

**STATE OF MICHIGAN**  
**COURT OF CLAIMS**

ROBERT LABRANT, ANDREW BRADWAY,  
NORAH MURPHY, and WILLIAM NOWLING,

Plaintiffs,

v

Case No. 23-000137-MZ

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

Hon. James Robert Redford

Defendant.

**ORDER DENYING MOTION TO INTERVENE, GRANTING REQUESTS TO FILE  
AMICUS CURIAE BRIEFS, GRANTING ORAL ARGUMENT TO DONALD J. TRUMP  
AND HOLDING IN ABEYANCE RULING ON CERTAIN OTHER PLEADINGS**

I. BACKGROUND

In this matter, numerous pleadings have been filed immediately before and since the Court's Second Expedited Scheduling Order of October 18, 2023. In this Order the Court will address the following:

- October 16, 2023 Motion of Donald J. Trump to Intervene under MCR 2.209(A)(3) and (B); and October 16, 2023 Motion of Donald J. Trump for Summary Disposition, with an accompanying brief; and October 16, 2023 Motion to Exceed Page Limit
- October 18, 2023 Notice of Concurrence that plaintiffs had no objection to the Motion to Intervene
- October 23, 2023 Defendant Secretary of State Response in Opposition to Donald J. Trump's Motion to Intervene
- October 23, 2023 Donald J. Trump's Motion for Leave to File an *Amicus Curiae* Brief

- October 23, 2023 Gerald D. Magliocca’s Motion to file an *Amicus Curiae* Brief
- October 23, 2023 Constitutional Accountability Center Motion to File an *Amicus Curiae* Brief
- October 23, 2023 Plaintiffs’ Brief In Opposition to Intervening Defendant’s Motion for Summary Disposition and in Response to Intervening Defendant’s *Amicus* Brief. Plaintiffs’ Motion to Exceed Page Limit in MCR 2.119(A)(2)(a).<sup>1</sup>

Having read the proposed motions and responses, the Court finds the following:

## II. MOTION TO INTERVENE

With respect to Donald J. Trump’s Motion to Intervene, intervention in a case is governed by MCR 2.209. This Court rule provides:

**(A) Intervention of Right.** On timely application a person has a right to intervene in an action:

(1) when a Michigan statute or court rule confers an unconditional right to intervene;

(2) by stipulation of all the parties; or

(3) when the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

**(B) Permissive Intervention.** On timely application a person may intervene in an action

(1) when a Michigan statute or court rule confers a conditional right to intervene; or

(2) when an applicant's claim or defense and the main action have a question of law or fact in common.

In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

---

<sup>1</sup> By separate order, the Motion to Exceed Page Limit is GRANTED.

**(C) Procedure.** A person seeking to intervene must apply to the court by motion and give notice in writing to all parties under MCR 2.107. The motion must

(1) state the grounds for intervention, and

(2) be accompanied by a pleading stating the claim or defense for which intervention is sought.

**(D) Notice to Attorney General.** When the validity of a Michigan statute or a rule or regulation included in the Michigan Administrative Code is in question in an action to which the state or an officer or agency of the state is not a party, the court may require that notice be given to the Attorney General, specifying the pertinent statute, rule, or regulation.

MCR 2.110, the court rule regarding pleadings, states in relevant part:

**(A) Definition of "Pleading."** The term "pleading" includes only:

(1) a complaint,

(2) a cross-claim,

(3) a counterclaim,

(4) a third-party complaint,

(5) an answer to a complaint, cross-claim, counterclaim, or third-party complaint, and

(6) a reply to an answer.

No other form of pleading is allowed.

In addition, it is significant that the Michigan Court of Claims is a Court of limited jurisdiction. “The Court of Claims is a court of legislative creation. Its statutory powers are explicit and limited.” *Council of Orgs & Others for Ed About Parochiaid v Michigan*, 321 Mich App 456, 466; 909 NW2d 449 (2017) (quotation marks and citation omitted). “MCL 600.6419, which *specifically outlines* the jurisdiction of the Court of Claims, contains a requirement that the action be ‘against the state or any of its departments or officers . . . .’ ” *Id.* at 467 (Emphasis in original); MCL 600.6419(1)(a). Thus, the “Court of Claims lack[s] subject-matter jurisdiction

over claims against nonstate actors.” *Id.* at 465. Proposed Intervenor Donald J. Trump does not fall within the definition of “the state or any of its departments or officers” as set forth in MCL 600.6419(7).

In the instant case, Proposed Intervenor Donald J. Trump has sought to intervene and seeks summary disposition. However, Proposed Intervenor has not identified in what capacity he wishes to intervene. Nor has he filed a pleading that comports with the requirements of MCR 2.209(C)(2) and MCR 2.110(A). Likewise, Proposed Intervenor has not identified how this Court has jurisdictional authority to allow him to intervene in the manner he has sought.

For these reasons, Proposed Intervenor’s Motion to Intervene in 23-000137-MB is DENIED without prejudice.

If Proposed Intervenor wishes to file some other pleading in this Court in a renewed effort to seek to intervene, or to file a separate parallel action and seek to have that action consolidated with the instant case, he may seek to do so in accordance with the law governing actions in this Court. Any renewed pleading to intervene or filing of a pleading seeking to proceed under a separate parallel action shall be filed by Proposed Intervenor by Monday October 30, 2023, at 4:00 p.m. and must be served on all parties of record.

If Proposed Intervenor files further pleadings per the preceding paragraph, responding parties shall file an answer or other responsive pleading on or before Thursday, November 2, 2023, at 4:00 p.m. Should such an answer or other responsive pleading be filed, Donald J. Trump may file a reply on or before Monday, November 6, 2023, at 4:00 p.m.

### III. MOTIONS TO FILE *AMICUS CURIAE* BRIEFS

All Motions to File an *Amicus Curiae* Brief are GRANTED. On the Court's own initiative, *Amicus Curiae* filer, Donald J. Trump, is advised that because he is the individual whom plaintiffs seek to exclude from the ballot as a candidate for President of the United States, his counsel will be given the opportunity to present oral argument at any dispositive motion hearing in the instant case and at such other hearings the Court schedules in which oral argument is allowed. All other individuals or groups who have submitted *Amicus Curiae* briefs have the thanks of the Court for their submissions. However, no other *Amicus Curiae* submitters will be provided the opportunity to present oral argument at any hearings in the matters before the Court.

### IV. MOTION FOR SUMMARY DISPOSITION

Because Proposed Intervenor Donald J. Trump's Motion to Intervene is DENIED at this time without prejudice as indicated above, Donald J. Trump's Motion for Summary Disposition is HELD IN ABEYANCE at this time.

Plaintiffs' Brief in Opposition to Proposed Intervenor Donald J. Trump's Motion for Summary Disposition is also HELD IN ABEYANCE at this time.

### V. CONCLUSION

The Court ORDERS:

1. Proposed Intervenor Donald J. Trump's October 16, 2023 Motion to Intervene in 23-000137-MZ is DENIED without prejudice.

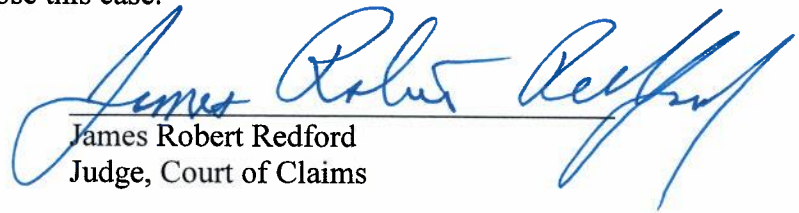
2. Proposed Intervenor Donald J. Trump's October 16, 2023 Motion for Summary Disposition and Motion to Exceed Page Limit are HELD IN ABEYANCE at this time.
3. Plaintiffs' Brief in Opposition to Proposed Intervenor Donald J. Trump's Motion for Summary Disposition is also HELD IN ABEYANCE.
4. If Proposed Intervenor Donald J. Trump wishes to file some other pleading in this Court in a renewed effort to seek to intervene, or to file a separate parallel action and seek to have that action consolidated with the instant case, any renewed pleading to intervene or filing of a pleading seeking to proceed under a separate parallel action shall be filed by Proposed Intervenor by Monday October 30, 2023, at 4:00 p.m. and must be served on all parties of record.
5. If Proposed Intervenor Donald J. Trump files further pleadings per ¶ 4 above, responding parties may file an answer or other responsive pleading on or before Thursday, November 2, 2023, at 4:00 p.m.
6. Should an answer or other responsive pleading be filed per ¶ 5 above, Proposed Intervenor Donald J. Trump may file a reply on or before Monday, November 6, 2023, at 4:00 p.m.
7. The motion of Donald J. Trump to file an *Amicus Curiae* pleading is GRANTED and Donald J. Trump shall be permitted to present oral argument as an *Amicus Curiae* filer.
8. The motion of Gerald N. Magliocca to file an *Amicus Curiae* pleading is GRANTED. Gerald N. Magliocca will not be permitted to present oral argument as an *Amicus Curiae* filer.

9. The motion of the Constitutional Accountability Center to file an *Amicus Curiae* pleading is GRANTED. The Constitutional Accountability Center will not be permitted to present oral argument as an *Amicus Curiae* filer.

IT IS SO ORDERED.

This is not a final order and does not close this case.

Date: October 25<sup>th</sup>, 2023

  
James Robert Redford  
Judge, Court of Claims

