



**Michigan Department of State
Campaign Finance Complaint Form**

BUREAU OF ELECTIONS 430 W. ALLEGAN STREET • RICHARD H. AUSTIN BUILDING -- 1 • LANSING,
MICHIGAN 48918 4th Floor

RECEIVED/FILED
MICHIGAN DEPT OF STATE

2022 OCT 26 PM 7:30

OFFICIAL SEAL

This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (MCFA). For instructions on how to complete this form, see the Campaign Finance Complaint Guidebook & Procedures document. All spaces are required unless otherwise indicated.

Section 1. Complainant		
Your Name Ervin Joseph LaMie		Daytime Telephone Number 616-834-8912
Mailing Address 1281 Fleming Ave		
City Muskegon	State MI	Zip 49442
Email (optional) Josephla50@yahoo.com		

Section 2. Alleged Violator		
Name Secretary of State Jocelyn Benson and Attorney General Dana Nessel		
Mailing Address 30 W. Allegan St. Richard H. Austin Building - 4th Floor Lansing, MI 48918. Attorney General 525 W. Ottawa St. Lansing, MI 48906		
City Lansing	State MI	Zip
Email (optional)		

Section 3. Allegations (Use additional sheets if more space is needed.)

Section(s) of the MCFA alleged to be violated: MCL 169.257 _____

Explain how those sections were violated:

A suit was filed in the Court of Claims against Jocelyn Benson as a defendant. Gretchen Whitmer, Garlin Gilchrist, and Dana Nessel are named within the case to be removed from the November 8th 2022 elections ballot.

Jocelyne Benson secured the office of Dana Nessel attorney general to represent her and the others, Gretchen Whitmer, Garlin Gilchrist, Dana Nessel and Jocelyn Benson in the case to protect and further the candidates in the election process.

This is a use of public funds to further the election of the named candidates on the ballot for the November 2022 election.

The named individuals in this case are barred by estoppel of acquiescence from entering any challenges or defenses now after the facts of the estoppel doctrine this was served upon the four above named individuals on or about June of 2021.

Evidence included with the submission of the complaint that supports the allegations:

Court of Claims Case number 22-000129-MZ

Section 4. Certification (Required)

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

X


Signature of Complainant

10/17/2022
Date

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

If, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence as indicated above, you may make the following certification:

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

X _____

Signature of Complainant

Date

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

Section 6. Submission

Once completed, mail or hand deliver the complaint form with your evidence to the address below. The complaint is considered filed upon receipt by the Bureau of Elections.

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

Revised: 06/19

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30217
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

November 9, 2022

Jocelyn Benson
c/o Jocelyn Benson for Secretary of State
P.O. Box 21368
Detroit, MI 48221

Re: *LaMie v Benson*, Campaign Finance Complaint

Dear Ms. Benson:

A formal complaint has been filed against you by Ervin Joseph LaMie alleging violations of the Michigan Campaign Finance Act, MCL 169.201, *et seq.* The complaint was referred to the Department of Attorney General as required by MCL 169.215(9). A copy of the complaint is enclosed with this letter.

The purpose of this letter is to inform you of the complaint and provide you with an opportunity to respond. **If you wish to file a written response to the complaint, please do so within 15 business days of the date of this letter.** Your response may include any statement and supporting documents you would like to be considered. You may submit your response to my attention by email at: BoothJ2@michigan.gov

If you have any questions, please do not hesitate to contact me at the email address noted above.

Sincerely,

Joshua O. Booth

Joshua O. Booth
Division Chief
Opinions Division
Department of Attorney General

Encl.- Complaint

Booth, Joshua O. (AG)

From: Richard Wiener <Rick@RickandRaj.com>
Sent: Wednesday, November 30, 2022 9:53 AM
To: Booth, Joshua O. (AG)
Subject: Re: Campaign Finance Complaint

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

Thank you

Rick Wiener

Sent from my iPhone

On Nov 30, 2022, at 8:57 AM, Booth, Joshua O. (AG) <BoothJ2@michigan.gov> wrote:

Good morning Mr. Wiener,

Thank you for your phone call and the email. Your request for a 15-business day extension to prepare and submit a response is granted.

According to my calculations, with the state holidays, the original response was due December 5th. And with the upcoming state holidays, an extension of 15-business days from the 5th would make the response due December 28th. If, however, you disagree with my calculations, please let me know.

Best,
Josh

From: Richard Wiener <Rick@RickandRaj.com>
Sent: Tuesday, November 29, 2022 9:22 AM
To: Booth, Joshua O. (AG) <BoothJ2@michigan.gov>
Cc: Richard Wiener <Rick@RickandRaj.com>
Subject: RE: Campaign Finance Complaint

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

Dear Mr. Booth,

Thank you for sending the complaint McVie v Benson directly to me. As you are aware, I am the Treasurer for Jocelyn Benson for Secretary of State ("Committee").

I first received notice of the complaint from the electronic copy you sent me yesterday, and called you immediately. The original letter was dated November 7. You indicated that without an extension, the response would be due on December 1 - two days from now.

In your email, you asked if I would need an extension to respond –and given the lateness of my receiving the complaint, I do. On behalf of the Committee, I am requesting an extension of 15 business days as provided for in MCL 169.215(6). While the Committee believes that the complaint is without merit but given that I only yesterday saw the complaint, the additional time is appropriate and necessary to prepare an appropriate response.

Thank you for your consideration and attention to this matter.

Richard Wiener, Treasurer
Jocelyn Benson for Secretary of State

From: Booth, Joshua O. (AG) <BoothJ2@michigan.gov>
Sent: Monday, November 28, 2022 3:55 PM
To: Richard Wiener <Rick@RickandRaj.com>
Subject: Campaign Finance Complaint

Dear Mr. Wiener,

Earlier this month, a campaign finance complaint was filed against Secretary Benson's campaign and was referred to our office. I sent the attached letter to the campaign's official mailing address informing of the complaint and requesting that any response be submitted within 15 business days. At this point, I have not received a response, so I wanted to share the letter and complaint with you as a follow-up. If there is someone else to which these should be forwarded, please feel free to pass them along or let me know. And if an extension of time for a response is necessary, that may also be accommodated.

Thank you for your time and assistance,
Josh

Joshua O. Booth
Division Chief, Opinions Division
Michigan Department of Attorney General



STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30212
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

December 15, 2022

Ervin Joseph LaMie
1281 Fleming Ave
Muskegon, MI 49442

Re: Campaign Finance Complaint against Secretary of State Jocelyn
Benson

Dear Mr. LaMie:

I have been assigned to handle the October 17, 2022, campaign finance complaint you filed against Secretary of State Jocelyn Benson. Please note that I am handling the complaint only as it pertains to Secretary Benson and not as it pertains to Attorney General Dana Nessel.

I sent Secretary Benson a copy of your complaint and recently received a response. A copy of the response is enclosed. **If you would like to provide a reply to the response, please do so within 10 business days.** An extension of 10 business may be accommodated upon request.

You may submit any reply, or any questions you have about this matter, to me at the above address or by email at boothj2@michigan.gov.

Sincerely,

A handwritten signature in cursive script that reads "Joshua O. Booth".

Joshua O. Booth
Division Chief
Opinions Division

Enclosure



BENSON
FOR SECRETARY OF STATE

December 14, 2022

Joshua O. Booth
Division Chief, Opinions Division
Department of Attorney General
P.O. Box 30217
Lansing Michigan 48909

Re: *Ervin LaMie*, Campaign Finance Complaint

Dear Mr. Booth:

We are in receipt of your November 9, 2022 letter informing Jocelyn Benson for Secretary of State (the "Committee") that a formal complaint (the "Complaint") had been filed by Ervin Joseph LaMie, alleging that Secretary of State Jocelyn Benson and Attorney General Dana Nessel had violated the Michigan Campaign Finance Act (the "Act").¹ The Complaint was originally submitted to the Bureau of Elections (the "BOE"), which forwarded it to your office for handling, given that the matter involved the Secretary of State. Your November 9 letter enclosed a copy of the Complaint and informed the Committee of the opportunity to respond within fifteen business days; however, due to delay in our receipt, we requested and were granted an extension of the response time to December 28, 2022. Please consider this letter our response.

The Complaint is both frivolous and unintelligible. It alleges a violation of MCL 169.257, which provides, in relevant part:

A public body or a person acting for a public body shall not use or authorize the use of funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure or provide volunteer personal services . . .²

While the Complaint provides no clear explanation of how MCL 169.257 was violated, it states

A suit was filed in the Court of Claims against Jocelyn Benson as a defendant. Gretchen Whitmer, Garlin Gilchrist, and Dana Nessel are named within the case to be removed from the November 8th 2022 elections ballot.

Jocelyne[sic] Benson secured the office of Dana Nessel attorney general to represent her and the others, Gretchen Whitmer, Garlin Gilchrist, Dana Nessel and Jocelyn Benson in the case to protect and further the candidates in the election process.

This is a use of public funds to further the election of the named candidates on the ballot for the November 2022 election.

¹ MCL 169.201 *et seq.*

² MCL 169.257(1).

Because of the lack of explanation beyond the above text, the Complaint is on its face insufficient to provide the Opinions Division of the Department of Attorney General with enough evidence or argument to assess whether a violation of the Act occurred.

While the Complaint should be dismissed immediately due to its lack of any express argument or evidence, we nonetheless feel it is important to respond to what we can only suppose is the most likely argument the Complaint is attempting to make. Therefore, we will assume it is alleging that the time and resources of the Attorney General's office constitute "public funds" and the use of that time and those resources in connection with Court of Claims Case #22-000129-MZ (the "Court of Claims Case")³ constitutes an effort "to further election of the named candidates . . . [.]" which in turn constitutes either a prohibited "contribution" or "expenditure" under the Act. If in fact the Complaint was attempting to formulate a different argument, we are unable to respond given the lack of explanation or analysis.

The assumed assertion is entirely without merit. The Act defines a "contribution," in relevant part, to mean

a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate. . .⁴

The Act defines an "expenditure," in relevant part, to mean

a payment donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate . . .⁵ including a "contribution or a transfer of anything of ascertainable monetary value for purposes of influencing the nomination or election of a candidate . . .⁶

The common thread between the Complaint and the language of prohibition in the Act is the purpose of "influencing the nomination or election of a candidate." As such, we assume the Complaint is asserting that the actions of the Secretary of State at issue in the Court of Claims Case represent some kind of attempt to influence the election of the officers who were the subjects of that case. This is facially untrue. The Court of Claims Case (which was filed by Mr. LaMie) involves alleged technical irregularities regarding the oaths of office administered to the Governor, Lieutenant Governor, Attorney General and Secretary of State. According to Mr. LaMie's complaint in the Court of Claims Case, these alleged irregularities constituted a fraud on the people of the State of Michigan, and therefore Secretary Benson and Michigan Bureau of Elections Director Jonathan Brater should not have placed these officers on the November 2022 ballot.

Setting aside the Court of Claims Case's own lack of merit, the Complaint's assumed theory fails as a result of the obvious nature of the Court of Claims Case, which asserts improper ministerial action by Secretary Benson and Director Brater in their official capacities as election administrators under the Michigan Election Law, not an effort to influence the nomination or election of a candidate. Mr. LaMie's complaint in the Court of Claims Case specifically and repeatedly makes it clear that he is challenging the official acts of Secretary Benson and Director Brater, including statements such as:

Defendant Jocelyn Benson is Michigan's Secretary of State. Secretary Benson is the State's chief elections official and has ultimate authority over the enforcement of the Michigan Election Code, including the provisions challenged herein.

Defendant Jonathan Brater is the Director of the Michigan Bureau of Elections. Director Brater accepts and reviews candidate petition filings, assists county and local election officials with their administrative duties, and administers the State's electoral process and Campaign Finance Act.

³ The Complaint cites the Court of Claims Case as "[e]vidence included with the submission of the complaint that supports the allegations"; however it was not included with the copy of the Complaint provided to our office.

⁴ MCL 169.204(1).

⁵ MCL 169.206(1).

⁶ MCL 169.206(1)(a).

Venue is proper in this Court . . . because the Defendants are state officials who maintain offices throughout the State of Michigan.

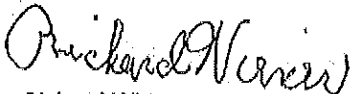
The Defendant Benson, Defendant Brater and Defendant Michigan Bureau of elections are to observe and follow all election laws, common laws Michigan Compiled Laws, Federal Laws and the Michigan Constitution along with the United States Constitution.

The Michigan Bureau of Elections places candidates on the ballot to run for election at the direction of Defendants Benson and Brater.⁷

Given that the allegations in the Court of Claims Case clearly involve the actions of state officials within the scope of their offices, the Attorney General is the appropriate counsel to defend the case—and like the underlying state officers' actions, the Attorney General's role as counsel has nothing to do with influencing the nomination or election of a candidate. Under state law, it is "the duty of the attorney general, at the request of the governor, the secretary of state, the treasurer or the auditor general, to prosecute and defend all suits relating to matters connected with their departments."⁸ Therefore, not only is the Attorney General's involvement in the case appropriate, it is legally required. An assertion that the Attorney General's service as counsel in the Court of Claims Case constitutes an unlawful or inappropriate use of public funds is frivolous and unsupported under even the most generous review—it is quite simply the direct opposite of what the law provides.

In light of the foregoing, we request immediate dismissal of the Complaint.

Sincerely,



Richard Wiener
Treasurer

PO BOX 21368
Detroit, MI 48221

JOCELYN BENSON

JOCELYN@VOTEBENSON.COM
VOTEBENSON.COM

PAID FOR BY JOCELYN BENSON FOR SECRETARY OF STATE

⁷ Court of Claims Case complaint at ¶¶ 1-5.

⁸ MCL 14.29.

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30217
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

March 7, 2023

Ervin Joseph LaMie
1281 Fleming Ave
Muskegon, MI 49442

Re: *Lamie v Jocelyn Benson for Secretary of State,*
Campaign Finance Complaint

Dear Mr. LaMie:

The Department of State, as required by MCL 169.215(9), referred to this office the campaign finance complaint you filed against Secretary of State Jocelyn Benson, alleging violations of the Michigan Campaign Finance Act. Please note that the Department of State's referral pertained only to the aspect of the complaint concerning Secretary Benson and not as to the aspect of the complaint that concerned Attorney General Dana Nessel. This letter is in regard the disposition of that complaint as to Secretary Benson.

The campaign finance complaint arises out of litigation pending in *Lamie v Benson*, Court of Claims No. 22-000129-MZ, and states that Secretary Benson "secured the office of Dana Nessel attorney general to represent her and the others, Gretchen Whitmer, Garlin Gilchrist, Dana Nessel and Jocelyn Benson in the [Court of Claims] case to protect and further the candidates in the election process." The campaign finance complaint goes on to state that "Gretchen Whitmer, Garlin Gilchrist, and Dana Nessel are named within the case to be removed from the November 8th 2022 elections ballot." The campaign finance complaint ultimately alleges that MCL 169.257 was violated because "[t]his is a use of public funds to further the election of the named candidates on the ballot for the November 2022 election."

A copy of the campaign finance complaint was forwarded by me to the "Jocelyn Benson for Secretary of State" campaign committee (the Committee). In response to the complaint, the Committee asserted that the complaint "is on its face insufficient to provide . . . enough evidence or argument to assess whether a violation of the Act occurred." The response went on to assert, "[g]iven that the allegations in the Court of Claims case clearly involve the actions of state officials within the scope of their office, the Attorney General is the appropriate counsel to defend the case" and that "the Attorney General's role as counsel has nothing to do with influencing the nomination or election of a candidate." The Committee

Ervin Joseph LaMie

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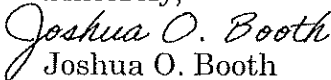
ultimately contends therefore that there has been no “unlawful or inappropriate use of public funds.”

A copy of the Committee’s response was mailed to you at the above address, along with a letter requesting that any reply be filed within 10 business days and noting that an extension of 10 business days would be considered upon request. The 10-business day period ended on January 4, 2023, and no reply or request for an extension was received.

At issue in your campaign finance complaint is MCL 169.257(1), which provides that a “public body or person acting for a public body shall not use or authorize the use of funds, personnel, . . . or other public resources to make a contribution or expenditure . . .” Broadly speaking, and relevant here, “contributions” and “expenditures” include payments for services made to influence or assist in the election of a candidate. MCL 169.204(1); MCL 169.206(1).

A review of the Court of Claims complaint reveals that the claim against Secretary Benson is that the oaths of office taken by Governor Whitmer, Lieutenant Governor Garlin Gilchrist, and Attorney General Dana Nessel after the 2018 election are invalid and that Secretary Benson and the Bureau of Elections failed to take corrective measures. In other words, the Court of Claims complaint challenges the actions taken (or not taken) by Secretary Benson and the Department of State in fulfilling their responsibility to administer the Election Law. Therefore, in light of the nature of this challenge, Secretary Benson requested the services of the Attorney General not to influence or assist the election of any candidate, but to defend her in a matter that is clearly connected with her department. And, by statute, “it is the duty of the attorney general, at the request of the . . . secretary of state . . . to . . . defend all suits relating to matters connected with their department[.]” MCL 14.29. Accordingly, to the extent there was a use of public funds or resources at the direction of Secretary Benson in regard to “securing” the Attorney General to represent her in the Court of Claims, that use was not an improper “contribution or expenditure” and was specifically authorized by law.

Based on the information that has been provided, there is no reason to believe that Secretary of State Jocelyn Benson violated MCL 169.257. Consequently, no penalties are warranted, and the campaign finance complaint is dismissed.

Sincerely,

Joshua O. Booth
Division Chief
Opinions Division

cc: Richard Wiener, Treasurer, Jocelyn Benson for Secretary of State (via email)