

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

KALAMAZOO COUNTY REPUBLICAN  
COMMITTEE and KELLY SACKETT, in her  
Official capacity as KGOP chair,

Plaintiffs,

v.

Case No. 2024-0026-CZ  
Hon. Curtis Bell

RODNEY HOLCOMB, KERRY LYNN ELIEFF,  
EMILY CRAWFORD, ROBYN MAXON,  
KRISTINA KARAMO, DANIEL J. HARTMAN,  
JAMES M. COPAS, SECRETARY OF STATE  
JOCELYN BENSON,

Defendants.

---

DEPERNO LAW OFFICE  
MATTHEW DEPERNO (P52622)  
Attorney for Plaintiffs  
951 W. Milham Ave.  
P.O. Box 1595  
Portage, MI 49801  
(269) 321-5064  
matthew@depernolaw.com

---

LAW OFFICE DANIEL J. HARTMAN  
DANIEL J. HARTMAN (P52632)  
Attorney for Defendants Karamo, Hartman,  
and Copas  
P.O. Box 307  
Petoskey, MI 49770  
(231) 348-5100  
Danjh1234@yahoo.com

COLLINS EINHORN FARRELL PC  
KELLIE L. HOWARD (P69009)  
Co-Counsel for Defendants Karamo, Hartman  
and Copas  
4000 Town Center, 9<sup>th</sup> Floor  
Southfield, MI 48075  
(248) 355-4141  
Kellie.Howard@ceflawyers.com

RODNEY HALCOMB, *in pro per*  
10715 S. S Ave E  
Scotts, MI 49088

KERRY LYNN ELIEFF, *in pro per*  
6455 N. 39<sup>th</sup> St.  
Augusta, MI 49012

EMILY CRAWFORD, *in pro per*  
9427 Oakview Dr.  
Portage, MI 49024

ROBYN MAXON, *in pro per*  
8488 S. 35<sup>th</sup> St.  
Scotts, MI 49088

---

**Defendants’ Supplemental Brief in Support of Answer to  
Plaintiffs’ Motion for a Temporary Restraining Order,  
Show Cause Order, and Preliminary Injunction**

The plaintiffs filed this suit to determine the validity of their actions in allegedly removing and replacing Defendants Karamo, Hartman, and Copas from their seats in the Kalamazoo County Republican Committee. They say the case is justiciable—meaning that it’s not an intraparty dispute—because they’ve already allegedly removed and replaced the defendants from their seats. Yet, this conclusion stands at odds with the very reason for their lawsuit. The Court should reject their circular reasoning. *Premier Property Serv v Crater*, 333 Mich App 623, 634 (2020) (rejecting defendant’s circular reasoning).<sup>1</sup>

---

<sup>1</sup> See also **Attachment B**. The Kalamazoo County Clerk’s list of GOP delegates shows that the plaintiffs’ claim that the defendants were removed from the party is inaccurate. To the extent the plaintiffs dispute the county clerk records they further demonstrate that this case is an intra-party dispute. See *American Independent Party of Michigan (Morse-Smith Faction) v Secretary of State*, 397 Mich 689 (1976). Plaintiffs cannot use the subject of the dispute to assert that there is no dispute.

Moreover, collateral estoppel bars the plaintiffs from re-litigating whether the replacement of seats constitutes an intraparty dispute. This Court has already found that it does.

To assert collateral estoppel defensively, a party must show that (1) the issue was actually litigated and (2) determined by a valid final judgment. *Monat v State Farm Ins Co*, 469 Mich 679, 691-693 (2004) (recognizing that mutuality of estoppel isn't required to use collateral estoppel defensively).

An issue doesn't have to appear in the formal pleadings for the parties to actually litigate it—it's actually litigated when it is obvious that the parties have litigated the issue to exhaustion. *Keywell and Rosenfeld v Bithell*, 254 Mich App 300, 345; (2002) ("There are times when the formalities surrounding a previous action bend to the unalterable reality that the parties have already disputed an issue to the fullest extent possible and the trial court deciding the previous dispute resolved the issue as formally as the court rules permit.").

A valid final judgment for collateral estoppel purposes is one that remains unmodified. *Hackley v Hackley*, 426 Mich 582, 590 (1986) (holding that a fact put in issue and decided by a court of competent jurisdiction cannot be disputed as long as the original judgment remains unmodified); see also *Temple v Kelel Distributing*, 183 Mich App 326; (1990) (applying the rule from *Hackley*).

Here, the issue of whether the Committee’s replacements of seats constitutes an intraparty dispute was already litigated in Kalamazoo County Circuit Court Case 23-0169-23.<sup>2</sup> In that case, the plaintiffs complained that the Committee replaced their seats in violation of the bylaws. The defendants—who are the plaintiffs in this case—argued that the claim was non-justiciable because it was an intraparty dispute. This Court entered an opinion and order on August 10, 2023 that analyzed whether the replacement of seats constituted a non-justiciable intraparty dispute, and held that it did.<sup>3</sup> So the issue was actually litigated to a valid, final judgment. *Keywell and Rosenfeld*, 254 Mich App at 345; (2002). And the August 10, 2023 order remains unmodified. *Hackley*, 426 Mich at 590. Thus collateral estoppel precludes the plaintiffs from re-litigating whether their replacement of seats constitutes a non-justiciable intraparty dispute. It does. This Court should abstain from ruling on the Plaintiffs’ requested relief.

Respectfully submitted,

COLLINS EINHORN FARRELL PC

*/s/ Kellie L. Howard*

\_\_\_\_\_

KELLIE L. HOWARD(P69009)

Co-Counsel for Defendants Karamo, Hartman  
and Copas

4000 Town Center, 9<sup>th</sup> Floor

Southfield, MI 48075

(248) 355-4141

Dated: February 9, 2024

---

<sup>2</sup> **Attachment A**, August 10, 2023 Opinion and Order

<sup>3</sup> *Id.*

**PROOF OF SERVICE**

The undersigned hereby certifies that on February 9, 2024, that the foregoing document was served upon counsel of record listed on the above-referenced caption via First Class mail and email at their respective email address.

By: /s/ Denise Glabin  
Denise Glabin

# **ATTACHMENT A**

AUG 10 2023

9TH JUDICIAL CIRCUIT  
COUNTY OF KALAMAZOO  
KALAMAZOO, MICHIGAN

## STATE OF MICHIGAN

IN THE 9<sup>th</sup> CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

SABRINA PRITCHETT-EVANS  
and KIMBERLY HARRIS,  
Plaintiffs,

Case No.: 2023-0169-CZ

v.

Hon. Curtis J. Bell

REPUBLICAN PARTY OF KALAMAZOO  
COUNTY, STATE OF MICHIGAN (KGOP),  
KALAMAZOO GRAND OLD PARTY  
EXECUTIVE COMMITTEE (KGOPEC), and  
(AKA) KALAMAZOO COUNTY REPUBLICAN  
COMMITTEE (KGOPEC), and KELLY SACKETT,  
Defendants.

James A. Thomas (P80931)  
Attorney for Plaintiffs  
1925 Breton Rd., Suite 250  
Grand Rapids, MI 49506  
(616) 747-1188  
jimmy@jimmythomaslaw.com

Matthew DePerno (P52622)  
Attorney for Defendants  
951 W. Milham Avenue, P.O. Box 1595  
Portage, MI 49081  
(269) 321-5064  
matthew@depermolaw.com

**OPINION AND ORDER**

At a session of said Court held in the City and  
County of Kalamazoo, State of Michigan,  
on the 10<sup>th</sup> day of August 2023.

PRESENT: HON. CURTIS J. BELL  
Circuit Court Judge

**STATEMENT OF FACTS AND PROCEDURAL HISTORY**

This matter comes before the Court on Defendants' Motion for Summary Disposition pursuant to MCR 2.116(C)(1), (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), (C)(8), and (C)(10). Plaintiffs' Amended Complaint sought a declaratory judgment concerning alleged violations of Michigan's Election Law Statute and Bylaws, the application of Michigan's Constitution, Defendants' alleged breaches of fiduciary duties, and Defendants' alleged defamation against Plaintiffs. On July 20<sup>th</sup>

the Court entertained evidence and heard oral arguments concerning Defendants' Motion for Summary Disposition and the Court took the matter under advisement for thirty days.

The complaint was brought by Plaintiffs Sabrina Pritchett-Evans and Kimberly Harris against Defendants Republican Party of Kalamazoo County (KGOP) and Kelly Sackett. The KGOP is operated by the Kalamazoo County Republican Committee (KCRC), of which, Kelly Sackett has been Chair for all applicable periods of this dispute.

This case involves an intraparty political dispute concerning (1) the replacement of seats on the KCRC reserved for Statutory Members, (2) press release statements and censure notices about Plaintiffs made by Defendants, and (3) the removal of 17 elected precinct delegates.

The Michigan Republican Party's (MIGOP) organizational structure is divided into 83 County Committees across 13 Districts. The KGOP is a County Committee within the Fourth District of the MIGOP. Pursuant to the KGOP Bylaws, the KGOP consists of a County Executive Committee with an equal number of Statutory Members and Elected Members. Statutory Members are those individuals who have been nominated for an elective office, including county-wide elected office and State legislative offices. The Elected Members are those who have been selected through an internal Republican Party selection process. There is a third group of Executive Committee members who serve as *ex-officio* members of the Executive Committee. These members are non-voting members. These are individuals who gain their status by virtue of being affiliated with the Republican Party. The Bylaws dictate that there are 36 individuals who make up the KCRC.

Article III(3)(A) of the Bylaws states how the Statutory Members of the Executive Committee are seated:

Those persons who shall have been most recently nominated at the last two (2) preceding fall primary elections for county and state legislative offices in the fall



elections of even numbered years. These persons shall be known as **Statutory Members** of the Executive Committee.

Pl.'s Ex. 6, 1. Article III(3)(B) of the Bylaws states how the Elected Members are seated:

A number of persons, equal to the number of candidates of the Party for election to county and state legislative office in Kalamazoo County, shall be selected by the precinct delegates to the Fall County Convention of the Party taking place in even-numbered years. These persons shall be known as **Elected Members** of the Executive Committee.

*Id.* Michigan's legislature provides structure to political parties pursuant to MCL 168.599(1), which states:

In the year 1966 and every second year thereafter, the delegates to the fall county convention of each political party in each county in this state having a population of less than 1,500,000, shall convene at the call of the county chairperson within 20 days following the November election to select a number of persons equal to the number of county offices and state legislative offices for which candidates were nominated at the last 2 preceding fall primary elections, who, together with the persons most recently nominated by the party for each of those offices shall constitute the executive committee of their party for that county. When a new nomination is made for an office, the nominee for which is entitled to serve as a member of the executive committee, the new nominee shall replace the former nominee as a member of the executive committee. If a vacancy occurs in the position of delegate-appointed member of the executive committee, the remaining delegate-appointed members shall fill the vacancy. Except as otherwise provided in this section, the executive committee may appoint the officers it considers proper to carry out the purposes of the committee, and may fill a vacancy in any of its offices.

MCL 168.599(1).

Prior to the instant lawsuit, there existed hostility within the local Republican Party at large and specifically between the litigants. Plaintiffs were members of the KGOP Executive Committee. Am. Verified Compl. ¶ 2-3. Plaintiff Harris was an Elected Member with voting power on the Executive Committee. *Id.* As Chair of the Kalamazoo Republican Women's Association, Plaintiff Pritchett-Evans was an *ex-officio* member of the Executive Committee. Due to her *ex-officio* status, she was a non-voting member. *Id.*

Defendants allege Plaintiff Harris is part of a minority who wishes to “burn the party down.” Am. Br. In Supp. Of Def.’s Mot. For Summ. Disposition 2. Defendants further allege that Plaintiff Pritchett-Evans has “a history of donating to Democrats and supporting Democrat candidates and ideals” and that she “is a disruptor who as late as 2021 supported liberal causes such as Diversity, Equity, and Inclusion (DEI), Social Emotional Learning (SEL), and Critical Race Theory (CRT).” *Id.*

Plaintiffs claim that Defendant Sackett breached her fiduciary duty as Chair of the KGOP on January 9, 2023, when a vote was held to allow the nomination and election of three open Statutory seats. Three Statutory Members who were nominees for elected office vacated their position. Compl. ¶ 8. The vote to replace them passed with 14 votes in favor of filling the seats and nine votes against. Compl. ¶ 9. After the vote, the KGOP minutes from January 9, 2023, indicate that a “[d]iscussion ensue[d] if the chair can vote or is a nonvoting member.” Pl.’s Ex. A, 3. The minutes continue, stating “[t]he Chair is a statutory member...” *Id.* On February 13, 2023, the previously nominated replacement statutory seats received an affirmative vote. Compl. ¶ 10. Plaintiffs believe this was unlawful and in violation of MCL 168.599(1) and the Bylaws.

The MIGOP State Convention was held on February 17, 2023. The night before, the Chairs of each County Committee within the Fourth District voted on specific rules for the convention, including Rule 9. Def.’s Ex. 3, 1. Rule 9 states “[e]ach county will caucus and its voting delegates shall elect the nominees for each State & District position assigned to said county, as available.” *Id.* The caucus’ purpose was to elect district and vice chairs, district committee members, and county representatives to serve on the MIGOP. Am. Br. 1. Plaintiff Harris wished to be elected to the MIGOP State Committee and Plaintiff Pritchett-Evans wished to be elected as Fourth District Vice-Chair. *Id.* at 2.

At the February 17, 2023, Caucus for the Fourth District, a vote to amend Rule 9 as to Kalamazoo County only was brought to the floor. The amendment would make the nomination of Plaintiffs, among others, be voted upon by the entire district floor, instead of just Kalamazoo County delegates. Compl. ¶ 20. Defendants allege Plaintiffs did not have enough support in Kalamazoo County to win their nominations under Rule 9; therefore, Plaintiffs decided to formulate a plan whereby a motion would be brought at the February 17 Caucus to suspend Rule 9 as to Kalamazoo County. Am. Br. 2-3. The vote to amend Rule 9 needed a two-thirds vote (116 votes) by MIGOP District 4 to pass. Compl. ¶ 21. The measure passed with Plaintiffs among the votes in favor. *Id.*

Plaintiffs' justify their conduct at the Fourth District Caucus by referencing Defendant Sackett's February 13, 2023, action in allegedly unlawfully seating non-Statutory individuals into Statutory seats. They assert the action concerning Rule 9 was a direct consequence of Defendant Sackett's "defiance of the statutory language and binding Bylaws." Compl. ¶ 20.

On February 20, 2023, The KGOP sent Plaintiff Harris a "cease and desist" letter demanding that she stop her conduct. Am. Br. 5, Ex. 27. Defendants allege she ignored the demand letter. *Id.* Plaintiffs also claim that Defendants published a libelous press release on February 21, 2023. Plaintiffs' Ex. D. On February 27, 2023, the KGOP submitted a letter to the MIGOP Chair demanding action be taken against its members for the events at the February 17 Caucus. Am. Br. 3, Ex. 12. No response has been received. *Id.*

On March 1, 2023, the KGOP distributed censure notices of Plaintiffs. The KGOP's censure notices stated that Plaintiffs "falsely stated the KGOP Executive Committee took an illegal vote on February 13, 2023." Pl.'s Ex. E, 1, 3. Plaintiffs allege that these censures are "slanderous statements" and "have appeared on the internet and have been distributed to their entire email list

and to all the members in the [KGOP Executive Committee], Kalamazoo County duly elected precinct delegates, and KGOP membership with no substantiation.” Compl. ¶ 21.

On March 13, 2023, a Motion to Consider the Removal of Plaintiff Harris, and two other Elected Members was made. Am. Br. at 6. Article V(3) of the Bylaws outlines the requirements for quorum:

3 – **Quorum** A quorum of the Executive Committee shall consist of at least 30 percent of the total voting members of the Executive Committee. The affirmative vote of a majority of those present shall be necessary to take formal action, except as otherwise provided herein or by law.

Pl.’s Ex. 2, 5. Article III(7)(E) of the Bylaws outlines the procedure of a Motion to Consider Removal for an Elected Member:

A motion to consider the removal of an Elected Member from the Executive Committee requires a two-thirds vote of the Elected Members present at a regular meeting of the committee. If the motion to consider removing an Elected Member is approved, a letter must be sent to the delegate informing [her] of the action taken, and the right to appear at the next regular meeting of the organization to appeal the action taken. Final approval to remove and Elected Member requires a two-thirds vote of the members present at the meeting held subsequent to the one where the motion to consider removing an Elected Member was approved.

*Id.* at 3.

There must have been at least 30 percent of the Elected Members present to meet the quorum. There were 17 out of the 18 members present, thus meeting the quorum. *See* Pl.’s Ex. 2, 5. The vote count needed was two-thirds (12 votes out of 17) to pass. *See* Pl.’s Ex. 2, 3. There were 11 votes in favor of considering the removal of Plaintiff Harris and six votes against. Def.’s Ex. 31. This vote alone did not meet the two-thirds requirement under Article III(7)(D) of the Bylaws. Chair Sackett, as a non-voting member, cast her vote to consider removal. *Id.* With her vote, the Motion to Consider Removal passed by two-thirds. *Id.* As noted hereinabove, the issue of whether Chair Sackett could vote was discussed two months previously. *See* Pl.’s Ex. A, 3. Plaintiff Harris

was then given notice that a vote to remove her would take place on April 10, 2023. Am. Br. at 6. Defendants maintain that Plaintiff Pritchett-Evans was subject to removal as an *ex-officio* member because she allegedly violated rules and procedure and her “organization’s anti-Muslim rhetoric was against KGOP principals.” *Id.* at 5. There are no guidelines within the Bylaws to remove an *ex-officio* member. *See* Pl.’s Ex. 6.

On April 10, 2023, the KGOP Executive Committee voted and removed three Elected Members of the Executive Committee, including Plaintiff Harris. *See* Compl. ¶ 20. On that same day, the Executive Committee also removed 17 elected county-wide delegates. Pl.’s Ex. 1. In effect, Plaintiff Harris was removed from both her Executive Committee role as well as her role as an elected delegate. Plaintiff Pritchett-Evans was also one of the seventeen county delegates removed. *See* Pl.’s Ex. 1. Also, with her removal as an *ex-officio* member of the Executive Committee, she lost both of her positions. The very next day, the KGOP notified the County Clerk’s Office of its action. Pl.’s Ex. 1.

At the July 20<sup>th</sup>, 2023, Evidentiary Hearing, Plaintiffs and Defendants produced one witness each. Plaintiffs witness was Joel Studebaker. Mr. Studebaker was not offered as an expert. He was presented to provide background information concerning recent historical events as described hereinabove. He also provided testimony concerning his experience involved in local and State Republican party politics. Mr. Studebaker acknowledged that he was new to politics, having only been involved for the last few years. He had run for a delegate position in 2022 and was elected Chair of the Ottawa County Republican Party in December of that same year. He testified that, effective February 2023, he is Chief of Staff for the Michigan Republican Party.

The Defense witness, David Dishaw, was stipulated to be an expert in the field of parliamentary procedure, Republican Bylaws, and Republican Party history. His Republican Party

experience spans almost three decades. His positions include Republican polling, data aggregation, and political consulting. He has been a precinct delegate for 26 years and chaired the most recent Republican State Convention. There is no question that the experience and expertise of Mr. Dishaw was vastly superior to that of Mr. Studebaker. With this being said, there were some areas of agreement. There was one significant area of disagreement concerning the application of Robert's Rules of Order to the current issues before the Court.

Mr. Dishaw's discussion concerning the replacement of the three statutory members included an acknowledgment that the Bylaws were unclear as to the process of replacement. He had advised that "custom and tradition" permitted their replacement in accordance with the actions of Defendants. He also indicated that the removal of the 17 members was permissible. During his testimony, he recited two incidents under which statutory members had been replaced. This discussion concerned two former State Senate candidates, Dick Posthumus and Brian Calley. Both State Senate candidates became the Republican nominees for Lieutenant Governor. In each case, the subsequent replacement Senate Nominee became a statutory member of their local committee. In the case of Brian Calley, Mr. Dishaw indicates that three County Republican Committees selected Brian Calley's replacement for the Senate candidacy and thus the replacement nominee became a Statutory Member. He also indicates that for Dick Posthumus, the Kent County Executive Committee selected his replacement nominee. He further testified that the other counties in Michigan have a similar Executive Committee structure, though not all have Bylaws. In the case at bar, the Statutory seats were not nominees for a general election. They were Statutory Members as former nominees in the general election. Therefore, their replacement would not be running in a general election.

The summons and complaint for this matter were filed by Plaintiffs on March 29, 2023.

The same day, a Motion to Amend the Complaint was made by Plaintiffs. On April 10, 2023, this Court denied Plaintiff's Motion for Injunctive Relief, or in the Alternative Motion for an Order to Show Cause/Motion and Request for Mandamus. On April 28, 2023, Defendants made a Motion for Summary Disposition pursuant to MCR 2.116(C)(1), (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), (C)(8), and (C)(10) and Demand for Sanctions pursuant to MCR 1.109(E). On May 19, 2023, Plaintiffs submitted their Amended Verified Complaint. After the complaint was amended, Defendants filed a second Motion for Summary Disposition pursuant to MCR .116(C)(1), (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), (C)(8), and (C)(10) on June 9, 2023.

### ANALYSIS

Defendants argue that Plaintiffs' claims are not justiciable. Am. Br. 7. Defendants state that "Plaintiffs lack the capacity to sue because this is a dispute of internal party politics, and the issues are not justiciable by this court," and that the issues brought by Plaintiffs are governed by the "political questions doctrine." *Id.*

Federal courts have spoken clearly to complaints related to State intervention with political parties. In *O'Brien v. Brown*, the United States Supreme Court stated that:

Judicial intervention in [the political] area has traditionally been approached with great caution and restraint. It has been understood since our national political parties first came into being as voluntary associations of individuals that the convention itself is the proper forum for determining intra-party disputes as to which delegates shall be seated.

409 U.S. 1, 4 (1972).

In *O'Brien*, Plaintiffs were unseated delegates that contested the recommendations of replacement delegates to the Democratic National Convention. 409 U.S. at 2. The Supreme Court stated that "[n]o case is cited to us in which any federal court has undertaken to interject itself into the deliberative processes of a national political convention; no holding of this Court up to now

gives support for judicial intervention in the circumstances presented here, involving as they do relationships of great delicacy that are essentially political in nature.” *Id.* at 4. Additionally, the Court said that “any alteration by Federal Courts of the system whereby political parties determine controversies as to seating of convention delegates should not be done under the circumstance and time pressures involved in the instant proceedings.” *Id.* at 5.

Three years subsequent to the *O’Brien* decision, the U.S. Supreme Court, once again turned to the question of how far the government can go in involving itself with political party matters. In *Wigoda v. Cousins*, the U.S. Supreme Court addressed the question of whether the political questions doctrine extends to State law. 419 U.S. 477 (1975). It noted:

We granted certiorari to decide the important question presented whether the Appellate Court was correct in according primary to state law over the National Political Party’s rules in the determination of the qualifications and eligibility of delegates to the Party’s National Convention.

*Id.* at 483. The Supreme Court stated, referencing the U.S. Court of Appeals, that:

The Appellate Court justified the injunction, however, on the ground that the “interest of the state in protecting the effective right to participate in primaries is superior to whatever other interest the party itself might wish to protect.” *Id.*, at 477, 302 N. E. 2d, at 629. In other words, the Appellate Court identified as the State’s legitimate interest the protection of votes cast at the primary from the impairment that would result from stripping the respondents of their elected-delegate status.

*Id.* at 488 (emphasis added). The *Cousins* Court concludes in:

Thus, Illinois’ interest in protecting the integrity of its electoral process cannot be deemed compelling in the context of the selection of delegates to the National Party Convention. Whatever the case of actions presenting claims that the Party’s delegate selection procedures are not exercised within the confines of the Constitution – and no such claims are made here – this is a case where “the convention itself [was] the proper forum for determining intra-party disputes as to which delegates [should] be seated.”

*Id.* at 491 (quoting *O’Brien v. Brown*, 409 U.S. 1, 4 (1972)). Jurisdiction that overcomes the



political questions doctrine can be conferred by statute. *Steele v. Johnson*, 458 P.2d 889, 890 (Wash. 1969); *Langone v. Secretary of Commonwealth*, 388 Mass. 185, 194 (Mass. 1983); *Bentman v. Seventh Ward Democrat Executive Committee*, 421 Pa. 188, 193 (Pa. 1966); *El Paso Republican Party of El Paso Cnty., Inc. v. Baca*, 656 S.W.3d 529, 537 (Tex. Ct. App. 2022); *Matter of Auerbach v. Suffolk County Comm. Of the Conservative Party*, 96 N.Y.S.3d 323, 328 (N.Y. App. Div. 2019). However, as described above, there are clear limits placed on the government's ability to do so. The Federal Sixth Circuit Court of Appeals has held that MCL 168.599(1) remains good law excluding certain unconstitutional portions. *Heitmanis v. Austin*, 899 F.2d 512, 529 (1990).

Plaintiffs rely upon MCL 168.599(1) for justiciability. Compl. ¶ 7. Plaintiffs argue this court has jurisdiction over this complaint since the Michigan Legislature created the Executive Committee structure through MCL 168.599 and the KGOP has modeled the Bylaws after the statute. *Id.* at ¶ 32.

The Michigan Legislature created a blueprint under which partisan political parties must structure their local governing body. In 1990, the Sixth Circuit U.S. Court of Appeals determined that some of the requirements were unconstitutional. In *Heitmanis v. Austin*, 899 F. 2d 521 (1990) the U.S. Court of Appeals considered the constitutionality of MCL 168.599. The Court held:

In *Ferency v. Austin*, 666 F.2d 1023 (6<sup>th</sup> Cir. 1981), this court found that the Michigan Election Law was unconstitutional insofar as it controlled "the method of selection of the Michigan delegates to the Democratic National Convention" in violation of Democratic National Party rules. The instant case involves similar provisions of the Election Law—controlling selection of delegates at state and county conventions and the makeup of county executive committees of the political parties—which conflict with State Party rules. We hold that these portions of the Election Law significantly burden the right to freedom of association of the State Party and its members. By compelling the State Party to automatically place incumbent legislators and nominees to county offices as delegates, the Election Law infringes upon the right of political parties to choose a method for selection of their party nominees. By requiring the county executive committees to be made up

of an equal number of elected delegates and legislators, the Election Law directly controls the internal structure of the political parties. Since Michigan has not demonstrated any compelling state interest for such a significant restriction of the freedom of association, we conclude that the relevant parts of the Election Law are facially unconstitutional. As such, we need not reach the remaining questions of whether the Election Law violates the one person, one vote requirement of the Fourteenth Amendment and the Voting Rights Act.

*Id.* at 529-30 (emphasis added).

MCL 168.559 has not been updated by the Michigan Legislature since this holding. Therefore, MCL 168.599 should be interpreted as written except for the unconstitutional portion. The KGOP Bylaws were amended on February 9, 2015, and were originally adopted on April 19, 2012. *Id.* at Ex. 2 at 9. The Bylaws adopted Statutory language that has been determined to be an unconstitutional interference by the government in the internal structure of political parties. By adopting the governing structure subsequent to *Heitmanis*, this Court concludes the KGOP endorses and adopts the original language of the statute. Therefore, the determination by the *Heitmanis* Court has no bearing on the application of this language in the Bylaws.

The Michigan Supreme Court provides a similar analysis as the federal courts do on the political questions doctrine. In *American Independent Party v. Secretary of State*, 397 Mich. 689, 692-93 (1976), the plaintiff split from the party, formed its own committee, called its own State convention, considered itself entitled to the political party's name, and made no attempt to qualify as a new party. *Id.* When both slates were presented to the State Director of Elections, the director stated that he would only accept one slate of candidates certified by both chairmen. *Id.* at 696. The Michigan Supreme Court held that the "Director of Elections correctly left to the American Independent Party the resolution of the intraparty dispute" because "the convention itself is the proper forum for determining intraparty disputes." *Id.* at 696. Also, it held that previous decisions from the Court were no longer controlling "because of intervening changes in the election code."

*Id.* at 694.

Other State courts have provided varied analyses on this question as well. In *Bentman v. Seventh Ward Democrat Executive Committee*, 421 Pa. 188, 191-192 (Pa. 1966), the plaintiffs were elected committeemen from their respective districts, removed from office, and replaced with appointed successors with a notice of a meeting that gave no statement of the charges against them. The charges given to them at the subsequent meeting were for disloyalty that took place prior to their election as party committeemen. *Id.* at 192. The Pennsylvania Supreme Court took notice that the Pennsylvania legislature had recently added a new section to the Election Code which reads:

Whenever two or more members of a political party shall be elected or appointed, as the rules of the party may provide, as members of a political committee to represent the members of such party in the respective election districts, such members shall constitute a political committee of said political party to function within such election district: Provided, that, When acting in the capacity of a political committee, such duly elected or appointed members shall be subject to the control, direction and supervision of the political committee of which they are members.

*Id.* at 192-93. Ultimately, the Supreme Court of Pennsylvania held that the statute had the “intent of the legislature to confer upon political or party committeemen such legal status as to make them amenable to the jurisdiction of the courts.” *Id.*

The decision in *Bentman* is narrowed in *Mohn v. Bucks County Republican Committee*, 259 A.3d 449, 459 (Pa. 2021). The Pennsylvania Supreme Court provides that *Mohn* “centers on just how broadly *Bentmen* should be read, particularly in terms of its ‘direct and substantial’ litmus for state action.” *Id.* at 457. The Court states that “an individual must point to some discrete acts or actions entailing state action to establish the required direct-and-substantial nexus, such as the nomination of candidates for local judgeships raised in *Bentman*.” *Id.* Ultimately, the Supreme Court of Pennsylvania in *Mohn* decided that Plaintiff failed to establish the required direct-and-substantial nexus, unlike the plaintiffs in *Bentman*. *Id.*

In *Steele v. Johnson*, 458 P.2d 889, 890 (Wash. 1969), the plaintiff was an unsuccessful U.S. Congressional Representative candidate. While the Supreme Court of Washington eventually held that it did not have jurisdiction over the case, it did say “[t]here is no rule of law, however, that prevents a political party from making contracts, nor is there any rule that immunizes them from liability for tortious conduct.” *Id.* at 891. Additionally, the Court stated, “[e]xcept to the extent that jurisdiction is conferred by statute, the law of private and voluntary associations applies to political parties.” *Id.* at 890. However, the Supreme Court of Washington held that the plaintiff’s argument relied on the “custom and tradition” of the political parties, not statute, and thus, the court had no jurisdiction over the customs and traditions. *Id.* at 890.

In the present case, Defendants argued that the customs and traditions of the KGOP are the ruling authority when deciding the rules of procedure. They argued that even though the Bylaws lay out certain rules and procedures, this Court should instead look to the procedures that the KGOP has customarily followed, instead of what their Bylaws provide. Analyzing this argument under the analysis of *Steele*, it is hard to agree with Defendants. If this Court has the jurisdiction to adjudicate this matter, it cannot be based on the customs when there are Bylaws and/or statute on point. Clearly, customs and traditions can be used in areas where the controlling authority conflicts or is unclear.

Plaintiffs were removed from the KGOP Executive Committee due to alleged behavior that was opposite to KGOP’s ideals. Defendants argue that the decision and reasoning in *O’Brien* means that this Court should leave the KGOP to deal with this intraparty issue on its own. It’s supported by *American Independent Party*, where the Michigan Supreme Court decided that Courts should not interfere with an intraparty issue about which slate is to be put on a ballot. *Bentman*, though not binding authority, determined that Courts did have jurisdiction to decide an

arguably political matter when the Plaintiffs were elected committeemen that were removed from office where there was a statute that had "intent of the legislature to confer upon political or party committeemen such legal status as to make them amenable to the jurisdiction of the courts." Further, in *Steele*, though not binding authority, the court reasoned that jurisdiction can be conferred by statute, but that the court did not have jurisdiction over the "custom[s] and traditions" of the party. *Steele*, 458 P.2d 889, 890 (Wash. 1969).

Defendants' expert, Dishaw, testified that when a Statutory Member seat is open the Committee fills the seat. The two examples he provided were nominees that were in the midst of a general election. In the case before the Court, the three statutory seats vacated by individuals were not in the midst of a general election. The general election had passed. Accordingly, there would be no one qualified as a Statutory Member by definition. Here, there is a relevant statute that "[has] the intent of the legislature to confer upon political or party committeemen such legal status as to make them amenable to the jurisdiction of the courts." See *Bentmen*, 421 Pa. at 192-93. Excluding the parts deemed unconstitutional, MCL 168.599(1) states that:

[E]ach political party in each county in this state having a population of less than 1,500,000 shall convene at the call of the county chairperson within 20 days following the November election to select a number of persons . . . who, together with the persons most recently nominated by the party of each of those offices shall constitute the executive committee of their party for that county.

This is similar to the statute in *Bentmen* which states:

Whenever two or more members of a political party shall be elected or appointed, as the rules of the party may provide, as members of a political committee to represent the members of such party in the respective election districts, such members shall constitute a political committee of said political party to function within such election district: Provided, that, When acting in the capacity of a political committee, such duly elected or appointed members shall be subject to the control, direction and supervision of the political committee of which they are members.

*Bentmen*, 421 Pa. at 192-93.

Defendants adopted their Bylaws in 2012 and made them consistent with MCL 168.599(1). The Bylaws have most recently been amended in 2015. If Defendants wanted to adopt and/or amend the Bylaws to match the ruling in *Heitmanis*, which held parts of MCL 168.599(1) unconstitutional, they would have. The ruling in *Heitmanis* is from 1990 and the adoption of the Bylaws took place 22 years subsequent to the decision. Therefore, the Bylaws must be construed as intentionally modeling the original language of MCL 168.599(1).

This Court is a State Court, and *O'Brien* dealt with federal courts. *O'Brien* explicitly states:

[N]o case is cited to us in which any federal court has undertaken to interject itself into the deliberative processes of a national political convention; no holding of this Court up to now gives support for judicial intervention in the circumstances presented here, involving as they do relationships of great delicacy that are essentially political in nature.

*O'Brien*, 409 U.S. at 4. *O'Brien* mentions federal courts five times throughout its short opinion and not once does it mention State courts. Additionally, its reasoning is entirely reliant upon the circumstances that are presented in each controversy.

Further, *American Independent Party* has vastly different facts from the case here. In *American Independent Party*, the political party had two separate slates for a ballot and the Court held that the party should decide which would be valid. This decision by the Michigan Supreme Court can be differentiated from the present case because this Court's decision would not directly determine who would be put onto a ballot for an election.

Additionally, the analysis in *Mohn* is distinguishable. *Mohn*'s analysis focused on the issue of whether the Court had jurisdiction based on State action. In *Bentmen*, jurisdiction was conferred by a statute that created political committees within political parties. In *Mohn*, the Pennsylvania Supreme Court narrowed *Bentmen* regarding "how broadly *Bentmen* should be read, particularly in terms of its 'direct and substantial' litmus for state action." Here, State action is only one avenue

of jurisdiction that Plaintiffs put forth. Plaintiffs also assert that this Court has jurisdiction by statute through the KGOP's Bylaws modeled after MCL 168.599(1).

In the instant case, Plaintiffs do not assert a claim of breach of contract by the KGOP's of the Bylaws. However, it must be noted that Michigan has recognized that contracts can be formed by application of Bylaws. In *El-Khalil v. Oakwood Healthcare, Inc.*, 504 Mich. 152, 164 (2019) the Michigan Supreme Court decided a case where a plaintiff pleaded a claim for breach of contract, arguing that defendants breached the Bylaws. The Court states that "[a] party asserting a breach of contract must establish by a preponderance of the evidence that (1) there was a contract (2) which the other party breached (3) thereby resulting in injury to the party claiming breach." *Id.* The Court continued, "[p]laintiff asserts that the denial of his privileges was in breach of the bylaws . . . [p]laintiff's assertion is legally sufficient for his breach-of-contract claim to survive MCR 2.116(C)(8)." *Id.* at 166. Even though in the instant case Plaintiffs did not assert a breach of contract claim, it is possible that a breach of contract claim involving KGOP's breach of its Bylaws could be adjudicated by this Court. This would be true only if the question was not one concerning internal political decisions.

The analysis of whether jurisdiction can be conferred must be applied to each of Plaintiffs's claims.

Plaintiffs seek a Judicial Declaration regarding the applicability of Michigan Compiled Laws 168.599, MRSC Bylaw Article XIII, and KGOP Bylaw Section 7 to the administrative action of Defendants. Compl. ¶ 38-42. Plaintiffs pray for a grant of equitable relief and a declaratory judgment, a grant of Plaintiffs' costs, expenses, and attorney fees, and a grant of compensatory, incidental, noneconomic, and punitive damages. *Id.* at ¶ 42.

Plaintiffs allege that Defendants violated MCL 168.599 by voting and seating precinct

delegates into Statutory seats. The Michigan Legislature has provided a structure for how Statutory seats be filled, and the KGOP's Bylaws have modeled that. Elected Members "who, together with the persons most recently nominated by the party for each of those offices shall constitute the Executive Committee of their party for that county." MCL 168.599(1). The Bylaws state that "[t]hese persons shall be known as Statutory Members of the Executive Committee." Def.'s Ex. 2, 1. Also, Elected Members "must be equal to the number of candidates of the Party for election to county and state legislative office in Kalamazoo County." *Id.*

Neither the Michigan Legislature nor the Bylaws provide guidance in the event that a vacancy of a Statutory seat occurs. The guidance given by the Michigan Legislature is that "the Executive Committee . . . may fill a vacancy in any of its offices." MCL 168.599(1). Additionally, the Bylaws simply state that "[i]f a vacancy occurs in the position of a Statutory Member of the Executive Committee and there is a special election held to fill the office, the vacancy may only be filled by the person who is the new Republican nominee for the office in question." Def.'s Ex. 2, 2.

Reading the Bylaws as plainly written, against the backdrop of Kalamazoo County having 18 county and State legislative offices, there must be 18 Statutory Members and 18 Elected Members. When three Statutory Members left, it meant that there were only 15 Statutory Members. The party then had to choose whether to only have 15 Statutory and Elected Members each, violating Article III(3)(A), or to elect three members in Statutory Seats, violating Article III(3)(B).

No matter what the Party does it will violate its Bylaws in some way. The first option places importance on the idea that the amount of Statutory and Elected Members should be balanced between one another. The second option places importance on the idea that the more people there are to have their voices heard, the better. There is no guidance given to the KGOP regarding how



to settle this situation. When the KGOP chose to elect members into Statutory Seats, it had the discretion to do so under MCL 168.599(1) and its Bylaws. Therefore, the Party is allowed to fill those seats as it determines under its customs and traditions.

Plaintiffs next argue that Defendants violated the Bylaws when they removed 17 delegates, including Plaintiffs. The 17 delegates were duly elected by individuals who voted in the election on the Republican ballot. There has been significant litigation concerning the removal of elected delegates in similar positions. The analysis has been thoroughly presented hereinabove. The KGOP has no provision in its Bylaws concerning the removal of elected delegates. However, clearly, this has been done in other contexts and resulted in litigation. Courts have continued to determine that this issue falls under the political questions doctrine. Some Courts have discussed Court intervention when there is a direct and substantial nexus between the conduct taken and the resulting impact on the partisan voter and/or the general electorate. However, in looking at the analysis by the *Cousins* Court, it is clear that this does not provide a basis for judicial intervention. As the Supreme Court determined in *Cousins*, even when the dispute concerns the nomination of a presidential candidate, the Court should not involve itself. This Court cannot think of a more direct and substantial nexus than the nomination of a presidential candidate. As such, this Court has no jurisdiction.

Plaintiffs argue that their removal from the Executive Committee is also actionable. Plaintiff Pritchett-Evans is a nonvoting *ex-officio* member of the Executive Committee. Because of her *ex-officio* status, the Bylaws give no guidance as to the process of her removal from the KGOP. Pursuant to the analysis above, the question of the removal of an *ex-officio* member is an internal political question. Regarding Plaintiff Harris, the KGOP's Bylaws dictate how to remove an Elected Member from the Executive Committee. "A motion to consider the removal of an

Elected Member from the Executive Committee requires a two-thirds vote of the Elected Members present at a regular meeting of the committee.” Pl.’s Ex. 6, 3.

Here, a vote of two-thirds of the body of Elected Members was needed to consider the removal of an Executive Committee Member. When voting to consider the removal of the three Executive Committee Members, including Plaintiff Harris, there were 11 votes in favor of removal and six against. Def.’s Ex. 31, 1. Defendant Sacket, acting as Chair, then made a two-thirds vote in favor of removal and the motion passed. *Id.*

The conclusion is simple. Seventeen Elected Members were present and voted. For a two-thirds vote to pass, 12 votes must have been submitted in favor of removal, but only 11 were cast in favor. Defendant Sackett then made a two-thirds vote to pass the Motion to Consider Removal regarding Plaintiff Harris. But Defendant Sackett is not one of the “Elected Members,” and she did not have the authority to cast a vote. The Motion to Consider Removal regarding Plaintiff Harris should not have passed, and she was unjustly removed from the Executive Committee because Defendant Sacket acted ultra-virus to her authority.

With clear overreach by the Chair, the question becomes whether this is internal party politics as defined by *O’Brien* and its progeny. Does the improper removal of an Executive Committee member confer jurisdiction for this Court? This is a question that is not only governed by the Bylaws in question but also has a direct-and-substantial nexus to the potential nomination of Republican candidates as described herein above by Defense expert Dishaw.

Plaintiffs also seek a Judicial Declaration for the Michigan Constitution pursuant to Article 1 § 2 Equal Protection of the Laws and Due Process. Compl. ¶ 43-50. Plaintiffs pray for equitable relief and a declaratory judgment, a grant of declaratory judgment that Defendants violated Plaintiffs’ Michigan Constitutional rights, a grant of Plaintiffs’ costs, expenses, and attorney fees,

and a grant of compensatory, incidental, noneconomic, and punitive damages. *Id.* at ¶ 50.

“Constitutional protections apply to governmental action only . . .” *Marhsall v. Cent Med. Imaging MRI & CT Ctr.*, 2014 Mich. App. LEXIS 701, 2014 WL 1515279 (2014) (citing *City of Grand Rapids v. Impens*, 414 Mich. 667, 673; 327 N.W.2d 278 (1982)). Furthermore, a “private entity can qualify as a state actor in a few limited circumstances – including, for example, (i) when the private entity performs a traditional exclusive public function . . . (ii) when the government compels the private entity to take a particular action . . . or (iii) when the government acts jointly with the private entity. *Manhattan Cmty. Access Corp. v. Halleck*, 139 S. Ct. 1921, 1928 (2019).

However, constitutional relief “simply does not apply outside the context of a claim that *the state* (or a state official sued in an official capacity) has violated individual rights protected under the Michigan Constitution.” *Jones v. Powell*, 577 N.W.2d 130, 136 (Mich. Ct. App. 1998). Additionally, “[i]n cases involving entities other than the state as a party defendant, the plaintiffs have available a number of alternative remedies.” *Id.* at 134.

In *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 354 (1974) it was held that “[d]octors, optometrists, lawyers, Metropolitan, . . . are all in regulated businesses, providing arguable essential goods and services, ‘affected with a public interest’” and that the Supreme Court “does not believe that such a status converts their every action, absent more into that of the State.” Additionally, in *Blum v. Yaretsky*, 457 U.S. 991, 1011 (1982) there was “state subsidization of the operating and capital costs of the facilities, payment of the medical expenses of more than 90% of the patients in the facilities, and the licensing of the facilities by the State” and the Supreme Court was “nonetheless unable to agree that the State is responsible for the decisions challenged by respondents.”

Here, we have a political party, a private entity, that was performing its intraparty private

actions. To claim constitutional relief, the entity that Plaintiffs claim relief from must be a State actor or entity performing State actions. Defendants in this case are not State actors. Furthermore, they were not performing State actions when deciding whom their intraparty delegates will be. Therefore, Plaintiffs are unable to assert claims for constitutional relief, and Defendant's Motion for Summary Disposition regarding this count is granted.

Plaintiffs' third count alleges a Breach of Fiduciary Duty. Compl. ¶ 51-56. They pray for costs, expenses, and attorney fees, compensatory, incidental, noneconomic, and punitive damages in excess of \$25,000. *Id.* at ¶ 56.

Plaintiffs allege that Defendant Sackett, acting as KGOP chair, breached her fiduciary duty, by "knowingly moving forward with a vote for three precinct delegates as Statutory Members of the KGOP Executive Committee and then seating them as elected precinct delegates in a Statutory seat contrary to MCL 168.599(1) and Article XIII of the MRSC Bylaws." *Id.* at ¶ 11. A "fiduciary duty" is defined by *Black's Law Dictionary* as "[a] duty to act with the highest degree of honesty and loyalty toward another person and in the best interests of the other person (such as the duty that one partner owes to another). For example, directors have a duty not to engage in self-dealing to further their own personal interests rather than the interests of the corporation." *Black's Law Dictionary* (11th ed. 2019). As well, the relevant portion of Article XIII(A) of the MRSC Bylaws states: "[t]he county executive committee of each county shall adopt its own bylaws and rules of procedure." Pl.'s Ex. C, 20.

Defendants allegedly violated MCL 168.59(1), which states that the KGOP, as a "political party," is to "select a number of persons equal to the number of county offices and state legislative officers for which candidates were nominated at the last [two] preceding fall primary elections." Compl. ¶ 11. By voting to seat three precinct delegates into the statutory seats, Plaintiffs argue that

Defendants essentially made the balance between the Statutory Members and Elected Members not equal. *Id.* Plaintiffs also allege that seating Elected Members in seats of Statutory Members diluted Plaintiff Harris's vote. *Id.* at ¶ 37.

Plaintiffs also allege that Defendant Sackett breached her fiduciary duty by removing Plaintiffs, among others, from their positions. *Id.* at ¶ 17. Plaintiffs further allege that Defendants violated MCL 168.599(1) and Article III(3)(B) by removing Elected Members, including Plaintiff Harris. *Id.* at ¶ 11. Plaintiffs allege that they will suffer irreparable harm by being permanently removed from the KGOP. *Id.* at ¶ 37. Plaintiffs also allege that they have been denied equal protection of the law. *Id.*

The right of an organization to select its own leader is fundamental to a political party. Here, Plaintiffs allege that Defendant Sackett, the KGOP's Chair, breached her fiduciary duty. When deciding whether this count is able to be adjudicated in this Court, it is fundamental to consider that this count is wholly internal in nature. The body of the KGOP selected Defendant Sackett to be its Chair and now Plaintiffs disagree with some of her actions and state that they are entitled to monetary relief, among other types of relief.

This count is an intraparty dispute. Also, the relief that Plaintiffs seek is monetary. Plaintiffs do not seek to right wrongdoing by Defendant Sackett through equitable relief here.

There exist cases in Michigan where Courts have subject-matter jurisdiction to hear cases involving claims of breach of fiduciary duty regarding embezzlement. *Impressions Apparel v. Porter*, 2007 Mich. Cir. LEXIS 1090, \*12 (6th Jud. Cir. Ct. 2007). *Foster v. Oliver*, 2015 Mich. App. LEXIS 1783, \*2, 12 (Mich. Ct. App. 2015). However, there does not exist cases in Michigan where Courts have subject-matter jurisdiction to hear claims of fiduciary duty regarding a political party's internal disputes. Even ignoring the political questions doctrine put forth by Defendants, it

is unclear whether this Court has the jurisdiction to hear this count. Taking into account the political questions doctrine, it is clear that this Court does not have the jurisdiction to hear this count. Defendant's Motion for Summary Judgment regarding this claim is granted.

Plaintiffs' final count alleges an Action for Libel or Slander pursuant to MCL 600.2911. Compl. ¶ 57-63. They pray for costs, expenses, and attorney fees, compensatory, incidental, noneconomic, and punitive damages in excess of \$25,000. *Id.* at ¶ 63. Plaintiffs allege that Defendants defamed them in a press release published on February 21, 2023, and in censure notices distributed on March 1, 2023. Defendant's Motion for Summary Disposition is denied with respect to this count because there is not sufficient evidence at this time to grant it and further development of the record is needed. Summary disposition under MCR 2.116(C)(10) is generally considered to be premature if discovery concerning a disputed issue is incomplete. *Ensink v. Mecosta Cnty. Gen. Hosp.*, 262 Mich. App. 518, 540; 687 NW2d 143 (2004).

Issues such as defamation allegations are heavily fact specific. With discovery incomplete, analysis of these issues is premature and not subject to summary disposition. At this point in time, the Complaint lays out enough to put Defendants on notice of what is being alleged. Whether or not those allegations can be proven is something to be analyzed after discovery has finished.

### CONCLUSION

This Court is a Court of record endowed by the Michigan Constitution with "original jurisdiction in all matters not prohibited by law," in addition to having "power to issue, hear and determine prerogative and remedial writs, supervisory and general control over all inferior courts and tribunals," and "jurisdiction of other cases and matters as provided by rules of the Supreme Court." Mich. Const. art. VI, § 13. Thus, this Court is assumed to have jurisdiction unless the matter in question is specifically excluded by law. *Lester v. Spreen*, 84 Mich. App. 689 (1978).

MCR 8.117 and the Supreme Court Administrator's Office recognize that, among circuit court case type codes is "CC" for "all condemnation proceedings."

Moreover, unless divested of its presumptive jurisdiction by a specific statute, this Court, or any Court, must exercise the jurisdiction conferred upon it as summarized in *Union Pac. RR Co. v. Brotherhood of Locomotive Eng'rs*, 558 U.S. 67, 71 (2009). Michigan courts, like their federal counterparts, "are not permitted either to enlarge or diminish the jurisdiction conferred by statute or the constitution." *In re Hatcher*, 443 Mich. 426, 433 (1993).

If the Supreme Court has found unconstitutional government actions that serve to protect against political disenfranchisement, then certainly a claim by Plaintiffs relying on that same argument cannot be considered proper before this Court. See *supra Cousins*, 419 U.S. at 491. Those individuals who voted to elect Plaintiff Harris, and the other two members, do not have a vested right to those Elected seats. The Bylaws provided for a method of removal. See Pl.'s Ex. 6, 3.

The more challenging question concerns whether there is a contractual claim based on a clear violation of the Bylaws in the removal of Ms. Harris. As discussed hereinabove, this is not part of Plaintiffs' Complaint.

It is hereby ordered and adjudged that Plaintiffs Counts I, II and III are dismissed for the reasons stated hereinabove. No costs or attorneys' fees are assessed.

It is further ordered that discovery can resume consistent with the scope of this decision.

**IT IS SO ORDERED.**

Dated: August 10, 2023



CIRCUIT COURT JUDGE  
Honorable Curtis J. Bell

# **ATTACHMENT B**



**From:** Daniel J. Hartman <danhartman16@gmail.com>  
**Sent:** Wednesday, February 7, 2024 12:39 PM  
**To:** Donald Campbell; Kellie L. Howard; Sherrie L. Marinkovich  
**Subject:** Fwd: Kalamazoo County Clerk Precinct Delegate list as of 2-7-2024  
**Attachments:** Republican v Halcomb - Motion - 02.02.2024.pdf

FYI

Sent from my iPhone

Begin forwarded message:

**From:** rod <rodo55@att.net>  
**Date:** February 7, 2024 at 12:08:26 PM EST  
**To:** David Peters <dpeters@pji.org>  
**Cc:** Dan Hartman <danhartman16@gmail.com>  
**Subject:** **Kalamazoo County Clerk Precinct Delegate list as of 2-7-2024**

Attached are copies of what the Kalamazoo County Clerk has as Precinct Delegates listed as of today, 2-7-2024.

I picked it up this morning.

Also attached is the transcript from the Feb 1 hearing.

One of the key nuggets is on page 9 of the transcript where Mr. DePerno says that "Not one single person on that side of the room or this so called new executive committee that has been formed are delegates or members of the party."

The attached County Clerk's list shows we are elected precinct delegates of the republican party. And I have a check that shows I was a paid member of the KGOP until October 16, 2023 well after the September special convention.

If the issued about a quorum for the special convention comes up. By their own admission when we held the special convention there were 140 delegates in Kalamazoo County. We had 73 delegates in attendance at the special convention which even by their terms met a quorum.

Rod

Delinquents Enrolled in County Communities

Initiation	Present	First Name	Last Name	Address	City	Height	Sex
Manna Township	1	Devon	Brewer	25417 Royal Dr Apt	Sublimation	5'6"	M
Manna Township	1	Oliver Howard	Brewster	5133 North 5th St	Sublimation	5'6"	M
Bridle Township	1	Adrian	McDonald	804 E L J Ave	Verdelburg	5'6"	M
Christian Township	1	Robert David	Berge	14505 Lincoln Dr	Clonka	5'6"	M
Christian Township	1	Joseph	Woods	14114 E 4th Ave	Clonka	5'6"	M
Christian Township	2	Jeremy	Orvick	1055 N Main St	Clonburg	5'6"	M
Christian Township	2	Arvin	Orvick	1175 Main Street	Sublimation	5'6"	M
Christian Township	2	Shelby Ann	Arvin	1175 Main Street	Sublimation	5'6"	M
Christian Township	3	Jamari	Blanchfield P.	2104 W. Greenleaf Dr	Sublimation	5'6"	M
Christian Township	3	Landell Kay	Blanchfield	2104 W. Greenleaf Dr	Sublimation	5'6"	M
Christian Township	4	Arvin	Coble	4044 1st St	Clonburg	5'6"	M
Christian Township	4	William	Brewster	4261 Autumn Way St	Clonburg	5'6"	M
Christian Township	4	Victory E.	Wilson	5102 N. Whinnidge Ave	Sublimation	5'6"	M
Christian Township	4	Brody	Peter Wilson	5102 N. Whinnidge Ave	Sublimation	5'6"	M
Cooper Township	1	Steven E.	Burman	11704 S. Superior	Polwartell	5'6"	M
Cooper Township	2	Marty	Brewster	2411 Arctic Ave	Sublimation	5'6"	M
Cooper Township	3	Tim	Jewman	5-Hal Riverway Dr	Sublimation	5'6"	M
Cooper Township	4	Robert L.	Wesich	2624 West J Ave	Sublimation	5'6"	M
Cooper Township	4	Stacy D.	Wesich	2624 West J Ave	Sublimation	5'6"	M
Cooper Township	4	William W.	Orvik	4446 West C Ave	Sublimation	5'6"	M
Delaware County Township	4	Thomas	Orvik	127 Grand Pra Ave	Sublimation	5'6"	M
Delaware County Township	4	Crady	Orvik	127 Grand Pra Ave	Sublimation	5'6"	M
Delaware County Township	5	C. James	Mulligan	1101 Main St	Sublimation	5'6"	M
Delaware County Township	6	Andrew	Smith	128 S. Leavelle	Sublimation	5'6"	M
Delaware County Township	7	Gary	Miss Hall	2971 Oakley Rd L4	Sublimation	5'6"	M
Delaware County Township	7	Kathy	Miss	2606 Orange Meadow Ln	Sublimation	5'6"	M
Delaware County Township	7	Ann	Brewster	2606 Orange Meadow Ln	Sublimation	5'6"	M
Delaware County Township	7	Subrina	Pichler, James	4075 Pepper South Ln	Sublimation	5'6"	M
Delaware County Township	8	Brian G.	Brady	211 Greenway St	Sublimation	5'6"	M
Delaware County Township	8	Brian G.	Levy	1417 Ashburton St	Sublimation	5'6"	M
Delaware County Township	8	Scott C.	Wagner	1417 Ashburton St	Sublimation	5'6"	M
Delaware County Township	1	Gene	Orvik	1417 N. 1st St	Sublimation	5'6"	M
Delaware County Township	2	Mark	Lewis	434 E N. 1st St	Sublimation	5'6"	M
Delaware County Township	2	Bradley	Crowe	10761 Riverside Dr	Sublimation	5'6"	M
Delaware County Township	3	Jack	Bellman	11171 W 8th Ave	Sublimation	5'6"	M
Delaware County Township	3	Roberta	Lewis	2388 1st St NE	Sublimation	5'6"	M
Delaware County Township	3	Roberta	Lewis	8208 Winthorpe Ave	Sublimation	5'6"	M

Delaware Chapter Teamship	3	Kevin Ryan	John	4415 Oak Leaf Trail	Expenses	\$6	\$6000
Delaware Chapter Teamship	4	Jennifer L. Ryan	Caroline	5430 Poplars Dr	Expenses	\$6	\$6000
Delaware Chapter Teamship	4	Kevin Ryan	Robert Ryan	3140 Johnsons Ridge Tr	Expenses	\$6	\$6000
Delaware Chapter Teamship	5	Kevin Ryan	Walter	5200 Green Meadows	Expenses	\$6	\$6000
Delaware Chapter Teamship	6	Margie Martin	Deborah	5250 Perimeter Lane	Expenses	\$6	\$6000
Delaware Chapter Teamship	7	Dana L. Ryan	Rebecca	8027 Parkwood Creek Dr #2	Expenses	\$6	\$6000
Delaware Chapter Teamship	7	Robert M. Ryan	Stacy	6148 Sunset Ct.	Expenses	\$6	\$6000
Delaware Chapter Teamship	8	Marah Ryan	Lucia	1887 Pk Dr.	Expenses	\$6	\$6000
Delaware Chapter Teamship	8	Rebecca Ryan	Lucia	1887 Pk Dr.	Expenses	\$6	\$6000
Delaware Chapter Teamship	9	Kevin Ryan	Robert	5440 Copper Birch Blvd. Apt B	Expenses	\$6	\$6000
Delaware Chapter Teamship	9	Kevin Ryan	Robert	5440 Copper Birch Blvd. Apt B	Expenses	\$6	\$6000
Delaware Chapter Teamship	10	John Ryan	John	9141 Newmarket Dr. Wood	Expenses	\$6	\$6000
Delaware Chapter Teamship	10	John Ryan	John	9141 Newmarket Dr. Wood	Expenses	\$6	\$6000
Delaware Chapter Teamship	11	Michelle Ryan	John	6441 John St	Expenses	\$6	\$6000
Delaware Chapter Teamship	12	Michelle Ryan	Michelle	6441 John St	Expenses	\$6	\$6000
Delaware Chapter Teamship	13	Michelle Ryan	Michelle	10115 East Ave.	Expenses	\$6	\$6000
Delaware Chapter Teamship	14	Patricia Ann Ryan	Herbert	6113 South 20th St	Expenses	\$6	\$6000
Delaware Chapter Teamship	15	Michelle Ryan	Heather	31245 Prairie Run Rd	Schoolcraft	\$6	\$6000
Delaware Chapter Teamship	16	Dana E. Ryan	Taylor	7528 Wood Vt Ave.	Schoolcraft	\$6	\$6000
Delaware Chapter Teamship	17	Frederick J. Ryan	Taylor	7528 Wood Vt Ave	Schoolcraft	\$6	\$6000
Delaware Chapter Teamship	18	Kelly E. Ryan	Clay	7022 W 12nd St.	Richland	\$6	\$6000
Delaware Chapter Teamship	19	Paul Ryan	Paul	8361 East D Ave.	Richland	\$6	\$6000
Delaware Chapter Teamship	20	Robert Ryan	Rebecca	7518 Richmond	Richland	\$6	\$6000
Delaware Chapter Teamship	21	Clay Ryan	Support	4794 East D Ave.	Richland	\$6	\$6000
Delaware Chapter Teamship	22	Rebecca Ryan	Veronica	9421 Franklin Dr	Richland	\$6	\$6000
Delaware Chapter Teamship	23	Kevin Ryan	Kevin	10212 Richmond Dr	Richland	\$6	\$6000
Delaware Chapter Teamship	24	Rebecca Ann Ryan	Paul	14613 Rd 41	Richland	\$6	\$6000
Delaware Chapter Teamship	25	Kevin Ryan	Steph	6146 W 21st St	Richland	\$6	\$6000
Delaware Chapter Teamship	26	Kevin Ryan	Steph	6146 W 21st St	Richland	\$6	\$6000
Delaware Chapter Teamship	27	Michelle Ryan	Rebecca	6481 Anthony woods	Richland	\$6	\$6000
Delaware Chapter Teamship	28	Crystal Ryan	Crystal	6481 Anthony woods	Richland	\$6	\$6000
Delaware Chapter Teamship	29	Kevin Ryan	William	7145 Fox Oak Circle	Richland	\$6	\$6000
Delaware Chapter Teamship	30	Patricia Ryan	Donna	11244 S Roseman Ln Dr	Augusta	\$6	\$6000
Delaware Chapter Teamship	31	Kerry Lynn Ryan	Clay	4415 N 19th	Augusta	\$6	\$6000
Delaware Chapter Teamship	32	John Ryan	Clay	4415 N 19th	Augusta	\$6	\$6000
Delaware Chapter Teamship	33	Kevin Ryan	Kevin	11441 S D Ave	Richland	\$6	\$6000
Delaware Chapter Teamship	34	Michelle Ryan	Michelle	13605 W 41 St	Richland	\$6	\$6000
Delaware Chapter Teamship	35	Kevin Ryan	Kevin	11011 D Ave.	Richland	\$6	\$6000
Delaware Chapter Teamship	36	Michelle Ryan	Michelle	13625 N 27th St	Richland	\$6	\$6000

Bees Township	2	Overman Ingram Cabin Arthur	Providence Ingram Birmingham Jr.	13141 Summit St. 1748 Incoy Field Ln. 909 Key St.	Richland Yorkland Yorkland	58 58 58	89081 89081 89081
Schoolcraft Township	3	Paul Ruggie I. Linda K.	Edith Percival Capperton	932 Key St. 708 W. Boulevard St. 218 2nd St. Apt A3	Yorkland Yorkland Yorkland	58 58 58	89081 89081 89081
Schoolcraft Township	4	B.L.	Brogan	14271 Riverside St. 14808 Norman St.	Schoolcraft Schoolcraft	58 58	89081 89081
Texas Township	1	Quilly David	Michael Dean	10761 Columbia Dr. 8521 Mountain Pine Ln.	Schoolcraft Kalamazoo	58 58	89081 89081
Texas Township	2	Thomas Sarah	Debra Yvette	8888 Mountain Pine Ln. 5258 Donald St.	Kalamazoo Kalamazoo	58 58	89081 89081
Texas Township	3	Laurel Matthew J.	Jeffrey Jeffrey	3757 Donald St. Jeffrey	Kalamazoo Kalamazoo	58 58	89081 89081
Texas Township	4	Mark A. Kara	Wagner Auber	5531 Aquatic View St. 5248 S.29th St.	Kalamazoo Portage	58 58	89081 89081
Texas Township	5	Ernest Brent	Ernest Catherine	8172 Madison St. 7934 S. Livingston Ave.	Kalamazoo Kalamazoo	58 58	89081 89081
Texas Township	6	Terrell Jason B.	Terrell Michelle	5148 Saddle Club Dr. 5148 Saddle Club Dr.	Kalamazoo Kalamazoo	58 58	89081 89081
Texas Township	7	Paul Lloyd	Paul Lloyd	3829 Stella Ridge 3187 West River	Kalamazoo Schoolcraft	58 58	89081 89081
Texas Township	8	Michelle Mika	Frances Ludwigna	3433 Riverside St. 4477 Tracy Dr.	Kalamazoo Kalamazoo	58 58	89081 89081
Texas Township	9	Tina Kelly	Bryan Lacorn	7148 Benton Woods Ct. 7701 Magnificent Ct.	Kalamazoo Kalamazoo	58 58	89081 89081
Texas Township	10	Gene William R.	Gene Christopher	7757 Owners member Ave 318475 16th St.	Kalamazoo Yorkland	58 58	89081 89081
Windsor Township	1	Paula R. Linda	Christopher Lynn	318475 16th St. 31544 S. 48th St.	Yorkland Portage	58 58	89081 89081
Windsor Township	2	Charles Douglas	William Steven	4184 Hastings Dr. 2403 Douglas Ave	Kalamazoo Kalamazoo	58 58	89081 89081
Windsor Township	3	Brigitte Terry	Brigitte Terry	2315 Ardwell Ave. 1425 Vance St.	Kalamazoo Kalamazoo	58 58	89081 89081
Windsor Township	4	Wanda C. Joni	Wanda C. Joni	1403 Reynolds Dr. 1603 Lathrop Ave.	Kalamazoo Kalamazoo	58 58	89081 89081
Windsor Township	5	George Bill	George Bill	1603 Lathrop Ave. 1251 Lathrop Ave	Kalamazoo Kalamazoo	58 58	89081 89081
Windsor Township	6	John	Frederick	1324 Lathrop Ave.	Kalamazoo	58	89081

Sublimation City	Ben	Rockledge	301 Northgate Ave.	Sublimation	68	49001
Sublimation City	James	Mission	2122 Oakdale St.	Sublimation	68	49001
Sublimation City	Richard L.	Austin	3117 Woodlark Ave.	Sublimation	68	49008
Sublimation City	Anthony	Dagel	2621 Sunset Dr.	Sublimation	68	49008
Sublimation City	Christina	Wilks	258 University St.	Sublimation	68	49001
Sublimation City	Michael	Frank	4124 Sunset Dr.	Sublimation	68	49008
Sublimation City	Quiana	Johar	1281 Per A Rd.	Sublimation	68	49008
Sublimation City	Debra	Thompson South	6540 Government Circle #111	Sublimation	68	49008
Sublimation City	James David	South	6540 Government Circle #111	Sublimation	68	49008
Portage City	Roger	Iron Mountain	5126 Ironmount Dr.	Portage	68	49002
Portage City	Aring	Cooper	1506 Indian Ave.	Portage	68	49001
Portage City	Marjorie	Wendy Martin	1621 Plumtree Ave.	Portage	68	49002
Portage City	Keith	Dagel	28202 Terry Ln.	Portage	68	49002
Portage City	Daniel Paul	Huffman	6481 Tanager St.	Portage	68	49004
Portage City	Vernita K.	Carra	6318 Franklin St.	Portage	68	49004
Portage City	Janis Maki	Prinsaid	6877 Okanabe Ln.	Portage	68	49001
Portage City	Scott	McDonald	6125 Hampton St.	Portage	68	49004
Portage City	Cheryl	Peterson	2062 Holly Court	Portage	68	49004
Portage City	David	Semenov	4214 Aspen St.	Portage	68	49004
Portage City	Charity	Lois	1608 Ironmount	Portage	68	49004
Portage City	Malinda Sue	Microvols	6642 Town Dr #1	Portage	68	49004
Portage City	Richard	Ironmount (James)		Portage	68	49004
Portage City	Anthony	Irwin	5790 Ivy Meadow Trail	Portage	68	49004
Portage City	David	Irwin	5790 Ivy Meadow Trail	Portage	68	49004
Portage City	Jonny	Reisak	2822 Baywood Dr.	Portage	68	49004
Portage City	Bill	Liby	209 Lakeside Dr.	Portage	68	49002
Portage City	Cheryl	Saier	26229 Oakdale Dr #8	Portage	68	49004
Portage City	Christina	Aguilera	1728 Ironmount Dr Apt 2	Portage	68	49004
Portage City	Travis	Bill	2840 Stearns Rd.	Portage	68	49004
Portage City	Joan	McLobby	6434 MacArthur St.	Portage	68	49004
Portage City	Brian	Reisak	1211 Cottage Place	Portage	68	49004
Portage City	Dana	Reisak	1211 Cottage Place	Portage	68	49004
Portage City	Keith	Reisak	1111 Kipling Ave	Portage	68	49004
Portage City	Emily	Reisak	8128 Ironmount Dr.	Portage	68	49004
Portage City	Jason Tony	Reisak	8111 Ironmount Dr.	Portage	68	49004
Portage City	Emily	Crusell	1627 Salslow Dr.	Portage	68	49004
Portage City	Lee B.	Hall	3813 Foxing Dr.	Portage	68	49004
Portage City	Mark Anthony	Morris	2828 Ironmount St.	Portage	68	49002
Portage City	Carrie	Prendergast	1751 Ironmount Dr.	Portage	68	49004

Portage City	18	Brian L.	Lenardson	7680 Moors Pointway	Portage	MI	49024
Portage City	18	Jerald R.	Warnemuende	3143 St. Anthony Dr.	Portage	MI	49024