215(2).

Your letter indicates that Judge Kelly Ann Ramsey was one of the Wayne County Circuit Court Judges whose term expired at the end of 2022. As a result, Judge Ramsey filed an affidavit of incumbency indicating that she would run for re-election and was subsequently certified for the ballot. You further indicate that after the 2022, primary election, Robert Davis initiated several different legal actions, in different courts, seeking to disqualify Judge Ramsey and several other incumbent judges from the November 8, 2022, General Election ballot. To protect her interests, Judge Ramsey needed the representation of counsel and thus retained attorneys to represent her in the lawsuits. You state that seeing the costs of such professional representation as being necessary and proper to ensure that she would remain on the ballot, and thus incidental to her re-election, Judge Ramsey's committee began fundraising efforts with the intent to use campaign contributions to pay those attorney fees directly related to the lawsuits seeking her disqualification.¹

¹ Your letter also raises implications of the Legal Defense Fund Act and the Michigan Code of Judicial Conduct. This declaratory ruling does not interpret either and is limited only to the question presented: whether the MCFA permits Judge Ramsey to use campaign funds to make an expenditure for legal fees related to her status as a candidate.

This statement of facts is sufficient to warrant the issuance of a declaratory ruling regarding whether campaign contributions received during Judge Ramsey's campaign may be used to pay attorney fees directly related to representing Judge Ramsey on the legal actions initiated by Robert Davis to disqualify her and remove her from the ballot. As is customary, the Department starts with the plain language of the Act. In interpreting a statute, the goal is to "ascertain and give effect to the intent of the Legislature." *People v Gardner*, 482 Mich 41, 50 (2008), quoting *People v Pasha*, 466 Mich 378, 382. "To do so, we begin with the language of the statute, ascertaining the intent that may reasonably be inferred from its language. When the language of a statute is unambiguous, the Legislature's intent is clear and judicial construction is neither necessary nor permitted." *Odom v Wayne County*, 482 Mich 459, 467 (2008), quoting *Lash v Traverse City*, 479 Mich 180, 187 (2007).

In defining expenditures under section 6 of the Act, the Legislature has provided a guiding framework for limiting how and to whom committees may disburse their money. Registered committees are subject to a number of limitations when making expenditures. "Expenditures by a candidate committee must be made for the purpose of influencing an election, not for the personal benefit of an individual." *Interpretive Statement to Christopher Rose*, Issued November 2, 1978. Candidate committees are allowed disbursements only if those proposed disbursements qualify as expenditures², which in turn are subject to limitations.

The Legislature has authorized officeholders the ability to make incidental expenses which are "an expenditure that is an ordinary and necessary expense, paid or incurred in carrying out the business of an elective office." MCL 169.209(1). Section 21a of the Act explicitly states, in relevant part:

(2) A candidate committee of a candidate who is elected or appointed to an elective office shall not make an expenditure to defend the elected or appointed official in a civil or criminal action or to pay legal costs *unless the action or legal costs do any of the following*:

- (a) Relate to a recall election.
- (b) Relate to a recount of votes as provided in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.
- (c) *Relate to compliance with this act or the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.*

MCL 169.221a(2)(a)-(c) (emphasis added).³

In your statement of facts presented, you have indicated that Mr. Davis initiated litigation which sought to disqualify Judge Ramsey from the November 2022 General Election ballot, and as a defendant in those matters, Judge Ramsey hired an attorney to represent her. As indicated, Judge

² "Expenditure" is defined in relevant part as a payment of anything of ascertainable monetary value in assistance of or opposition to the nomination or election of a candidate. MCL 169.206(1).

³ Subsection 2 was added in 2012 by Public Act 275. In an Opinion interpreting the previous version, Attorney General Mike Cox concluded that under section 21a of the Act, a candidate committee may make an expenditure for an incidental expense to pay for legal fees incurred by the officeholder to defend against criminal charges, but only if the expense is an ordinary and necessary expense of carry out the business of elected office. [OAG, 2009, No. 7240](#).

Richard Cunningham

January 24, 2023

Page 3

Ramsey fundraised and, as her treasurer, you wish to use these funds to make an expenditure to pay for attorney's fees. This expenditure is explicitly provided for under section 21a of the Act as the litigation related to whether Judge Ramsey's affidavit of identity properly complied with the Michigan Election Law and whether Judge Ramsey was therefore eligible to be a candidate on the November 2022 General Election ballot.

Therefore, in response to your question of whether campaign contributions may be used to pay attorney fees directly related to legal actions brought against Judge Ramsey by Robert Davis, the Department concludes that the Act does specifically authorize Judge Ramsey to use her candidate committee funds to pay legal fees associated with Davis lawsuits which are directly challenging her compliance with the Michigan Election Law. Such expenditures must be properly reported on the appropriate reporting schedule as direct expenditures.

The foregoing constitutes a declaratory ruling with respect to the questions presented in your November 12, 2022, letter.

Sincerely,



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

February 8, 2023

Robert Davis
180 Eason
Highland Park, MI 48203

Via email

Re: *Davis v. Back the Bench et al.*
Campaign Finance Complaint No. 2022-11-221-24, 32, 33, 35, 47, 54, 57

Dear Mr. Davis:

The Department of State received responses from all respondents to the complaint you filed against them alleging a violation of the Michigan Campaign Finance Act, 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the response is provided as an enclosure with this letter.

You may file a rebuttal statement after reviewing the enclosed response. If you elect to file a rebuttal statement, you are required to do so within 10 business days of the date of this letter. The rebuttal statement may be emailed to BOERegulatory@Michigan.gov or mailed to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

Regulatory Section
Bureau of Elections
Michigan Department of State

c: Back the Bench
Donn Fresard
Hon. Patricia Fresard
Hon. Sheila Ann Gibson
Hon. Kelly Ann Ramsey
Todd Russell Perkins

**STATE OF MICHIGAN
SECRETARY OF STATE**

ROBERT DAVIS,

Complainant/Petitioner,

Case No. 2022-11-221-24

v

BACK THE BENCH, *et.al.*,

Respondents.

**COMPLAINANT/PETITIONER ROBERT DAVIS' REBUTTAL TO
RESPONDENTS *BACK THE BENCH*, CITIZENS TO ELECT
PATRICIA SUSAN FRESARD, KELLY ANN RAMSEY FOR
JUDGE 2022, COMMITTEE TO RE-ELECT JUDGE SHEILA ANN
GIBSON AND TODD PERKINS' RESPONSES.**

NOW COMES, Complaint/Petitioner, ROBERT DAVIS, in his own proper person, and for his Rebuttal to Respondents *Back The Bench*, Citizens to Elect Patricia Susan Fresard, Kelly Ann Ramsey for Judge 2022, Committee to Re-Elect Judge Sheila Ann Gibson, and Todd Perkins' January 25th and 26th, 2023 Responses, states the following:

A. Introduction

On January 25, 2023, attorney Todd Russel Perkins filed a response on his own behalf to Petitioner Davis' campaign finance complaint, No. 2022-11-221-24. The next day, on January 26, 2023, attorney Donn Fresard, who also serves as the Chief Assistant

Prosecuting Attorney for Macomb County, filed a response on behalf of “*Back The Bench*”; Citizens to Elect Patricia Susan Fresard; Kelly Ann Ramsey for Judge 2022; and the Committee to Re-Elect Judge Sheila Ann Gibson.

On February 8, 2023, the Secretary of State’s office issued Petitioner Davis a letter informing him of his right to file a rebuttal to each of the responses that were filed by attorneys Todd Russel Perkins and Donn Fresard, along with providing Petitioner Davis with copies of the respective responses that were filed. Thus, in accordance with the Michigan Campaign Finance Act (MCFA) and the Secretary of State’s February 8, 2023 letter, Petitioner Davis files this rebuttal.

B. Law and Legal Analysis

1. “Back The Bench” Was A “Committee” As That Term Is Defined Under MCL 169.203(4) of the MCFA.

Petitioner Davis’ instant campaign finance complaint properly alleges that Respondent “*Back The Bench*” was a “committee” as that term is defined under MCL 169.203(4) of the MCFA, and thus, was required to file a statement of organization and register as a “political action committee” under MCL 169.224(1).

It is well-settled in Michigan jurisprudence that “[w]hen a statute specifically defines a given term, that definition alone controls.” *Haynes v Neshewat*, 477 Mich. 29, 35; 729 NW2d 488 (2007). MCL 169.203(4) of the MCFA defines the term “**committee**” to mean:

“a person that receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party, if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year. Except as restricted or prohibited by this act or other state or federal law, a committee may also make other lawful disbursements....”
(emphasis supplied).

MCL 169.211(2) of the MCFA defines the term “**person**” to mean:

“a business, individual, proprietorship, limited liability company, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, *committee, or any other organization or group of persons acting jointly.*”

MCL 169.224(1) of the MCFA further provides:

(1) A committee shall file a statement of organization with the filing officials designated in section 36 to receive the committee's campaign statements. ***A committee shall file a statement of organization within 10 days after the committee is formed.*** A filing official shall maintain a statement of organization filed by a committee until 5 years

after the official date of the committee's dissolution. A person who fails to file a statement of organization required by this subsection shall pay a late filing fee of \$10.00 for each business day the statement remains not filed in violation of this subsection. The late filing fee must not exceed \$300.00. A person who violates this subsection by failing to file for more than 30 days after a statement of organization is required to be filed is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00. (emphasis supplied).

Here, the facts surrounding the creation of the entity, “Back The Bench”, are undisputed. The entity, “*Back The Bench*”, was created to accept “***contributions***” from two purportedly “joint fundraisers” held by Citizens to Elect Patricia Susan Fresard; Kelly Ann Ramsey for Judge 2022; and the Committee to Re-Elect Judge Sheila Ann Gibson. (See **Donn Fresard’s January 26, 2023 Response**; and see **Richard Cunningham’s November 14, 2022 Letter to SOS Benson Requesting a Fee Waiver of Late Filing Fees on Behalf of Kelly Ann Ramsey for Judge 2022**). Once these “***contributions***” were received, said “***contributions***” would be split evenly—three ways—amongst Citizens to Elect Patricia Susan Fresard; Kelly Ann Ramsey for Judge 2022; and the Committee to Re-Elect Judge Sheila Ann Gibson. (See **Donn Fresard’s January 26, 2023 Response**; and see

Richard Cunningham’s November 14, 2022 Letter to SOS Benson Requesting a Fee Waiver of Late Filing Fees on Behalf of Kelly Ann Ramsey for Judge 2022).

In fact, in his November 14, 2022 Letter to SOS Benson, Richard Cunningham, who serves as the Treasurer for Kelly Ann Ramsey for Judge 2022, described in detail the “late contributions” that had been received by “*Back The Bench*” on behalf of the three candidate committees at the October 27, 2022 fundraiser held at the Atheneum Suite Hotel. (See **Richard Cunningham’s November 14, 2022 Letter to SOS Benson Requesting a Fee Waiver of Late Filing Fees on Behalf of Kelly Ann Ramsey for Judge 2022**).

Similarly, in his January 26, 2023 response, Donn Fresard writes that *Back The Bench’s* “**sole function was to make it easier for contributors so they could write one check instead of three.**” (See **Donn Fresard’s January 26, 2023 Response**). Donn Fresard further admits that “[a]ll of the money contributed was divided between the three incumbent campaign committees..” (*Id.*)

Thus, by the candidate committees’ own admissions, “Back The Bench” received “***contributions***” and made “***expenditures***” to the

three incumbent judges campaign committees. More importantly, by their own admissions, it is also undisputed that “*Back The Bench*” was the creation of the three incumbent judicial candidate committees “*acting jointly*” to raise funds to cover their respective campaign debts created by litigation. (See **Donn Fresard’s January 26, 2023 Response**; and see **Richard Cunningham’s November 14, 2022 Letter to SOS Benson Requesting a Fee Waiver of Late Filing Fees on Behalf of Kelly Ann Ramsey for Judge 2022**).

Again, the MCFA defines, in relevant part, the term “committee” as:

“a person that receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party, if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year.” [MCL 169.203(4)] (emphasis supplied)

And, the MCFA defines, in relevant part, the term “person” to mean:

“a business, individual, proprietorship, limited liability company, firm, partnership, joint venture, syndicate,

business trust, labor organization, company, corporation, association, ***committee, or any other organization or group of persons acting jointly.***” [MCL 169.211(2)] (emphasis supplied).

It is undisputed that the three candidate committees created the entity “*Back The Bench*” to accept “contributions” and make “expenditures” to their respective candidate committees. Therefore, the three candidate committees “*acting jointly*” to create the entity “Back The Bench” and to organize two “joint fundraisers” were deemed to be “*persons*” as that term is defined under MCL 169.211(2). Thus, the entity, “*Back The Bench*”, constituted a “committee” as that term is defined under MCL 169.203(4).

Now that it has been established that the entity, “*Back The Bench*”, constituted a “committee” under MCL 169.203(4), it is now necessary to analyze the statutory provisions of the MCFA that govern the filing requirements of a “committee”. MCL 169.224(1) of the MCFA sets for the deadline by which a “committee” is required to file a “statement of organization” with either the Secretary of State or County Clerk.

MCL 169.224(1) of the MCFA provides:

(1) A committee shall file a statement of organization with the filing officials designated in section 36 to receive the committee's campaign statements. ***A committee shall file a statement of organization within 10 days after the committee is formed.*** A filing official shall maintain a statement of organization filed by a committee until 5 years after the official date of the committee's dissolution. A person who fails to file a statement of organization required by this subsection shall pay a late filing fee of \$10.00 for each business day the statement remains not filed in violation of this subsection. The late filing fee must not exceed \$300.00. A person who violates this subsection by failing to file for more than 30 days after a statement of organization is required to be filed is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00. (emphasis supplied).

Thus, once the three candidate committees formed the entity, “*Back The Bench*”, or opened the bank account at Comerica Bank in the entity’s name, Donn Fresard and the others had 10 days to file a statement of organization with either the Secretary of State or the Wayne County Clerk. As further evidence of “*Back The Bench*’s” independence, one does not have to look any further than attorney Todd Perkins January 25, 2023 response, in which he stated: “**I merely served as a host for a fundraiser for “*Back The Bench*”.** (See **Attorney Todd Perkins January 25, 2023 Response**). Additionally, pursuant to MCL 169.233(3) and (6), the entity, “*Back The Bench*” was

also required to file campaign statements because they received more than \$1,000 in contributions during a period covered by respective campaign statements.

2. Contributions Made To *Back The Bench*, Who In Turn Made Contributions To The Three Incumbent Candidate Committees Constitute “Bundled Contributions” Under MCL 169.231 of The MCFA.

It is apparent from their filed response, that neither Donn Fresard nor any of the incumbent judges he filed the response on behalf of, understand nor comprehend the clear and unambiguous provisions of the MCFA. Despite their apparent ignorance of the law, it is readily apparent that the contributions the entity, “*Back The Bench*” received on behalf of the three incumbent judicial candidate committees, constitute “Bundled Contributions” as that term is defined under MCL 169.231 of the MCFA.

MCL 169.231(1) of the MCFA provides:

(1) A contribution that is controlled by, or made at the direction of, another person, including a parent organization, subsidiary, division, committee, department, branch, or local unit of a person, shall be reported by the person making the contribution and shall be regarded for purposes of contribution limits as a contribution attributable to both persons.

MCL 169.231(2) of the MCFA further provides:

(2) A bundled contribution or a contribution that is delivered as part of a bundled contribution shall be regarded for purposes of contribution limits as both a contribution attributable to the bundling committee that delivered the contribution and a contribution attributable to the individual making the contribution.

Here, it is undisputed that it was understood by the contributors who made contributions to the entity, “*Back The Bench*”, that their contribution would be divided equally three ways amongst the three incumbent judges’ candidate committees. Accordingly, pursuant to MCL 169.231(1) and (2), said contributions made to the entity, “*Back The Bench*”, which were subsequently divided equally amongst the three incumbent judges’ candidate committees, should have been properly reported by “*Back The Bench*” **and** by the three incumbent judges’ candidate committees.

3. Committee To Re-Elect Judge Sheila Ann Gibson Failed To File 2022 Pre *and* Post-General Election Campaign Statements and Late Contribution Reports.

It is clearly evident that the Committee To Re-Elect Judge Sheila Ann Gibson failed to file the required campaign statements for the 2022 election cycle. On February 6, 2023, the Secretary of State’s office properly issued numerous Notices of Failure to File and Late Filing

Fees to the Committee to Re-Elect Judge Sheila Ann Gibson for its failure to file the 2022 ***Post***-General Election campaign statement.

However, upon information and belief, the Committee to Re-Elect Judge Sheila Ann Gibson **also failed to file the required 2022 Pre-General Election campaign statement**, as well as Late Contribution Reports for late contributions all three candidate committees admittedly received from various donors. Thus, contrary to Donn Fresard's false statement, **NONE** of the three candidate committees have properly filed the required campaign statements properly reporting all contributions and expenditures of their respective candidate committees.

Judge Sheila Ann Gibson's Candidate Committee Failed To File 2022 Pre-General Campaign Statement.

As noted, on February 6, 2023, the Secretary of State issued Notices of Failure to File and Late Filing Fee Notices to Judge Sheila Gibson's candidate committee for their failure to file the 2022 Post-General Campaign Statement. However, the Secretary of State did not issue Judge Sheila Gibson's candidate committee a Notice of Failure to File the Pre-General Campaign Statement. The evidence in the record, and attached hereto, clearly proves that Judge Sheila Gibson's

candidate committee received and/or expended \$1,000 or more during the reporting period for the 2022 Pre-General Campaign Statement as well.

The 2022 Pre-General Campaign Statement's reporting period was from **August 22, 2022 through October 23, 2022**. On **August 31, 2022**, Judge Sheila Gibson along with Judges Patricia Fresard and Kelly Ann Ramsey filed their own civil lawsuit in the Court of Claims against the Secretary of State. (**See Register of Actions in the matter of *Fresard, Ramsey, and Gibson v Jocelyn Benson*, Court of Claims Docket No. 22-000143-MZ attached**). Judge Gibson's civil lawsuit filed in the Court of Claims against the Secretary of State was filed on her behalf by attorneys Juan Mateo and Gerald Evelyn. (**See Register of Actions in the matter of *Fresard, Ramsey, and Gibson v Jocelyn Benson*, Court of Claims Docket No. 22-000143-MZ; and see September 2, 2022 Opinion and Order of Judge Swartzle attached**).

On that same day, **August 31, 2022**, attorneys Gerald Evelyn and Juan Mateo also filed a motion to file an *amicus* brief on behalf of Judge Sheila Ann Gibson in the ***separate*** civil action *Robert Davis v*

Jocelyn Benson, Court of Claims Case No. 22-000125-MM. (See **Register of Actions *Davis v Benson***, Court of Claims Case No. 22-000125-MM; and **September 2, 2022 Opinion and Order of Judge Swartzle attached**).

It has been clearly established by campaign statements and other filings made by the candidate committees for Judges Fresard and Ramsey, that attorneys Gerald Evelyn and Juan Mateo were paid for their representation of Judges Gibson, Fresard, and Ramsey in the various civil litigations. Thus, it is clear from the two (2) Court of Claims cases cited above that Judge Gibson's candidate committee expended more than a \$1,000 during the reporting period for the 2022 *Pre-General Campaign Statement*. Even if Judge Gibson's candidate committee were to somehow lie and argue that attorneys Gerald Evelyn and Juan Mateo's legal services were provided to **her** *pro bono*, said *pro bono* work would have had to been reported as either an "in-kind" contribution and/or expenditure.

CONCLUSION

WHEREFORE, for the foregoing reasons and for the reasons stated in Petitioner Davis' original campaign finance complaint against the alleged violators named herein, the Secretary of State shall issue a

notice forthwith declaring that “*Back The Bench*” was a “committee” as that term is defined under the MCFA that was required to register as a “political action” committee and file the required reports; issue a notice declaring that the Committee To Re-Elect Judge Sheila Ann Gibson has failed to file the required ***Pre and Post*** 2022 General Election Campaign Statements and Late Contribution Reports; issue a notice declaring that the Citizens to Elect Patricia Susan Fresard and the Kelly Ann Ramsey for Judge 2022 have failed to file the required Late Contribution Reports; and assess the named violators the appropriate late filing fees as required under the MCFA.

Dated: February 13, 2023 Respectfully submitted,
/s/ROBERT DAVIS
ROBERT DAVIS, *Pro Se*
 Complainant/Petitioner
 180 Eason
 Highland Park, MI 48203
 (313) 523-7118
Davisrobert854@gmail.com

STATE OF MICHIGAN COURT OF CLAIMS	REGISTER OF ACTIONS	CASE ID 22-000143-MZ C/COC/MI	Public 2/1/2023 3:53:41 PM Page: 1 of 2
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CASE

Judicial Officer	Date Filed	Adjudication	Status
SWARTZLE, BROCK	8/31/22	ORDER ENTERED 9/2/22	CLOSED 9/2/22

PARTICIPANTS

PLAINTIFF 1	FRESARD, PATRICIA SUSAN	FILED: 8/31/22
	ATTY: JUAN A. MATEO # 33156 PRIMARY RETAINED	
PLAINTIFF 2	GIBSON, SHEILA ANN	FILED: 8/31/22
	ATTY: JUAN A. MATEO # 33156 PRIMARY RETAINED	
PLAINTIFF 3	RAMSEY, KELLY ANN	FILED: 8/31/22
	ATTY: JUAN A. MATEO # 33156 PRIMARY RETAINED	
DEFENDANT 1	BENSON, JOCELYN	FILED: 8/31/22

RECEIVABLES/PAYMENTS

	Assessed	Paid/Adjusted	Balance
PTF 1 PATRICIA SUSAN FRESARD	\$175.00	\$175.00	\$0.00

RELATED CASES

Case ID	Entitlement	Primary/Secondary
22-000141-MZ	MARK T SLAVENS V JOCELYN BENSON	Secondary

CHRONOLOGICAL LIST OF ACTIVITIES

Activity Date	Activity	User	Entry Date
8/31/22	SUMMONS AND COMPLAINT	ma	9/1/22
	PTF 1	ma	9/1/22
	PTF 2		
	PTF 3		
	DEF 1		
8/31/22	BRIEF FILED IN SUPPORT OF PLAINTIFFS' COMPLAINT FOR DECLARATORY RELIEF	ma	9/1/22
	PTF 1		
	PTF 2		
	PTF 3		
8/31/22	MOTION TO CONSOLIDATE	ma	9/1/22
	PTF 1		
	PTF 2		
	PTF 3		
8/31/22	MOTION FOR IMMEDIATE CONSIDERATION	ma	9/1/22
	PTF 1		
	PTF 2		
	PTF 3		
8/31/22	JUDICIAL OFFICER ASSIGNED TO SHAPIRO, DOUGLAS B. P39827	ma	9/1/22
8/31/22	JUDICIAL OFFICER REASSIGNED FROM SHAPIRO, DOUGLAS B. P39827	ma	9/1/22

STATE OF MICHIGAN COURT OF CLAIMS	REGISTER OF ACTIONS	CASE ID 22-000143-MZ C/COC/MI	Public 2/1/2023 3:53:41 PM Page: 2 of 2
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Activity Date	Activity	User	Entry Date
8/31/22	RECEIVABLE MOTION FEE \$20.00	ma	9/1/22
8/31/22	RECEIVABLE ELECTRONIC FILING SYSTEM FEE \$25.00	ma	9/1/22
8/31/22	RECEIVABLE FILING FEE \$150.00	ma	9/1/22
9/1/22	RECEIVABLE ADJUSTMENT MOTION FEE (\$20.00) motion filed with complaint - fee assessed in error CLERICAL DECREASE AMOUNT	ma	9/1/22
9/1/22	PAYMENT \$175.00 RECEIPT NUMBER: COC-LAN.0006537 METHOD: ELECTRONIC FUND TRANSFER \$175.00 Bundle - TEMP-9KD2VBGV-27033182	ma	9/1/22
9/1/22	ORDER OF REASSIGNMENT PURSUANT TO MCR 8.111(D) GLEICHER, ELIZABETH 30369	ma	9/1/22
9/1/22	JUDICIAL OFFICER ASSIGNED TO SWARTZLE, BROCK A 58993	ma	9/1/22
9/1/22	NOTICE OF FILING SUPPLEMENTAL EXHIBIT 4A TO COMPLAINT PTF 1 PTF 2 PTF 3	ma	9/1/22
9/2/22	OPINION AND ORDER DEF 1	ma	9/2/22
9/2/22	CLOSE CASE STATUS	ma	9/2/22

STATE OF MICHIGAN COURT OF CLAIMS	REGISTER OF ACTIONS	CASE ID 22-000125-MM C/COC/MI	Public 9/2/2022 4:05:17 PM Page: 1 of 4
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CASE

Judicial Officer	Date Filed	Adjudication	Status
SWARTZLE, BROCK	8/16/22	SUMMARY DISPOSITION 9/2/22	CLOSED 9/2/22

PARTICIPANTS

PLAINTIFF 1	DAVIS, ROBERT	FILED: 8/16/22
	ATTY: - PRO PER # 99999 PRIMARY RETAINED	
DEFENDANT 1	BENSON, JOCELYN	FILED: 8/16/22
	ATTY: HEATHER S. MEINGAST # 55439 PRIMARY RETAINED	
MISCELLANEOUS 1	CRESPO, LAKENA T	FILED: 8/22/22
	ATTY: CHRISTOPHER M. TREBILCOCK # 62101 PRIMARY RETAINED	
MISCELLANEOUS 2	SLAVENS, MARK THOMAS	FILED: 8/31/22
	ATTY: STEVEN C. LIEDEL # 58852 PRIMARY RETAINED	
MISCELLANEOUS 3	GIBSON, SHEILA A	FILED: 8/31/22
	ATTY: JUAN A. MATEO # 33156 PRIMARY RETAINED	
MISCELLANEOUS 4	FRESARD, PATRICIA S	FILED: 8/31/22
	ATTY: JUAN A. MATEO # 33156 PRIMARY RETAINED	
MISCELLANEOUS 5	RAMSEY, KELLY ANN	FILED: 8/31/22
	ATTY: JUAN A. MATEO # 33156 PRIMARY RETAINED	
INTERVENING PARTY 1	THIRD JUDICIAL CIRCUIT COURT OF MICHIGAN	FILED: 8/31/22
	ATTY: DONALD D. CAMPBELL # 43088 PRIMARY RETAINED	

RECEIVABLES/PAYMENTS

	Assessed	Paid/Adjusted	Balance
PTF 1 ROBERT DAVIS	\$195.00	\$195.00	\$0.00
	Assessed	Paid/Adjusted	Balance
DEF 1 JOCELYN BENSON	\$20.00	\$20.00	\$0.00
	Assessed	Paid/Adjusted	Balance
MISC 1 LAKENA T CRESPO	\$20.00	\$20.00	\$0.00
	Assessed	Paid/Adjusted	Balance
IVP 1 THIRD JUDICIAL CIRCUIT COURT OF MICHIGAN	\$20.00	\$20.00	\$0.00

RELATED CASES

Case ID	Entitlement	Primary/Secondary
22-000141-MZ	MARK T SLAVENS V JOCELYN BENSON	Secondary

CHRONOLOGICAL LIST OF ACTIVITIES

Activity Date	Activity	User	Entry Date
8/16/22	SUMMONS AND COMPLAINT	ma	8/16/22
		ma	8/16/22

STATE OF MICHIGAN COURT OF CLAIMS	REGISTER OF ACTIONS	CASE ID 22-000125-MM C/COC/MI	Public 9/2/2022 4:05:17 PM Page: 2 of 4
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Activity Date	Activity	User	Entry Date
	PTF 1 DEF 1		
8/16/22	MOTION - EMERGENCY MOTION FOR DECLARATORY JUDGMENT, WRIT OF MANDAMUS AND ORDER TO SHOW CAUSE PTF 1	ma	8/16/22
8/16/22	JUDICIAL OFFICER ASSIGNED TO CAMERON, THOMAS C. P54636	ma	8/16/22
8/16/22	JUDICIAL OFFICER REASSIGNED FROM CAMERON, THOMAS C. P54636	ma	8/16/22
8/16/22	RECEIVABLE ELECTRONIC FILING SYSTEM FEE \$25.00	ma	8/16/22
8/16/22	RECEIVABLE FILING FEE \$150.00	ma	8/16/22
8/16/22	PAYMENT \$175.00 RECEIPT NUMBER: COC-LAN.0006487 METHOD: ELECTRONIC FUND TRANSFER \$175.00 Bundle - TEMP-N23PG5JH-26620009	ma	8/16/22
8/16/22	ORDER OF DISQUALIFICATION AND REASSIGNMENT GLEICHER, ELIZABETH 30369	ma ma	8/16/22 8/16/22
8/16/22	JUDICIAL OFFICER ASSIGNED TO SHAPIRO, DOUGLAS B. P39827	ma	8/23/22
8/18/22	RETURN OF SERVICE - PERSONAL DEF 1	ma	8/18/22
8/19/22	EX PARTE MOTION TO REASSIGN CASE TO JUDGE BROCK SWARTZLE PURSUANT TO MCR 8.111(D)(1) PTF 1	ma ma	8/22/22 8/22/22
8/19/22	RECEIVABLE MOTION FEE \$20.00	ma	8/22/22
8/22/22	PAYMENT \$20.00 RECEIPT NUMBER: COC-LAN.0006503 METHOD: ELECTRONIC FUND TRANSFER \$20.00 Bundle - 22-000125-MM-26758501	ma	8/22/22
8/22/22	MOTION FOR LEAVE TO FILE AMICUS BRIEF \$20.00 MISC 1	ma ma	8/23/22 8/23/22
8/22/22	RECEIVABLE MOTION FEE \$20.00	ma	8/23/22
8/23/22	JUDICIAL OFFICER REASSIGNED FROM SHAPIRO, DOUGLAS B. P39827	ma	8/23/22
8/23/22	PAYMENT \$20.00 RECEIPT NUMBER: COC-LAN.0006507 METHOD: ELECTRONIC FUND TRANSFER \$20.00 Bundle - 22-000125-MM-26784148	ma	8/23/22
8/23/22	ORDER GRANTING PLAINTIFF'S EMERGENCY EX PARTE MOTION TO REASSIGN CASE TO JUDGE BROCK A SWARTZLE PURSUANT TO MCR 8.111(D)(1) SHAPIRO, DOUGLAS P39827	ma	8/23/22
8/23/22	JUDICIAL OFFICER ASSIGNED TO SWARTZLE, BROCK A 58993	ma	8/23/22
8/24/22	ORDER TO SHOW CAUSE PTF 1 DEF 1 MISC 1	amd	8/24/22
8/24/22	APPEARANCE DEF 1	amd	8/24/22

STATE OF MICHIGAN COURT OF CLAIMS	REGISTER OF ACTIONS	CASE ID 22-000125-MM C/COC/MI	Public 9/2/2022 4:05:17 PM Page: 3 of 4
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Activity Date	Activity		User	Entry Date
8/25/22	AFFIDAVIT OF ROBERT DAVIS CONCERNING SERVICE VIA EMAIL OF COURTESY COPIES OF PLEADINGS, MOTIONS, AND COURT ORDERS UPON NONPARTY JUDICIAL CANDIDATES PTF 1		ma	8/26/22
8/31/22	BRIEF FILED OF AMICUS CURIAE JUDGE MARK THOMAS SLAVENS WITH PROOF OF SERVICE MISC 2		ma	8/31/22
8/31/22	APPEARANCE - GERALD EVELYN WITH PROOF OF SERVICE MISC 3 MISC 4 MISC 5		ma	8/31/22
8/31/22	APPEARANCE - JUAN MATEO WITH PROOF OF SERVICE MISC 3 MISC 4 MISC 5		ma	8/31/22
8/31/22	MOTION TO INTERVENE IVP 1	\$20.00	ma ma	8/31/22 8/31/22
8/31/22	RECEIVABLE MOTION FEE	\$20.00	ma	8/31/22
8/31/22	PAYMENT RECEIPT NUMBER: COC-LAN.0006531 METHOD: ELECTRONIC FUND TRANSFER \$20.00 Bundle - 22-000125-MM-27013160	\$20.00	ma	8/31/22
8/31/22	EXHIBITS - UNABRIDGED EXHIBITS TO NON-PARTY THIRD JUDICIAL CIRCUIT COURT OF MICHIGAN'S MOTION TO INTERVENE WITH PROOF OF SERVICE IVP 1		ma	8/31/22
8/31/22	MOTION FOR SUMMARY DISPOSITION WITH PROOF OF SERVICE DEF 1	\$20.00	ma ma	8/31/22 8/31/22
8/31/22	RECEIVABLE MOTION FEE	\$20.00	ma	8/31/22
8/31/22	PAYMENT RECEIPT NUMBER: COC-LAN.0006534 METHOD: ELECTRONIC FUND TRANSFER \$20.00 Bundle - 22-000125-MM-27015976	\$20.00	ma	8/31/22
8/31/22	RESPONSE TO ORDER TO SHOW CAUSE AND BRIEF IN SUPPORT OF MOTION FOR SUMMARY DISPOSITION WITH PROOF OF SERVICE DEF 1		ma	8/31/22
8/31/22	BRIEF FILED OF AMICI CURIAE SHEILA A. GIBSON, PATRICIA S. FRESARD AND KELLY ANN RAMSEY MISC 3 MISC 4 MISC 5		ma	8/31/22
9/1/22	RESPONSE TO NON-PARTY THIRD CIRCUIT COURT OF MICHIGAN'S MOTION TO INTERVENE WITH PROOF OF SERVICE PTF 1		ma	9/1/22
9/1/22	REPLY/RESPONSE TO DEFENDANT'S BRIEF IN OPPOSITION AND AMICUS CURIAES WITH PROOF OF SERVICE PTF 1		ma	9/1/22

STATE OF MICHIGAN COURT OF CLAIMS	REGISTER OF ACTIONS	CASE ID 22-000125-MM C/COC/MI	Public 9/2/2022 4:05:17 PM Page: 4 of 4
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Activity Date	Activity	User	Entry Date
9/1/22	APPEARANCE OF COUNSEL (22-000141-MZ) DEF 1	ma	9/1/22
9/2/22	OPINION AND ORDER DEF 1	ma	9/2/22
9/2/22	CLOSE CASE STATUS	ma	9/2/22

STATE OF MICHIGAN
COURT OF CLAIMS

ROBERT DAVIS,

Plaintiff,

v

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

Defendant.

_____ /

MARK T. SLAVENS, Judge of the Third Judicial
Circuit of Michigan,

Plaintiff,

v

JOCELYN BENSON, in her official capacity as
Secretary of State,

Defendant.

_____ /

PATRICIA SUSAN FRESARD, SHEILA ANN
GIBSON, and KELLY ANN RAMSEY,

Plaintiffs,

v

JOCELYN BENSON, in her official capacity as
Secretary of State,

Defendant.

_____ /

OPINION AND ORDER

Case No. 22-000125-MM

Hon. Brock A. Swartzle

Case No. 22-000141-MZ

Hon. Brock A. Swartzle

Case No. 22-000143-MZ

Hon. Brock A. Swartzle

These matters relate to Robert Davis's requests for a writ of mandamus and declaratory relief against defendant, Jocelyn Benson, in her official capacity as Secretary of State. Davis seeks to have Mark T. Slavens, Lakena Tennille Crespo, Sheila Ann Gibson, Patricia Susan Fresard, and Kelly Ann Ramsey decertified as candidates for judge of the Third Circuit Court in Wayne County.

Given that this is a time-sensitive matter, this Court issued an order on August 24, 2022, in Docket No. 22-000125-MM requiring defendant to show cause why the Court should not issue a writ of mandamus in Davis's favor. This Court invited the judicial candidates to move to participate as amici curiae. In response, defendant moves for summary disposition, arguing that Davis's claims are barred by laches and fail as a matter of law. The judicial candidates submitted helpful briefs, for which the Court is thankful. The show-cause briefing is complete, and the matter is now ripe for resolution.

In Docket No. 22-000141-MZ, Slavens sues for declaratory and injunctive relief arising out of the same set of facts as Docket No. 22-000125-MM. The Court recently consolidated the two matters. Finally, in Docket No. 22-000143-MZ, Fresard, Gibson, and Ramsey request declaratory and injunctive relief on the same set of factual and legal issues. Their motions to consolidate and for immediate consideration are GRANTED, and the matter is CONSOLIDATED with Docket Nos. 22-000125-MM and 22-000141-MZ.

The Court resolves these matters without a hearing. For the reasons discussed and among other matters resolved, Davis's requests for mandamus and declaratory relief are denied, and defendant's motion for summary disposition is granted.

I. FACTUAL BACKGROUND

Slavens, Fresard, Gibson, and Ramsey are incumbent judicial candidates for the Third Circuit Court in Wayne County. Crespo is a nonincumbent Third Circuit judicial candidate. As candidates for judicial office, Slavens, Crespo, Gibson, Fresard, and Ramsey were required to submit affidavits of identity (AOIs) with the Bureau of Elections, in accordance with MCL 168.558. They each filed an AOI, but Davis argues that the AOIs were fatally defective. The thrust of Davis's claim is that each judicial candidate was required to state that they had "no party affiliation" on their form AOIs. He asserts that each candidate failed to comply with this statutory requirement.

The form AOI contains a blank space for the candidate to fill out, and instructs the candidate as follows: "If running without party affiliation list 'No Party Affiliation.' " For candidates Fresard, Ramsey, Gibson, and Slavens, Davis alleges that they failed to comply with the statutory requirement because they left blank the designated space on the form. Crespo placed the acronym "N/A" in the designated space, which Davis alleges was a deficient statement of "no party affiliation." Fresard, Ramsey, Gibson, and Crespo signed and submitted their AOIs in early 2022. Slavens signed and submitted his AOI on December 14, 2021. Defendant concluded the AOIs met the statutory requirements and accepted the submitted AOIs.

II. LEGAL BACKGROUND

A writ of mandamus is the appropriate remedy for a party seeking to compel action by election officials. See, e.g., *Wolverine Golf Club v Hare*, 24 Mich App 711, 716; 180 NW2d 820 (1970), *aff'd* 384 Mich 461 (1971).

To obtain the extraordinary remedy of a writ of mandamus, the plaintiff must show that (1) the plaintiff has a clear, legal right to performance of the specific

duty sought, (2) the defendant 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. In relation to a request for mandamus, a clear, legal right is one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided. [*Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016) (cleaned up).]

As for the requests for declaratory relief, MCR 2.605(A)(1) provides, “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.”

As this Court recently concluded in *Belcoure v Benson*, unpublished order of the Court of Claims, issued August 19, 2022 (Docket No. 22-000117-MB), pp 1-2, while the form affidavit prepared by the Secretary of State might be an efficient way to complete the affidavit, it is the statute that controls. Looking to the statute, MCL 168.558(2) requires that a candidate for elected office submit a timely AOI that includes, among other things, “the candidate’s political party or a statement indicating no party affiliation if the candidate is running without political party affiliation.” While one who reads this clause in isolation might wonder whether it even applies to candidates for judicial office, given that the office is a nonpartisan one, there appears to be little question that the clause does, in fact, apply to judicial candidates because, in the same subsection, the statute refers explicitly to candidates for judicial office. See MCL 168.558(2) (“If the affidavit of identity is for a judicial candidate, the candidate shall include on the affidavit of identity whether the office sought is an incumbent position, a nonincumbent position, or a new judgeship.”).

In *Belcoure*, this Court concluded that if our Legislature had intended to exempt judicial candidates from having to make a statement indicating “no party affiliation” on the AOI, then it would have made this clear by, for example, having a separate subsection devoted solely to judicial

candidates. *Belcoure*, unpub order at 2. But, by including in the same subsection a list of general affidavit requirements for all candidates, followed by specific additional requirements for judicial candidates, all the general requirements in the subsection apply to all candidates, judicial and nonjudicial alike. *Id.*

For this reason, this Court concluded that the judicial candidate must make an affirmative statement; mere silence is not sufficient. *Id.* This Court's decision was also consistent with the Court of Appeals' recent holding in *Davis v Highland Park City Clerk*, unpublished per curiam opinion of the Court of Appeals, issued June 2, 2022 (Docket No. 361544), pp 3-4, and the Court of Claims' decision in *Reed-Pratt v Benson*, unpublished opinion of the Court of Claims, issued June 1, 2022 (Docket No. 22-000060-MZ), pp 4-6 (their reasoning herein incorporated), which reached the same conclusion on the party-affiliation requirement in MCL 168.558(2).

III. APPLICATION

Crespo. With this framework in mind, the Court turns first to Crespo. The Court concludes that Crespo's statement of "N/A" satisfied MCL 168.558(2). The statute does not mandate any specific language when affirming that the candidate lacks a political-party affiliation. Crespo's statement of "N/A" (i.e., "not applicable") was an affirmative statement indicating that she had no party affiliation. The Court, therefore, concludes that Crespo complied with MCL 168.558(2).

Slavens. Turning next to Slavens, the Court concludes that the requirement that a judicial candidate provide a statement of "no party affiliation" did not apply to him because he submitted his AOI before the statutory amendment requiring political-party disclosure took effect. At the time Slavens submitted his AOI, on December 14, 2021, MCL 168.558(2), as amended by 2018 PA 650, provided:

An affidavit of identity must contain the candidate's name and residential address; a statement that the candidate is a citizen of the United States; the title of the office sought; a statement that the candidate meets the constitutional and statutory qualifications for the office sought; other information that may be required to satisfy the officer as to the identity of the candidate; and the manner in which the candidate wishes to have his or her name appear on the ballot. If a candidate is using a name that is not a name that he or she was given at birth, the candidate shall include on the affidavit of identity the candidate's full former name.

See also *Nykoriak v Napoleon*, 334 Mich App 370, 375; 964 NW2d 895 (2020) (interpreting the prior version of MCL 168.558(2)). The statute did not contain the language requiring that the candidate provide a statement of "no party affiliation." The Legislature amended the statute, effective December 27, 2021, to include the following relevant language:

An affidavit of identity must contain the candidate's name and residential address; a statement that the candidate is a citizen of the United States; the title of the office sought including the jurisdiction, district, circuit, or ward; *the candidate's political party or a statement indicating no party affiliation if the candidate is running without political party affiliation*; the term of office; the date of the election in which the candidate wishes to appear on the ballot; a statement that the candidate meets the constitutional and statutory qualifications for the office sought; other information that may be required to satisfy the officer as to the identity of the candidate; and the manner in which the candidate wishes to have his or her name appear on the ballot. [MCL 168.558(2), as amended by 2021 PA 158 (emphasis added).]

Defendant explains that before December 27, 2021, defendant required political-office candidates to disclose their political-party affiliation (or no political-party affiliation) under MCL 168.31(1)(e) (providing that the Secretary of State shall "[p]rescribe and require uniform forms, notices, and supplies the secretary of state considers advisable for use in the conduct of elections and registrations"). But defendant did not require judicial candidates to disclose any political-party information because, by law, judicial candidates have no party affiliation. The Court, therefore, concludes that Slavens complied with MCL 168.558(2), as amended by 2018 PA 650, when he submitted his AOI on December 14, 2021, i.e., prior to the effective date of the amendment that added the statutory requirement.

Davis also claims that Slavens failed to submit two copies of his AOI. At all relevant times, MCL 168.558(1) required Slavens to submit two copies of his AOI. Slavens has attached to his amicus curiae brief a contemporaneous e-mail to a Bureau of Elections official referring to the fact that he submitted two copies of his AOI. Plaintiff has not countered this evidence, and has not provided the factual basis for his claim that Slavens provided the Bureau of Elections with one copy of the AOI. Instead, he appears to rely on the fact that defendant's office only provided him with one copy of Slavens's AOI in response to his request for records. But the fact that defendant provided plaintiff with only one copy of Slavens's AOI does not establish (or even suggest) that Slavens filed only one copy. In contrast, Slavens's contemporaneous e-mail states that he submitted two copies. This Court, therefore, declines to grant any relief to Davis on this claim.

Fresard, Ramsey, and Gibson. Finally, as for Fresard, Ramsey, and Gibson, these candidates argue that their silence on their AOIs served as an adequate statement of “no party affiliation” under MCL 168.558(2). This Court recently addressed the same issue in *Belcoure*. In that case, another Third Circuit judicial candidate (Rooney Haywood) also left the party-affiliation section on his AOI blank. The Court concluded that Haywood's silent blank did *not* serve as an adequate statement of no party affiliation under MCL 168.558(2). *Id.* at 2. As this Court explained, while silence in some circumstances might serve as an adequate affirmative statement, see, e.g., *People v Alexander*, 188 Mich App 96, 103; 469 NW2d 10 (1991), our Legislature explicitly required an either/or—the affidavit must contain “the candidate's political party *or* a statement indicating no party affiliation if the candidate is running without political party affiliation.” MCL 168.558(2) (emphasis added). See also *Belcoure*, unpub order at 2. The lack of a statement is not the practical equivalent of an affirmative statement in this context because a silent blank leaves unanswered the question—is there a political affiliation or not?

Likewise, Fresard, Ramsey, and Gibson filed defective AOIs because they left blank the statement of party affiliation, and the newly amended statute was effective when they filed their AOIs (as opposed to Slavens). As their affidavits were defective, defendant should not have certified the candidates for the upcoming election. But, defendant did certify them, and this Court must determine whether, as a result, Davis is entitled to relief.

In his complaint, Davis seeks the equitable remedy of a writ of mandamus. When a party seeks equitable relief, “[t]he equitable doctrine of laches shall also apply.” MCL 600.5815. In defendant’s motion and in response to this Court’s show-cause order, defendant raises the defense of laches. “If a plaintiff has not exercised reasonable diligence in vindicating his or her rights, a court sitting in equity may withhold relief on the ground that the plaintiff is chargeable with laches.” *Knight v Northpointe Bank*, 300 Mich App 109, 114; 832 NW2d 439 (2013). The doctrine is particularly applicable in election matters. See, e.g., *New Democratic Coalition v Austin*, 41 Mich App 343, 356-357; 200 NW2d 749 (1972); *Purcell v Gonzalez*, 549 US 1, 5-6; 127 US 5; 166 L Ed 2d 1 (2006) (per curiam); *Crookston v Johnson*, 841 F3d 396, 398 (CA 6, 2016) (“Call it what you will—laches, the *Purcell* principle, or common sense—the idea is that courts will not disrupt imminent elections absent a powerful reason for doing so.”); see also MCL 691.1031 (in actions filed in circuit court, creating a “rebuttable presumption of laches” if an action affecting an election is brought within 28 days of that election).

Where this case materially differs from *Belcoure* is in the application of the doctrine of laches. In *Belcoure*, the plaintiff presented undisputed evidence that he challenged Haywood’s candidacy several months earlier than Davis did in this matter. See *Belcoure*, unpublished order at 1. Specifically, in early June 2022, Belcoure’s attorney contacted defendant about the

deficiencies in Haywood's AOI. *Id.* at 3. Defendant had been put on timely notice by the plaintiff in that case, so there was not a viable laches defense in *Belcoure*.

This case is different from *Belcoure* precisely because Davis did not act with similar diligence as the plaintiff in that other case. Each candidate here submitted their AOI in late 2021 or early 2022. The last incumbent AOI (Fresard's AOI) was submitted on March 17, 2022. And Crespo (a nonincumbent) submitted her AOI on April 19, 2022. But Davis waited to seek relief in this Court until mid-August 2022—about four months after the last AOI was submitted. Davis did not contact defendant in advance, like *Belcoure*'s attorney did. Davis points out that he filed an earlier action in the Third Circuit Court in late July 2022, but this was still months after the candidates filed their AOIs. Davis offers no explanation for his delay, leading this Court to the conclusion that Davis simply sat on his hands for months.

The Court further concludes that allowing the matter to proceed despite Davis's dilatory conduct would result in undue prejudice to defendant and staff, who would have to expend significant additional time and resources overseeing the revision of new ballots in one of Michigan's most populous counties. More specifically, the Secretary of State must inform the counties of which candidates will appear on the ballot by September 9, 2022, and must print absentee ballots by September 24, 2022. A ruling in Davis's favor would require the Secretary of State's office to alter its election planning at the eleventh hour or, frankly, given the realities of how long any reasonable appellate review would take, at the thirteenth hour. The Court similarly recognizes the prejudice to the candidates, who have expended significant time, energy, and resources on their campaigns. Lastly, the Court observes that the failure to state affirmatively that a judicial candidate is running without a partisan designation has little practical import to electors,

as a judicial candidate cannot—by operation of law—run as a partisan. All of these considerations weigh against any equitable relief for plaintiff.

Although this Court cannot, and will not, ignore the Legislature’s clear directive in MCL 168.558(2), as evidenced by its earlier decision in *Belcoure*, the relief requested by Davis is an extraordinary one, and to be entitled to such relief, Davis needed to act with much more diligence than he did here. The Court will exercise its equitable authority and, under the doctrine of laches, it will decline to order a writ of mandamus or other similar relief to Davis.

Accordingly, the Court concludes that Davis’s challenge to Fresard’s, Gibson’s, and Ramsey’s AOIs is barred by the equitable doctrine of laches. Davis’s challenges to Crespo’s and Slavens’s AOIs fail on their merits.

IV. CONCLUSION

Accordingly, the Court orders as follows:

IT IS ORDERED that Fresard, Ramsey, and Gibson’s motion to consolidate is GRANTED. Docket No. 22-000143-MZ is CONSOLIDATED with Docket Nos. 22-000141-MZ and 22-000125-MM. Fresard, Ramsey, and Gibson’s motion for immediate consideration of their motion to consolidate is also GRANTED.

IT IS FURTHER ORDERED that Slavens’s motion to participate as an amicus curiae in Docket No. 22-000125-MM is GRANTED, and his proposed amicus curiae brief is accepted as-filed.

IT IS FURTHER ORDERED that Fresard, Ramsey, and Gibson's motion to participate as amici curiae in Docket No. 22-000125-MM is GRANTED, and their proposed brief is accepted as-filed.

IT IS FURTHER ORDERED that Davis's requests for mandamus and declaratory relief in Docket No. 22-000125-MM are DENIED.

IT IS FURTHER ORDERED that defendant's motion for summary disposition in Docket No. 22-000125-MM is GRANTED.

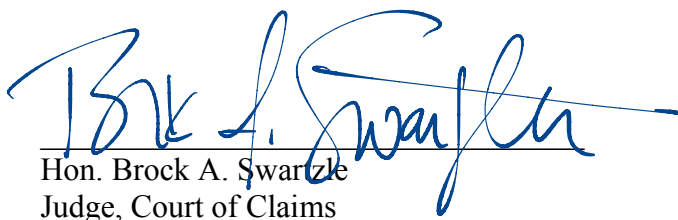
IT IS FURTHER ORDERED that Slavens's request for declaratory and injunctive relief in Docket No. 22-000141-MZ is GRANTED.

IT IS FURTHER ORDERED that Fresard's, Ramsey's, and Gibson's request for declaratory and injunctive relief in Docket No. 22-000143-MZ is GRANTED IN PART and DENIED IN PART. The relief is granted to the extent consistent with this opinion and order, i.e., that Davis has not met the high bar for mandamus or other relief against defendant Secretary of State, specifically in light of the application of laches; their requested relief is otherwise denied.

IT IS FURTHER ORDERED that the motion entitled "8/31/22 Non-party Third Judicial Circuit Court of Michigan's Motion to Intervene" is DENIED.

IT IS SO ORDERED. This is the final order and closes each of the three consolidated cases.

Date: September 2, 2022


Hon. Brock A. Swartzle
Judge, Court of Claims

538939

Kelly Ann Ramsey For Judge 2022
Committee ID # 517399
Richard L. Cunningham, Treasurer
9311 E. Outer Drive, Detroit MI 48213
(313) 802-1063 – Attorneyrick@aol.com

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ELECTIONS/GREAT SEAL

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

November 14, 2022

Re: Kelly Ann Ramsey for Judge 2022, Committee ID 517399

Report of recently discovered late contributions, and request under MCL
169.215(1)(f) for a waiver of late fees.

I, Richard L. Cunningham, make this report and written request for a waiver
of late fees as the Treasurer of the Kelly Ann Ramsey for Judge 2022 campaign
committee. The facts upon which I base this request are set forth in this letter.

Our committee joined with two other campaign committees to scheduled two
joint fundraisers shortly before the 2020 General Election. A joint bank account was
opened at Comerica Bank under the name "Back The Bench" to receive
contributions relating to these fundraisers. All contributions are to be split equally
between the three committees. The first joint fundraiser was held on October 27,
2022, at the Atheneum Hotel in Detroit. The second event was held at a private
residence on Balmoral St. in Detroit on November 7, 2022. This letter addresses the
October 27, 2022, fundraiser.

One of the other committees accepted the responsibility of advertising the
events and paying the necessary expenses. That other committee set up a procedure
whereby contributions could be made by Pay-Pal, and also arranged for a "mail
drop" to where contributions could be mailed.

I have just discovered that there were seven persons who contributed \$1,500
or more to the October 27, 2022, joint fundraiser, but these contributions were not
reflected in any late contribution report from the Kelly Ann Ramsey for Judge 2022
committee. Because all contributions were to be divided equally, I believe that a
contribution of \$1,500 or more would trigger the late reporting requirement under

Bureau of Elections
November 14, 2022

MCL 169.232. This letter is written to explain why no late contribution reports were made for these seven contributions, and to request that any late fees assessed for the failure to submit such reports be waived.

The basis of my request is that one of the other committees collected the contributions relating to the joint fundraiser, I was not aware of these contributions until I received a spreadsheet from that other committee on November 11, 2022, these contributions have still not been disbursed to my committee, and thus the Kelly Ann Ramsey for Judge 2022 committee did not have the use of these funds prior to the Election.

I did not attend the October 27, 2022, fundraiser. I was out of state on business from Sunday, October 23 through Saturday, October 29, 2022. However, after receiving the spreadsheet of contributions on November 11, 2022, I made reasonable inquiry as to why I was not earlier advised of the apparent late contributions. On information and belief, I believe the facts herein asserted to be true.

The fundraiser was held on October 27, 2022, at the Atheneum Hotel in Detroit. It was reported to be a great success, and it appeared that all participants had a very good time. However, the event turned out to be a "super-spreader", and many of the attendees soon came down with COVID-19. Judge Ramsey, and at least one of the other candidate-judges, tested positive for the virus and were ill for a period of time.

Following the event, all the checks collected at the fundraiser were turned over to a representative of one of the other committees involved in the joint fundraiser. However, that person was one of the people stricken with the virus. Thus the contributions were not promptly catalogued or deposited into the bank account created for the joint fundraisers. The illness of the representative of the other committee precluded her from acting timely to properly handle the checks.

Likewise, illness prevented the representative of the other committee from timely retrieving the checks from the "mail-drop" address and having them properly recorded and cataloged.

The contribution checks were subsequently delivered to another person who was then responsible for campaign records and reporting for that other committee. That person then compiled a list of the contributors, and the amount of each check, on a spreadsheet. The spreadsheet was delivered to me by email on November 11, 2022. That email was the first indication I had that there were some contributions of an amount that would require late contribution reporting.

Bureau of Elections
November 14, 2022

The spreadsheet furnished to me by the other committee also showed a number of contributions made by method of Pay Pal. When I questioned that, I was advised that under the terms and conditions of the Pay Pal agreement the funds could not be disbursed until November 18, 2022.

While contributions made by check have now been deposited into the special bank account set up for joint fundraisers, no funds have yet been disbursed to our committee. The contributions made by Pay Pal are scheduled to be disbursed and deposited into the special bank account on November 18, 2022. Our committee did not have the use of any of the contributions relating to the 10/27/22 fundraiser prior to the General Election on November 8, 2022.

Of the seven substantial contributions that might have required late contribution reports, four were actually paid at the fundraiser, one was made by Pay Pal, and two were by checks mailed to the joint fundraiser mail drop. Each of these three categories will here be addressed separately.

The following contributions were made by check at the fundraiser:

1. Thomas Randolph, 6330 E. Jefferson Ave., Detroit, MI 48207, an attorney with the Randolph Law Group, PC, -\$1,500.
2. Eric Abramson, 2714 Island Ct., Sylvan Lake, MI 48320, an attorney with Michael B. Serling PC, - \$1,750
3. Nabih Ayad, 645 Griswold, Ste 2202, Detroit, MI 48226, an attorney with Ayad Law PLLC, - \$3,000; and
4. Michael Fortner, 24100 Southfield Rd, Ste 203 Southfield, MI 48075, an attorney with Spectrum Legal Services, - \$15,000

I believe it clear that late contribution report should have been submitted by Judge Ramsey's committee for these late contributions, as her share of the contribution exceeded \$500. However, I rely upon the facts asserted in this letter in asking that any late fees arising from the unintentional failure to make such reports be waived. I simply wasn't able to report late contributions that I reasonably didn't know about.

The following contribution was made by Pay Pal:

1. Brenda McKeen, 4303 Lahser Rd., Bloomfield Hills, MI 48304, who identifies as being retired.- \$1,500.

Here I question as to whether any late contribution report would even be required. While Pay Pal has provided a statement indicating that such a contribution was made, the funds have not yet been received by the joint fundraiser

Bureau of Elections
November 14, 2022

bank account. The Pay Pal funds will not be disbursed until November 18. Thus no funds were actually received during the late contribution reporting period.

But if the Bureau concludes that a late contribution report should have been filed, I here rely on the facts set out herein to request a waiver of late fees.

The following contributions were sent by mail but were not picked up from the "mail-drop" and deposited into the bank account for the joint fundraisers until November 5, 2022.

1. Alan Ackerman, 988 S. Adams Rd., Ste 207, Birmingham, MI 49007, Attorney with Ackerman & Ackerman, PC, 988 S. Adams Rd, Ste 207, Birmingham, MI - \$3,000.
2. Mike Cox, 17430 Laurel Park Dr. North, Livonia, MI 48152, Self-Employed Attorney. - \$1,500

I here assert the position that no late contribution report was required for these contributions. I believe that it makes no difference when the checks were mailed to the joint fundraiser, and that the important factor is when they were received. These checks were not retrieved from the mail drop until November 5, 2022, and then deposited into the account for the joint fundraiser. These funds have not yet been disbursed to our committee, and thus we have not yet received them.

But if the bureau should determine that a late contribution report was required for these contributions, I ask that any late fees be waived.

I look forward to your response.

Sincerely



Richard L. Cunningham



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

March 31, 2023

Donn Fresard
1751 Lochmoor
Grosse Pointe Woods, MI 48236

Todd Perkins
615 Griswold, Suite 400
Detroit, MI 48226

Re: *Davis v. Back the Bench et al.*
Campaign Finance Complaint
No. 2022-11-221-24

Dear Mr. Fresard & Mr. Perkins:

The Department of State (Department) has concluded its investigation into the formal complaint filed by Robert Davis against Back the Bench, Mr. Fresard, Mr. Perkins, and Judges Fresard, Ramsey, and Gibson, alleging that you violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the resolution of the complaint.

Mr. Davis submitted his complaint on November 17, 2022 and alleged that Mr. Fresard and Mr. Perkins created a group called "Back the Bench," failed to register this group as a political action committee, and failed to disclose contributions received at a fundraiser and contributions made by Back the Bench to the three candidates.¹

By letter dated January 26, 2023, Mr. Fresard responded to the complaint and admitted to hosting a fundraiser which raised money. He further indicated that all the money received was transferred to the judges who properly reported the contributions and expenditures.

Mr. Perkins responded to the complaint by letter dated January 25, 2023 and indicated that he has nothing to do with this allegation and his only involvement was hosting the fundraiser. Because the evidence shows that Mr. Perkins merely hosted and was not responsible for organizing the functions of the committee, the allegations against Mr. Perkins are dismissed.

¹ In its notice of the complaint, the Department dismissed all other allegations against Back the Bench, and all allegations against Judges Fresard, Gibson and Ramsey.

In a rebuttal statement submitted February 13, 2023, Mr. Davis alleged that you met the definition of a committee and should be obligated to register the committee and disclose contributions and expenditures.

Committee is defined as a person that receives contributions or makes expenditures in excess of \$500 for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party. MCL 169.203(4). Person is defined as a business, individual, proprietorship, limited liability company, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly. MCL 169.211(2).

Section 24 of the MCFA requires committees to file a statement of organization with the proper filing official within 10 days after the committee is formed. MCL 169.224(1). Section 24 details specific requirements for all statement of organizations that must be filed. See MCL 169.224(2)-(3). The failure to file a statement of organization is subjected to a late filing fee of \$10.00 per business day the report is not filed not to exceed \$300. MCL 169.224(1). A person failing to file a statement of organization after 30 days, is guilty of a misdemeanor punishable by a fine up to \$1,000. *Id.*

Additionally, section 33 of the Act requires committees to submit reports disclosing contributions and expenditures on a preelection campaign statement and a postelection campaign statement. MCL 169.233. The failure to timely file reports is subjected to late filing fees depending on the amount of money in the committee's account. Additionally, the failure to disclose contributions and expenditures is subjected to a civil fine of \$1,000 or the amount of the omitted contributions and expenditures, whichever is greater. MCL 169.233(11).

Upon review, the Department determines that the evidence submitted supports the conclusion that a potential violation of the MCFA has occurred. First, based on your statements in response to the complaint, it is clear that you organized a committee. You indicated in your response that you collected money "to make it easier for contributors so they could write one check instead of three." This meets the very definition of a "committee" under the Act as committee is defined as a person that *receives contributions* in excess of \$500 for the purpose of influencing the nomination or election of a candidate. MCL 169.203(4). There is no mechanism for a "convenience platform" as you suggest.

Accordingly, you were obligated to: form and register a committee, file pre-election and post-election reports disclosing the contributors and the dollar value of the contributions, and file additional reports or dissolution, whichever is appropriate. These reports were required to be filed with the Department but have not been filed to date.

Therefore, because you failed to timely file a statement of organization, the Department determines that a potential violation of the MCFA has occurred. Upon reaching this conclusion, the Department is required to "endeavor to correct the violation or prevent a further violation by using informal methods [.]" if it finds that "there may be reason to believe that a violation . . . has occurred [.]". MCL 169.215(10). The objective of an informal resolution is "to correct the violation or prevent further violation [.]". *Id.*

In order to resolve this instant complaint, the Department requests that you file a statement of organization, a pre-election report, a post-election report, and a dissolution statement, if appropriate. The Department will review the filing and determine whether any further enforcement action is necessary, including assessing any late filing fees or fines under section 33 of the MCFA.

Upon determining that a violation has occurred, the Department must attempt to informally resolve the complaint within 90 business days. If this matter is not resolved by August 9, 2023, the Department is obligated to refer the matter to the Department of Attorney General with a request that she prosecute for the misdemeanor offense of failing to file reports.

If you have any questions, please do not hesitate to contact this office at BOERegulatory@Michigan.gov.

Sincerely,



Adam Fracassi, Regulatory Manager
Bureau of Elections
Michigan Department of State

c: Robert Davis



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

August 9, 2023

Donn Fresard
1751 Lochmoor
Grosse Pointe Woods, MI 48236

Re: *Davis v. Back the Bench et al.*
Campaign Finance Complaint No. 2022-11-221-24

Dear Mr. Fresard:

The Department of State (Department) previously issued a determination in the above matter on March 8, 2023. The complaint, filed on November 17, 2022, by Robert Davis, alleged that Mr. Fresard and Mr. Perkins created a group called "Back the Bench," failed to register this group as a political action committee, and failed to disclose contributions received at a fundraiser and contributions made by Back the Bench to the three candidates.¹

By letter dated January 26, 2023, Mr. Fresard responded to the complaint and admitted to hosting a fundraiser which raised money. He further indicated that all the money received was transferred to the judges who properly reported the contributions and expenditures.

Based on the above response and the evidence submitted, on March 8, 2023, the Department issued a determination that a potential MCFA violation had occurred. Specifically, the Department found that Back the Bench was operating as a committee and should have registered as a committee under the MCFA. MCL 169.203(4). This determination was exclusively based on the evidence submitted to the Department, including the statement that you collected money "to make it easier for contributors so they could write one check instead of three." Additionally, given that the judges had not submitted the required reports when they were due, the determination did not, and could not, account for any subsequent reporting.

After reaching this determination, the Department requested that you form and register Back the Bench as a committee and file subsequent reports disclosing all contributions and expenditures. Pursuant to this request, you submitted the reports to the Department for review. However, upon

¹ In its notice of the complaint, the Department dismissed all other allegations against Back the Bench, and all allegations against Judges Fresard, Gibson and Ramsey. In its determination, the Department dismissed the allegations against Mr. Fresard, following his response that he merely a host of the fundraiser.

review, the Department determines that Back the Bench was not required to register as a committee, but rather was a joint fundraising account pursuant to section 44. MCL 169.244.

Section 44 of the MCFA allows that “[t]wo or more persons, other than individuals, may hold a joint fund-raiser if the receipts and expenses of the fund-raiser are shared proportionately.” MCL 169.244(4). The MCFA allows a candidate to establish a secondary account specifically for the purposes of depositing the proceeds of a joint-fundraiser as allowed under 44(4) prior to dispersing each committee’s share of any receipts from the joint-fundraiser. MCL 169.221(6).

Although you indicate that Back the Bench was a “convenience platform,” which indicated that committee formation was required, upon review of your reports filed subsequent to the determination, the Department determines that Back the Bench was actually a joint fundraising account, as described in the Department’s guidance: “A joint account must be created in the designated secondary depository for the joint fundraiser; the joint account exists solely for the purpose of depositing all receipts and transferring each share of the funds to each participant as designated in the agreement.”

Additionally, the Department’s guidance states that “[e]ach participating committee must file an Amended Statement of Organization by the due date of the next required campaign statement to reflect the designated secondary depository.” Upon further review, the Department has determined that Judges Fresard and Ramsey indicate secondary depositories—presumably Back the Bench—in their Statements of Organization.

While Judge Gibson does not list a secondary depository in her Statement of Organization and may be in violation of the rules governing joint accounts, the Department has already dismissed the complaint against her, given the allegations in that complaint.²

Regarding the complaint against Back the Bench, the Department has reviewed the judges’ reports submitted subsequent to the determination and based on the new information included in the reports, dismisses the instant complaint.

If you have any questions, please do not hesitate to contact this office at BOERegulatory@Michigan.gov.

Sincerely,



Adam Fracassi, Regulatory Manager
Bureau of Elections
Michigan Department of State

c: Robert Davis

² As indicated in previous complaints, the Department is already working with the committee to resolve potential violations of the MCFA.