

STATE OF MICHIGAN
CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

SABRINA PRITCHETT-EVANS and KIMBERLY HARRIS
Plaintiffs,

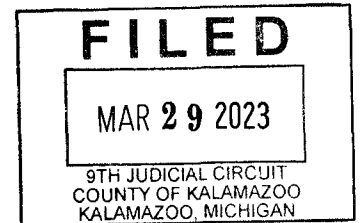
CASE NO.: 23- 0169 CZ

v.

DIVISION:

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

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



EX PARTE EMERGENCY MOTION FOR INJUNCTIVE RELIEF ORDER, DECLARATORY RELIEF OR IN THE ALTERNATIVE MOTION FOR AN ORDER TO SHOW CAUSE/MOTION AND REQUEST ORDER FOR MANDAMUS

Plaintiffs request that this Court issued an Order for injunctive relief, declaratory relief and/or issue an order to show cause why an injunction should not be issued and Motion for Order for Mandamus for the following reasons:

1. On or about December 2, 2022, the duly elected Kalamazoo County Precinct Delegates slated 18 members into the KGOPEC equal to the number of county offices and state legislative offices for which candidates were nominated at the last 2 preceding elections. County Offices and State Legislative offices nominated at the last 2 preceding fall primary elections are statutory members of the KGOPEC. Eighteen delegated elected KGOPEC members plus 18 statutory members of KGOPEC form a total of 36 members for the current KGOPEC. Immediately following the selection of members of the executive committee, including filling vacancies, the secretary of the county committee shall certify the names and addresses of the persons chosen to the county clerk who immediately shall notify each person chosen by authority of MCL 168.599. Within 30 days following the convening of the fall county convention, the EC,

acting without the officers of that county committee, meet to select a temporary chair and secretary. The KGOPEC met on or about December 12, 2022, and voted in permanent officers. The Defendant Kelly Sackett was voted in as Chair for the KGOPEC for the current two-year term.

2. The language of MCL 168.599 that enacts the definition of who makes up in part the entirety of the KGOP's EC states as follows: "...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." In Kalamazoo County there are 18 county offices and state legislative offices that are automatically members of the KGOPEC and those seats are to be matched by 18 delegate-elected persons who are residents of Kalamazoo County. Delegate-elected KGOPEC members are nominated and elected by the duly elected delegates to be members of the KGOPEC and are not by definition a nominated county officer or state legislator.

3. Under information and belief, three statutory members to the KGOPEC who were nominated to a county office or state legislative never took or vacated their position in the KGOPEC either as a result of moving outside of the county of Kalamazoo or by resignation. This left the statutory members in the KGOPEC at 15 members. This does not negate that the KGOPEC can still nominate and elect 18 delegate-elected members into the KGOPEC, which they did.

4. The second KGOPEC meeting was held on January 9, 2023, and those minutes are attached as Plaintiffs' Composite **Exhibit A** consisting of four pages from the verified complaint. Starting on Page 3, the chair, Kelly Sackett stated, "Okay, so we are on to the nomination and

election of the three open statutory seats that we have on the executive committee.” A committee member, RJ Bregenzer, rose to a point of order stating, “Statutory positions, according to our bylaws, are not elected positions.” Dr. Lloyd Peterson quoted that 3A and 6A of the KGOP Bylaws allowed for the statutory positions to be filled by their election. Discussion followed and a motion by the co-chair Charley Coss moved to fill the 3 open positions with another member who seconded the motion. Defendant Kelly Sackett, knowing that the KGOPEC Bylaws do not allow the KGOPEC statutory seats to be filled by election of the EC took a vote, which passed with 14 Ayes for filling the seats versus 9 nays against filling the seats. The motion passed and then it was tabled by vote until the next EC meeting that was held on February 13, 2023.

5. A vote to seat three precinct delegates into the statutory seats took place on February 13, 2023 at the regular monthly KGOP EC meeting. The three precinct delegates receiving the highest votes were Matthew DePerno, Corey Spencer and Joanne Weber. Each was voted into a statutory seat that none were eligible to be seated in. See Plaintiff’s Composite **Exhibit B** minutes (draft) of the February 13, 2023 KGOP EC meeting from the verified complaint. This was a violation of MCL 168.599, Michigan Republican State Committee (hereafter MRSC) Bylaws as amended February 8, 2020, and the KGOP Bylaws as amended March 2, 2015.

6. Kelly Sackett, acting as the KGOP chair, breached her fiduciary duty, by knowingly moving forward with a vote for 3 precinct delegates as statutory members of the KGOPEC and then seating them as elected precinct delegates in a statutory seat contrary to MCL 168.599 and specifically Article XIII of the MRSC Bylaws. The Defendants have no authority under the KGOP Bylaws 3A or 6A to elect precinct delegates for statutory seats. Defendant Sackett further breached her duty by censoring and removing Plaintiff Harris as a member of the

KGOPEC by returning her membership fees and accepting a motion from KGOPEC statutory member, Dr. Tamara Mitchell, to consider removing Plaintiff Harris as a delegate-elected member of the KGOPEC with a final vote for removal to be taken at the upcoming KGOPEC meeting April 10, 2023. No notice was given to Plaintiff Harris that she was motioned to be removed from the committee and she found out on her own.

7. The prevailing law for the selection of the executive committee is MCL 168.599 Executive committee; selection by delegates to fall county convention in county with population of less than 1,500,000; replacement of former nominee; vacancy; appointment of officers; certification of names and addresses; temporary officers; proxy; county committee; delegates at large; vacancy in district delegation. The KGOP Bylaws govern the operation of the executive committee but does not give the EC the authority to replace empty statutory seats with elected delegates. The pertinent language of the law shall be bolded in the statute and Bylaws set out below.

Sec. 168.599.

“(1) 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 language of the statute is clear that the EC shall convene to select a number of persons equal to the number of county offices and state legislative offices. This language was clearly

breached by the KGOPEC and Defendant Sackett who has seated precinct delegates into statutory seats that they are not entitled to be seated.

In looking at the language of the MRSC Bylaws, the same language follows the statute. The Michigan Republican State Committee Bylaws (MRSC) in Article XIII subsection B, addresses the selection precinct delegate EC members are to match the statutory members of the new executive committee members at the post-election convention that was held in Kalamazoo County on December 2, 2022. Article XIII subsection B, states "...In even numbered years, the delegates to the fall county convention in each county except Wayne County, shall convene at the call of the county chairperson within thirty (30) days following the November election (the "Post-election Convention") **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 two (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 for that county. A nominee for state legislative office shall be a nominee member of the county executive committee for each county which, in whole or part, comprises such nominee's state legislative district. Additionally, a person who is a Republican statewide officeholder shall be a member of the executive committee for the county in which such person resides during his or her term of office.**"

8. The authority that the KGOPEC is attempting to use to name three precinct delegates into three statutory positions is based on the KGOP Bylaw Section 3 written below.

3 – Membership

The membership of the Executive Committee shall be as follows:

A. 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.

B. 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.

C. The President or Chairman of any Republican Organization in Kalamazoo County shall be an ex-officio, nonvoting member of the Executive Committee. The committee may appoint other ex-officio members by majority vote. Ex-Officio members shall have a voice on the Executive Committee, but not a vote.

In 3A above, the language follows both the statutory intent of MCL 168.599 and MIGOP bylaws Article XIII regarding how only nominated persons who were up for election for county and state legislative offices qualify as statutory members of the EC. In 3B it clearly defines that a number of persons equal to the number of “statutory members” must match and must be selected by the precinct delegates to be voted upon to become members of the EC, unlike the statutory members who get their positions automatically by their nomination of the Kalamazoo electorate. The Defendant Sackett, chair of the KGOPEC also relies on section 6 of the KGOP Bylaws that are reprinted here and state:

6 – Vacancies

A. If 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. If the office is filled by appointment and the new official is a member of the Party, he shall fill the vacancy and if an Elected Member,

shall surrender this position.

B. If a vacancy occurs in the position of an Elected Member of the Executive Committee, the remaining Elected Members of the Executive Committee shall select a person to fill the vacancy by majority vote, with a runoff if necessary. The committee members shall receive a minimum of ten (10) days notice prior to any vote to fill a vacancy.

The common sense reading of this section of the Bylaws clearly sets out that a vacancy of a statutory position can be filled by a special election to fill the office meaning that the people of Kalamazoo can fill a statutory seat and then the Bylaw states that the vacancy can be filled by the person who is the new Republican nominee for the office in question. The Bylaw gives no authority to the KGOPEC to run its own election to fill statutory seats with nominees as it did on February 13, 2023.

9. There is persuasive case law that was argued and granted by the Macomb County Court. The MRSC general counsel in the Macomb County case successfully argued a similarly situated case where elected members had been removed from their positions as members of the EC. This is styled as Macomb County Republican Party, Eric Castiglia v Forton and Langer 22-1953-NZ in front of Judge Sabaugh in the 16th Circuit Court for Macomb County. This was done in a quo warranto action that will also be addressed in this current action via filing a motion with this complaint requesting permission from the court to file an amended complaint pursuant to the quo warranto rules MCR 3.306(B)(2) and (E). The Macomb County case order is attached for edification along with the trial brief and Court's order are submitted as Plaintiff's Composite **Exhibit C** with the verified complaint.

10. The Defendant Kelly Sackett breached her fiduciary duties as an officer for the newly elected executive committee by violating not only state law MCL 168.599 but the MRSC Bylaws

and KGOPEC Bylaws by filling statutory seats with precinct delegate members who had not been elected in any special election to become the nominee for the statutory seats that they were given by the KGOPEC. This was clearly done in an effort to pack the KGOPEC with more friendly votes toward the agenda of Defendant Sackett.

11. As a result of the breach of the KGOPEC and MRSC Bylaws, Defendant Sackett breached her fiduciary duties under the bylaws and common law depriving Plaintiff Harris of her position in KGOPEC and diluting her voting rights on items that only the precinct delegates get to vote upon, in this situation, a possible vacancy in the EC as a precinct delegate. Pursuant to MCL 168.599 her rights were stripped, without notice and due process of law, and without her consent, acting against her interests by having her removed from her duly elected positions that were certified by the Secretary of the County Committee.

12. Defendant Sackett unilaterally brought an unlawful action to the floor and took a vote, with her own interests at stake, without statutory or bylaw authority and with malice aforethought acted in a manner to strip the new duly delegate elected executive committee member of her elected office and all rights there-under and ultimately her placement into the KGOPEC. Should the Court not intervene this vote will take place on April 10, 2023.

13. The Defendants' KGOPEC and Kelly Sackett have slated on the April 10, 2023 agenda that they intend to remove at least three delegate-elected members of the KGOPEC. This was laid out in Defendant Sackett's Press Release put out by her on February 21, 2023 and reiterated with specific names on the KGOPEC website on March 1, 2023. The documents were published on KGOP letterheads signifying that they were coming from the authority of the Defendant chairperson, Kelly Sackett. These two documents are marked as Plaintiff's Composite **Exhibit D** two press releases with the verified complaint. (Plaintiff Harris also received a letter in the

mail dated March 14, 2023 from Defendant Sackett Re: Notice of vote to consider removal of an elected member from the EC on KGOP letterhead). The Defendant wrote in these press releases that the named Plaintiffs attended the February 17, 2023 Michigan Grand Old Party (MIGOP) State Convention District 4 on February 17, 2023 and voted in favor of a rule change that the Defendant states "diluted" the delegates of the Kalamazoo. In part, the Defendant wrote in the press release that a delegate from Kalamazoo made a motion to set aside or amend Rule 9 of the District 4 rules for Kalamazoo County. There was discussion on this issue by the person who made the motion. That person stated before the convention that the motion was made because, the chair of KGOPEC, Kelly Sackett, unlawfully sat three delegates into statutory seats contrary to MCL 168.599 and the MRSC and KGOP Bylaws for which this verified complaint is being filed. A vote was taken on the request for special consideration for Kalamazoo County on Rule 9 based on this issue, specifically whether the chair, Kelly Sackett, unlawfully seated precinct-delegates into statutory seats. The Michigan Republican Party District 4 congregation of delegates voted by a 2/3rds vote to amend Rule 9 for Kalamazoo County. Rule 9 allows for individual counties to caucus and vote to nominate county delegates for District 4 committeepersons and executive office positions. The Amendment of Rule 9 allowed Kalamazoo County to nominate its nominees on the floor in front of the entire District 4 delegation instead of a private caucus. Only Kalamazoo County delegates nominated nominees for its position on the Michigan Republican Party District 4 committee. The entire District 4 delegation voted on each county's nominees upon presentation to the delegation. On February 19, 2023, Defendant Kelly Sackett sent a text message to all Kalamazoo County Precinct Delegates based on District 4 that stated in summary, a coup d'etat had been attempted. The Rule 9 amendment allowed other counties to vote on Kalamazoo County's allotted three District

Executive Committees and 2 State Committee Seats. Effectually 174 delegates voted on these seats rather than just the 39 Kalamazoo delegates. However, approximately 174 delegates voted on each county's nominees because counties can only put forth nominees for District 4 seats for the full delegation's vote. This led to the Defendant to retaliate against 6 individuals, (9 in all), 3 of which are sitting EC members with voting rights and one ex officio to the KGOPEC, Sabrina Pritchett-Evans. The Plaintiffs Kimberly Harris and Sabrina Pritchett-Evans were named in the press released distributed on the KGOP website linked to the February 21, 2023 press release. The Plaintiffs were censured and stripped of their membership for running what the Defendant called a coup d'etat. However, these two plaintiffs along with two other unnamed members only made up four votes of the 174 who voted to amend Rule 9 (2/3rds vote means at least 116 people voted to amend Rule 9) which was based on the unlawfulness of the Defendant placing her allies onto the KGOPEC into statutory seats where they do not have the standing to be by statute or by-law. The other two parties have refrained from this lawsuit out of fear of further retaliation. The censures were written and published defaming the Plaintiffs as a conspiracy theory to somehow overrun the KGOPEC.

14. The censures against both Plaintiffs state that they falsely stated the KGOP EC took an illegal and unlawful vote on February 13, 2023 when the KGOP EC did in fact take a vote to seat three delegates into statutory positions contrary to MCL 168.599 and both the MRSC and KGOP Bylaws. The censures say that both Plaintiffs voiced their support of a hostile motion to set aside Rule 9 for the Kalamazoo County delegates and allow all 4th District counties to vote on and select Kalamazoo County delegate nominees. The Defendant Sackett has in fact chilled the rights of the Plaintiffs by censoring their voting rights under the guise that the Defendant's own illegalities and unlawfulness led to the Plaintiffs voting in favor of a rule change along with well

over 115 other people who agreed that the Defendant disobeyed the law and the bylaws. The censure continues to point the finger at both Plaintiffs by stating that their votes were a betrayal to her illegal seating of precinct delegates into statutory seats. These slanderous statements have appeared on the internet and have been distributed to their entire email list and to all the members in the KGOPEC, Kalamazoo County duly elected precinct delegates and KGOP membership with no substantiation. It took at least 116 votes to overturn Rule 9 which was based on the exposure of the Defendant breaking the rules of the MRSC and KGOP Bylaws. . The censures are attached as composite **Exhibit E** with the verified complaint.

15. The Defendants intentional breach of Plaintiffs Constitutional rights and due process rights by breaching her fiduciary duties by ignoring the pertinent law and bylaws and then remove them from their positions in an act of retaliation is an abuse of the power she holds as chairperson to the KGOPEC.

16. The verified complaint alleges immediate irreparable harm in paragraph 33 of the verified complaint being that the Plaintiff will be permanently removed from an elected position contrary to Section 7 of the KGOPEC bylaws. Any delay of this motion and request will precipitate adverse action that the Plaintiffs will never be able to recover from. This unlawful outrageous and extreme action taken by the Defendant Sackett and through her authority over the KGOPEC undermines the position she holds as chair of the KGOPEC.

17. Unless the Defendants are enjoined from the Defendants' continuing effort to violate the plain language of MCL 168.599 and corresponding Bylaws found in MRSC Article XIII and Section 3 and 6 of the KGOPEC bylaws, the Defendants' will have the continued ability to thwart the mission of the KGOPEC by suppressing any opposing voice or the conscience of the members if they do not agree with the Defendants' opinion. The Plaintiffs have both submitted affidavits under the penalty of perjury that affirm that the statements made in the verified complaint are true and accurate and that this motion follows most of the statements made in the general allegations that were copied and pasted into the beginning 15 paragraphs of this motion.

18. The irreparable harm bestowed upon the Plaintiffs by the Defendants' was willful, purposeful, tactful, targeted and made with malice to exterminate and expulse them from the KGOPEC at least three delegate-elected and one ex officio member who rightfully earned the votes of the people who placed them in their offices. Their memberships have already been taken away and now they face expulsion from the committee that they were lawfully voted to serve. The Defendant has perpetrated this act unilaterally with her press releases and censures to continue her unjustified attack against them out of retaliation.

19. The Plaintiffs motion would continue to rely on the verified complaint that sets out in detail in the general allegations all of the necessary facts that show that Defendants did not follow or even recognize the laws that were breached to include MCL 168.599, MRSC Article XIII (B) or the KGOPEC bylaws.

20. A restraining order or mandamus is appropriate in this matter because the unlawful action by the Defendants amounts to a violation of the Plaintiff's equal protection and due process under the law, violation of MCL 168.599 and a dereliction of the position of chair to the KGOPEC.

21. The Plaintiffs seek mandamus to retain their positions in the KGOPEC. The Plaintiffs pray that the Court order, based on the verified facts and the language of the censures that prove that the Defendants are engaged in suppressing the lawful votes of the delegates, mandamus to stop the KGOPEC and Defendant Sackett from flooring a vote to remove members. The Plaintiffs would rely on Section 7 of the KGOPEEC Bylaws that the committee does not have a basis for the removal of these elected delegates based on the censure facts that were falsely written and presented.

22. Plaintiffs have no other adequate remedy at law at this stage of the proceedings and request that the Court order injunctive relief or an order to show cause why an order should not be entered.

23. Any delay in the issuance of a temporary restraining order will continue to result in irreparable harm of the plaintiffs' rights under the Michigan Constitution, state law MCL 168.599, MRSC and KGOPEC Bylaws.

24. An Ex-Parte Temporary restraining order is appropriate in this matter because it is currently unknown who will be representing the Defendants' being that a certified letter, and by regular mail and by email was sent to the Defendants from undersigned counsel. No party ever contacted undersigned counsel's office, either by self-representation or by a legal representative. Counsel certifies that the attempt to contact the Defendants through mail and email went unanswered. Further attempts could be made if the Court requests.

. For the reasons, stated above, the Plaintiffs respectfully request this Court issue a temporary restraining order against the Defendants and issue a writ of mandamus for the relief sought in the verified complaint. In the alternative, Plaintiffs would request an order to show cause as to why the Defendants why the Court should not enter an order amongst the other allegations made in the verified complaint and this motion.

WHEREFORE, the Plaintiffs respectfully requests this court grant the motion to for a temporary restraining order, issue a Mandamus and/or a show cause order alleged in the motion in the verified complaint and the brief. Specifically request: A. Injunctive Relief/Declaratory Relief as to the three precinct delegates unlawfully seated in statutory seats by having them removed. These unlawful delegates dilute the votes of both statutory and precinct delegate votes. B. Injunctive Relief/Mandamus to stop the April 10, 2023 removal of the Plaintiffs from the KGOPEC. C. Any other relief the Court deems proper.

Dated March 29, 2023

/s/James A. Thomas
James A. Thomas, Esq.