

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

SABRINA PRITCHETT-EVANS and  
KIMBERLY HARRIS

Case No. 2023-0169-CZ

Plaintiffs

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.

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Matthew S. DePerno (P52622)  
DEPERNO LAW OFFICE, PLLC  
Attorney for Defendant Sackett  
Attorney for Defendants KGOP and KGOPEC  
*per limited appearance*  
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(269) 321-5064

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**ANSWER TO AMENDED VERIFIED COMPLAINT, INJUNCTIVE RELIEF,  
IMMEDIATE DECLARATORY RELIEF**

Defendants REPUBLICAN PARTY OF KALAMAZOO COUNTY, STATE OF  
MICHIGAN, KALAMAZOO GRAND OLD PARTY EXECUTIVE COMMITTEE  
("KGOPEC"), and (AKA) KALAMAZOO COUNTY REPUBLICAN COMMITTEE  
(KGOPEC), and KELLY SACKETT ("Sackett"), by and through their attorneys, DePERNO

LAW OFFICE, PLLC,<sup>1</sup> submits the following as their Answer to the allegations contained in Plaintiff's Verified Amended Complaint.

### GENERAL ALLEGATIONS

1. MCL 168. I, *et seq.*, is the Michigan election law statute. The statute defines the precinct delegate selection process where voters choose delegates for each political party within the county precincts. Those delegates along with the elected officials of each party hold a county convention to choose delegates to the state party convention and a post general election meeting to choose the next executive committee and officers of the county party. The KGOPEC is made up of 36 individuals, eighteen of the 36 are persons delegate elected by a super-majority of the duly elected Kalamazoo County Precinct delegates by statutory authority of MCL 168.599. This new slate began its two-year term on December 2, 2022 to serve as the new executive committee for the KGOP each of which are residents of Kalamazoo County, Michigan.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint. By further answer, there is no legal organization or entity in Michigan that goes by the name "Kalamazoo Grand Old Party Executive Committee." Plaintiffs' failure to name a proper party will require dismissal of this lawsuit.**

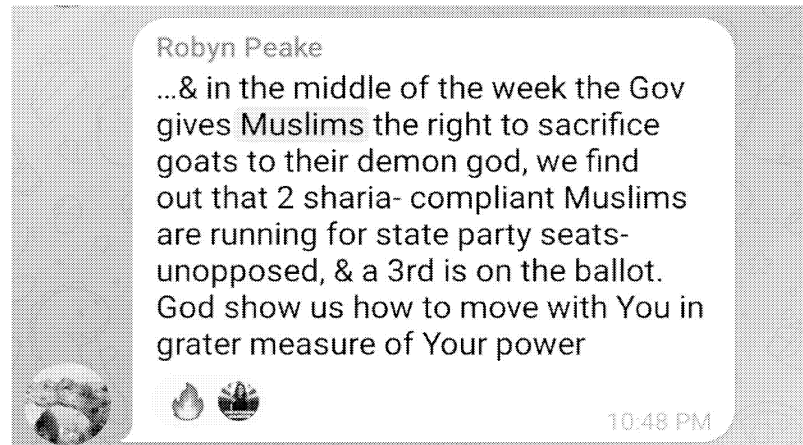
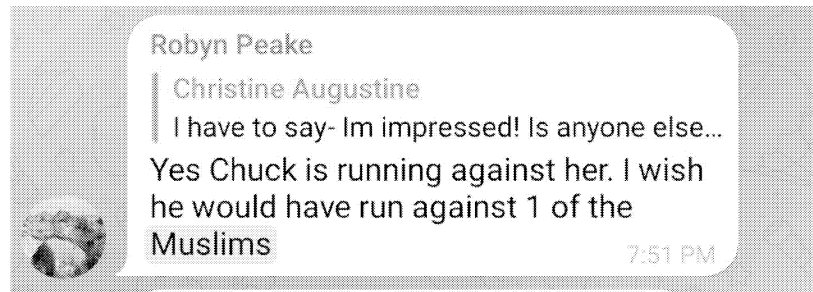
2. Plaintiff Sabrina Pritchett -Evans is a resident of Kalamazoo County and ex-officio member of the KGOPEC as the chair of the Kalamazoo Republican Women's Association in Kalamazoo County. Any chair of a republican organization in Kalamazoo County is an ex-

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<sup>1</sup> Attorney Matthew DePerno remains on a limited appearance as to Defendants KGOPEC (KGOP) based on their motion for summary disposition pursuant to (in part) MCR 2.116(C)(1), (2), (3), and (4).

officio member of the Executive Committee according to the Republican Party of Kalamazoo, State of Michigan (KGOP) Bylaws amended March 2015. SBE was removed from membership of the KGOPEC by the Defendants.

**ANSWER: Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Defendants neither admit nor deny the allegation regarding residency as Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegation and leave Plaintiffs to their proofs. Denied that Plaintiff Pritchett-Evans is a member of the KGOPEC. Plaintiff Pritchett-Evans has been removed as a member of the KGOPEC, in part, because the Islamophobic views of Kalamazoo Republican Women's Association President Robyn Peake, supported by Plaintiffs, do not align with the views, bylaws, or mission of Kalamazoo County Republican Committee ("KCPR") or the Republican Party platform**



3. Plaintiff Kimberly Harris is a resident of Kalamazoo County and a delegate elected member of KGOPEC. KH was removed from her position on April 10, 2023 by the Defendants.

**ANSWER: Defendants neither admit nor deny the allegation regarding residency as Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegation and leave Plaintiffs to their proofs. Denied that Defendant Harris is a delegate elected member of KGOPEC. Plaintiff Harris was removed from KGOPEC because her anarchist views do not align with the views, bylaws, or mission of KCRC or the Republican Party platform.**

4. Defendant, Republican Party of Kalamazoo County, State of Michigan (KOOP) AKA Kalamazoo County Republican Committee (KOOPEC) is an "executive committee" as defined in the Michigan election Law and is the leadership committee of the Kalamazoo Republican Party with its primary address 1911 W Centre Ave A, Portage, MI 49024. The conduct of its affairs is governed by Michigan Election Law, the Bylaws and rules of the Michigan Republican State Central Committee (MIOOP) and the Bylaws of KOOP.

**ANSWER: Denied. By further answer, there is no legal organization or entity in Michigan that goes by the name "Republican Party of Kalamazoo County, State of Michigan." Plaintiffs' failure to name a proper party will require dismissal of this lawsuit. Plaintiffs have sued a non-entity "committee" within the KCRC, which is not capable of being sued.**

5. Defendant Kelly Sackett is the current "chair" for KGOP through December 31, 2024 and is a resident of Kalamazoo County.

**ANSWER: Admitted; provided, however, Defendant Sackett is properly characterized as the chairwoman for KCRC.**

6. 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 KG OPEC 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 KGOPEC, 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.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

7. 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.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

8. 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.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants objects on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

9. The second KGOPEC meeting was held on January 9, 2023, and those minutes are attached as Plaintiffs' Composite Exhibit A that was previously filed in the original verified complaint and is incorporated here by reference consisting of four pages. 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." Or. Lloyd Peterson quoted that 3A and 6A of the KOOP 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 KGOPEC 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 KGOPEC meeting that was held on February 13, 2023.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants objects on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

10. A vote to seat three precinct delegates into the statutory seats took place on February 13, 2023 at the regular monthly KGOPEC 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. It should also be noted that the representing attorney, Matt DePerno, of the Defendants in this cause, also ran as a precinct delegate and could not muster enough votes to be in the top 18 vote getters to be slated on the KGOPEC by a super majority of the Kalamazoo elected delegates. Obviously, the majority of the delegates did not vote to put Mr. DePerno on the KGOPEC. Through the unlawful actions of the chairperson and Defendant Kelly Sackett, her intention was to place Mr. DePerno and two others on the KGOPEC contrary to the will of the super majority delegate voters and maneuvered Mr. DePerno into a statutory seat contrary to MCL 168.599, MRSC and KGOP Bylaws. See Plaintiff's Composite Exhibit B minutes (draft) of the February 13, 2023 KGOPEC meeting that was previously filed in the original verified complaint and is incorporated here by reference. 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.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

11. Kelly Sackett, acting as the KGOPEC 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 proper notice was given to Plaintiff Harris that she was motioned to be removed from the committee and she found out on her own.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

12. 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 KOOP Bylaws govern the operation of the executive committee but does not give the KOOPEC 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 KGOPEC 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. See Exhibit 6 KGOP Bylaws.

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." Consistent with Section 597 of the Michigan Election Law, Article I of the Bylaws of the Michigan Republican State Committee identifies the MIGOP as the governing body of the Michigan Republican Party. A copy of the State Bylaws has been previously filed in the original verified complaint.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

13. Article II of the MIGOP Bylaws states that a purpose of the Michigan Republican Party is to perform all duties delegated to a State Committee by law, and such other duties not prohibited by law.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. To the extent an answer is required, Defendants deny the allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

14. Article XIII, Section A of the MIGOP Bylaws requires that the county executive committee of each county shall adopt its own bylaws and rules of procedures. The KGOP Bylaws as adopted do not support replacing statutory seats with a regular precinct delegate.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. To the extent an answer is required, Defendants deny the allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

15. 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.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

16. There is persuasive case law that was argued by the MRSC general counsel in the Macomb County case in regard to a similarly situated case where elected members have been removed from their positions as members of the KGOPEC. 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. There is a pending motion before the Court to allow a quo warranto count to be added to this amended verified complaint to be heard on May 22, 2023 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 submitted as Plaintiff s Composite Exhibit C that was previously filed in the original verified complaint and is incorporated here by reference.

**ANSWER:** No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, *Castiglia v Forton* is not precedent or persuasive. It is not analogous. It also seems odd that Plaintiffs' attorney would seek to educate this court when he has clear disdain and contempt for the court system, recently stating: *"I don't take anything in this business as personal because most of the time, the people involved who we litigate these cases in front of are ideologs who will never be fair and impartial or unbiased in their views."* To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.

17. 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 KOOPEC. This was clearly done in an effort to pack the KOOPEC with more friendly votes toward the agenda of Defendant Sackett. This was clearly a concocted process by the defendants to disavow those removed members from the party to include plaintiff KH. The elected delegates put plaintiff KH on the KOOPEC by super majority vote and those in power who disagreed with KH's politics removed her. A TRO hearing was conducted on April 10, 2023 in the afternoon and was continued for an evidentiary hearing, and later the same day KH was removed from her duly elected office along with two other precinct delegates. The next day (April 11, 2023), Defendant Sackett went further by issuing a letter on KOOP letterhead addressed to Meridith Place, a Clerk for Kalamazoo County to notify the clerk that 17 persons were no longer delegates with the Kalamazoo County Republican Party by authority of her signature. Those 17 persons were specifically named with their address and precinct number and then signed by Defendant Sackett as the chairwoman of the Kalamazoo County Republican Committee (KOOP). See Plaintiffs Exhibit 1. Because of this unlawful act, a legal letter was drafted and sent to each clerk for the respective precincts to abstain from the removal of the 17

named delegates. A legal letter was drafted in return by the Kalamazoo Clerk's corporate counsel, Angela Barnes who advised in her letter, "Please be advised the Clerk's Office is not empowered to remove a precinct delegate beyond the statutory language for handling a "written complaint"...The Clerk's Office DID NOT authorize, approve, or sanction the removal of the seventeen (17) precinct delegates identified in the April 11, 2023 letter." This letter is attached as Plaintiff's **Exhibit 2**. Further, through a FOIA request, an email that was sent to Defendant Sackett from Karen Siegwart, Charter Township of Pavillion Election Official wrote a response to Defendant Sackett in regard to her April 11, 2023 letter, "To Kelly Sackett, Please provide me with the section of current election law, that allows you to dismiss these two "Elected" KOOP delegates, Robyn Maxson and Ronald White, who reside in my jurisdiction, and the reason for dismissal. I have been in my position for over 27 years, and I have never had either party dismiss a delegate before their terms are up, against their will. The Charter Township of Pavillion will keep the delegates on file as active (as they choose), until the 2024 Election Year. Otherwise if you submit the accurate election law, I will verify your actions, with the Bureau of Elections. I will sway toward the direction of the BOE for actions to be taken." See Plaintiffs Exhibit 3. Also through FOIA requests, Defendant Sackett and her attorney set up a meeting with Shardae Chambers, Elections Coordinator for the office of the County Clerk/Register of Deeds. Defendant Sackett's first request to meet with Ms. Chambers was sent on February 16, 2023, which was the day before the State Convention and supposedly the event that spurred most of the issues that lead to litigation. Upon information and belief, this meeting took place between Ms. Chambers, Defendant Sackett and her attorney Matt Deperno on March 8, 2023. Defendant Sackett wrote, "Thank you for meeting with Matt and I today. I appreciate you taking the time and to try to explain our questions. Unfortunately I think we are in uncharted waters. Any help

that you can provide to point us in the right direction would be greatly appreciated." The meeting was memorialized by Ms. Chambers in her email back to Defendant Sackett wherein Ms. Chambers wrote in response, "It was a pleasure meeting with you both to discuss **your concerns** with precinct delegates and seeing if the county could give more guidance. I know here at the county level we didn't have any guidance to help you move forward. I did however reach out to the state bureau of elections to see if they had any more insight on precinct delegates and guidance for the parties unfortunately they didn't have any more information for the parties. When it comes to the state there guidance is only to support county clerks on how to accept filing from delegates and guidance on the county clerk being the one who certifies precinct delegate results. The only thing I was told by the state is that the parties have to refer back their own party bylaws when it comes to its precinct delegates after they have been elected. I know that's not the news you were looking for to hear I do hope you 're able to get some support from state party possibly ... ." See Plaintiffs Exhibit 4.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

18. 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 KGOPEC 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 position that were certified by the Secretary of the County Committee. Defendant Sackett also departed from the essential requirements of the law by not heeding the guidance from Ms. Chambers as the elections coordinator to follow the KGOP Bylaws.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

19. 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 rightful placement into the KGOPEC for this term.

**ANSWER: Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

20. The Defendants' KGOPEC and Kelly Sackett slated the April 10, 2023 agenda to remove three delegate-elected members of the KGOPEC and did so then with no authority and then attempted to remove 17 duly elected delegates from the Republican party by virtue of Defendant Sackett's April 11, 2023 Jetter dismissing them with no authority. 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 KOOP 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 incorporated by reference and attached to Plaintiff s original verified complaint. Defendant Sackett wrote in these press releases naming the Plaintiffs who 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 KOOP Bylaws for which this verified complaint is being filed and is absolutely correct. 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 as a direct reflection of Defendant Sackett's defiance of the statutory language and binding Bylaws. 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 KGOPEC 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 KOOPEC.

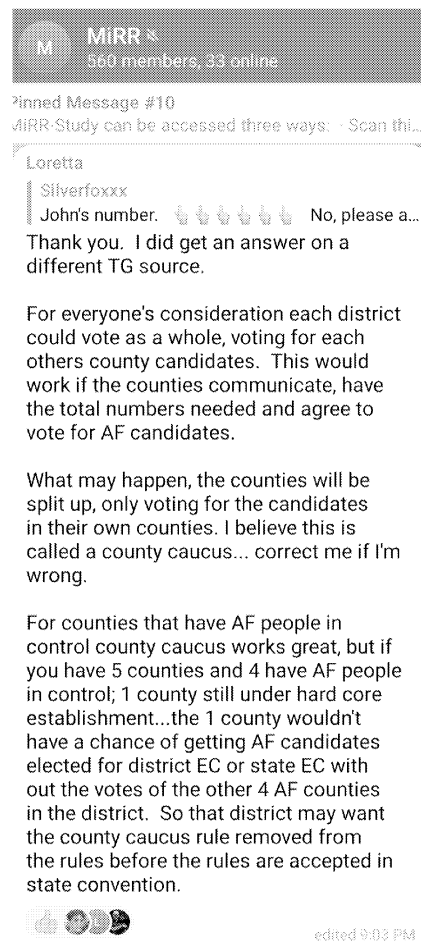
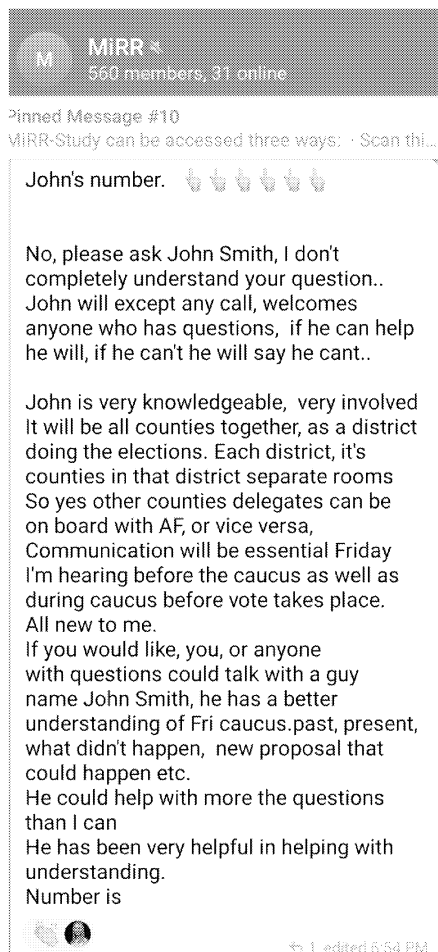
**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "By requiring the county executive committees to be made up**

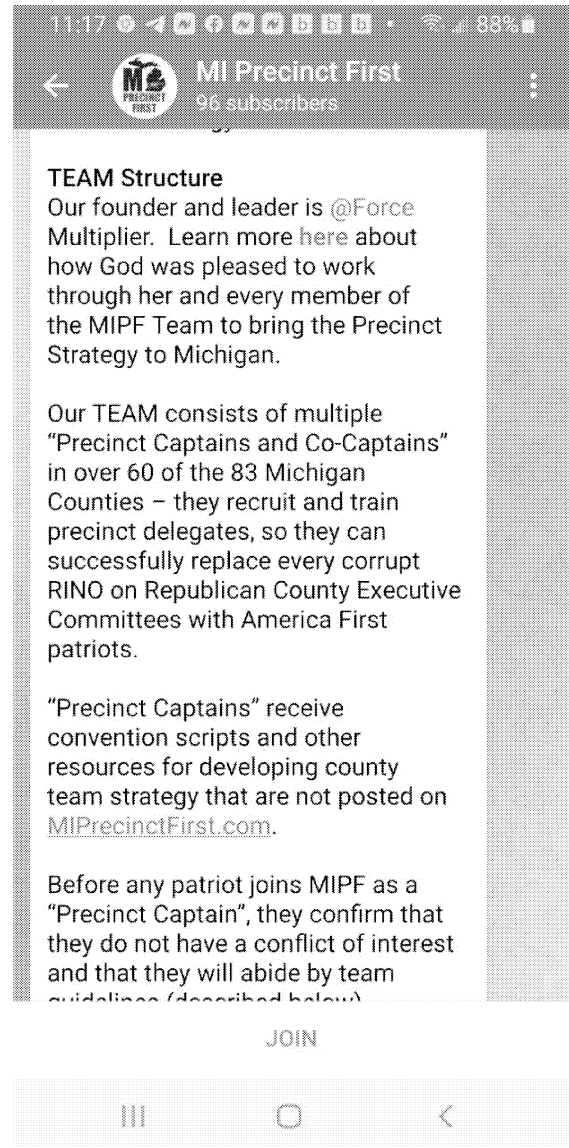
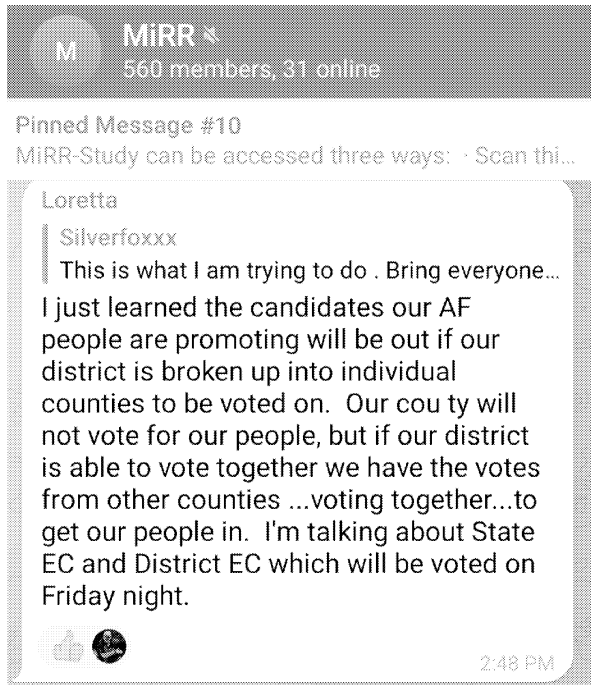
**of an equal number of elected delegates and legislators, the Election Law directly controls the internal structure of the political parties. Since Michigan has not demonstrated any compelling state interest for such a significant restriction of the freedom of association, we conclude that the relevant parts of the Election Law are facially unconstitutional." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

21. The censures against both Plaintiffs state that they falsely stated the KOOP EC took an illegal vote on February 13, 2023 when the KOOP EC *did* in fact take a vote to seat three delegates into statutory positions contrary to MCL 168.599 and both the MRSC and KOOP 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 4<sup>111</sup> District counties to vote on and select Kalamazoo County delegate nominees. The Defendant Sackett has in fact chilled the rights of the Plaintiffs by censuring their voting rights under the guise that the Defendant 's own unlawful actions led to the Plaintiffs voting in favor of a rule change. The censure continues to point the finger at both Plaintiffs by stating that their votes were a betrayal to her unlawful 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 KOOPEC, Kalamazoo County duly elected precinct delegates and KOOP 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 KOOP Bylaws. It is foreseeable that the resulting defamation will lead to unjust harm to the plaintiffs by virtue of their status in the community, business, and in the Republican Party and future endeavors of serving the party as a result of the Defendant's slanderous remarks and execution of the censure. It is foreseeable that the resulting defamation will have long-standing affects and has already harmed Plaintiff

Pritchett-Evans current business and future income. The censures are attached as composite Exhibit E incorporated by reference and attached to Plaintiff's original verified complaint.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**





22. As a result of the censures and the press releases, the Plaintiffs retained counsel to notify the KOOP and Kelly Sackett that she in fact maligned and defamed their names and character. A letter was sent via regular and certified mail and by email to retract their false statements by February 28, 2023 and to do so in the same manner their false statements were made, via press release. It also demanded that the delegates who were placed unlawfully into statutory seats be removed. This letter to mitigate damages went unanswered and this lawsuit ensued. See Attorney Letter to KGOPEC, KGOP and Kelly Sackett dated February 23, 2023

marked as Plaintiff Exhibit F incorporated by reference and attached to Plaintiff s original verified complaint

**ANSWER: Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

23. The KGOP Bylaws relevant to the removal of a member are within section 7 of the KGOP Bylaws which are labeled Roles and Responsibilities of Executive Committee Members specifically sections D and E stated below.

D. Elected Members are subject to removal from the Executive Committee should they fail to fulfill the responsibilities of their office. These responsibilities include, but are not limited to attendance at regular monthly meetings, special meetings and sponsored events of the organization. Elected Members who are unable to attend a regular monthly or special meeting have a responsibility to notify the Chairperson, or another officer of the Executive Committee of their inability to attend. Their failure to do so will be classified as an unexcused absence. Elected Members who have three consecutive unexcused absences, or six unexcused absences in a calendar year are subject to dismissal from the Executive Committee.

E. 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 him 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 an 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.

Plaintiff Harris has one excused absence from a regularly scheduled meeting and there is no just cause presented for her removal. There has been no violation pursuant to these rules that Plaintiff Harris has committed to bring her up for a removal vote. There is no language in section E other than following section D's language that can subject a dismissal from the EC that states unexcused absences or not fulfilling the responsibilities of the office. The Defendant chair, Kelly Sackett, moved for censure ship of 3 elected members and one ex officio with no substantiation and based it on her beliefs that their votes undermined the KGOPEC when in fact, she was on notice by many delegates at the February 13, 2023 KGOPEC meeting that she could not seat precinct delegates into statutory seats notwithstanding the guidance she received by the elections coordinator. The memberships to the KGOP were stripped and their yearly membership fee of approximately \$40.00 (some members have different prices for membership) was returned to each one. This too is in violation of the By laws and the due process rights afforded to these individuals by virtue of these bylaws.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

24. The attached affidavits by the Plaintiffs verify that this amended complaint and its facts are sworn to under oath under the penalty of perjury. See Composite Exhibit 5 New Verified Affidavits for Amended Complaint.



**ANSWER: The so-called "Affidavits" attached to Plaintiffs' Amended Verified Complaint do not satisfy the legal requirements of an affidavit and are not admissible. Further, they speak for themselves; therefore, no response is required. Defendant neither admits or denies as to the authenticity and veracity of the statements contained in the so-called "Affidavits."**

**JURISDICTION, VENUE, STANDING**

25. This Court has personal jurisdiction over the Defendants pursuant to MCL 600.701.

**ANSWER: Defendants incorporates their answers to the preceding paragraphs above as if fully set forth herein.**

26. This Court has jurisdiction over the subject matter of this action pursuant to MCL 600.605. Venue is proper in Kalamazoo County pursuant to MCL 600.127.

**ANSWER: Denied**

27. MCL 168.599(1) of Michigan Election Law, vests county political parties with the authority to create an executive committee:

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.

The KGOP BYLAWS provides Section II. PURPOSES

The purposes of this Party shall be to

- Promote the ideals and policies of the Republican Party,
- Perform all duties required of the Party, its Committee, its Executive Committee and

Officers, by law (**Michigan Election Law, 1954 Act 116, effective June 1, 1955**, as amended). In essence, the KGOP Bylaws incorporate MCL 168.599 by stating that they will abide and perform all duties required by law. This gives standing to the Plaintiffs to challenge the unlawful acts by Defendant Sackett replacing statutory seats to precinct delegates, notwithstanding that the KGOPEC would not be able to exist without the language of MCL 168.599 which acts as an enabling statute for its formation. Whether the statute is unconstitutional or not is not relevant, the Bylaws of the KGOP bind their structure to the statute.

**ANSWER: No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

#### **DECLARATORY RELIEF UNDER MCR 2.605**

28. Under Michigan law, "whenever a litigant meets the requirements of MCR 2.605, it is sufficient to establish standing to seek a declaratory judgment." *League of Women Voters v. Secretary of State*, 506 Mich 561, 585-586; 957 NW2d 731 (2020).

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

29. MCR 2.605(A)(l) states that, "in a case of actual controversy in its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment."

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

30. To show an actual controversy, the plaintiffs need only "plead and prove facts which indicate an adverse interest necessitating the sharpening of the issues raised." *Lansing School Educational Association v. Lansing board of Education*, 487 Mich at 372 n.20; 792 NW2d 686 (2010).

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

31. Michigan's appellate courts have consistently found that a plaintiff pleads an actual controversy where they allege that an invalid rule or illegal action jeopardizes their rights or interests. See *Lash v. Traverse City*, 479 Mich 180, 196-197; 735 NW2d 628 (2007) *UAW v. Central Michigan University Trustees*, 295 Mich App 486, 496-497; 815 Nw2d 132 (2012).

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

32. The Plaintiffs' allege that the Defendants, violated MCL 168.599 and the cited bylaws above by taking a vote to seat precinct delegates into statutory seats, had no authority to do so, and used unilateral power as the chair of the KGOPEC to do so . After discussion with the members of the KGOPEC and being put on notice of their unlawfulness contrary to Michigan Law 168.599, the Bylaws of MRSC and KGOPEC did so anyway. Upon information and belief, the three unauthorized replacement statutory delegates empaneled by Defendant Sackett casted votes to remove the Plaintiff and others.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

33. MCR 2.605(0) states that a Court may order a speedy hearing of an action for declaratory relief and otherwise advance it on the calendar. Because of the legal nature of the issues presented and the rights being deprived to the Plaintiffs, the Plaintiffs are seeking immediate relief and an expedited hearing on these counts based on the allegations in this Amended Verified Complaint.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

34. Courts should use "common sense" when interpreting a statute, *Diallo v. Larrochelle*, 310 Mich App 411, 418; 871 NW2d 724 (2015); accord *Marquis v. Hartford ACC & Indem*, 444 Mich 638, 644; 513 22 NW2d 799 (1994), and should avoid absurd results, *People v. Pinkney*, 501 Mich 259, 266; 912 NW2d 535 (2018). In this case, although it is not a statute, it is MHSAA guidance that controls when transfers meet an exception under the rules.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

35. The Defendants are violating the Plaintiffs' rights by putting forth precinct delegates into statutory seats, censuring them for challenging their lawful votes in the State Convention, removing them without cause from membership by returning their membership fees, and potentially removing them when the KGOPEC meets to vote on April 10, 2023 from the EC. Their removal is also contrary to the KGOPEC Bylaws and there is no lawful basis to act on their removal. Plaintiff Harris is a sitting member of the EC and Plaintiff Evans is the ex officio of the KGOPEC with no voting rights in that committee.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

36. The Defendant's unlawful and unwarranted actions of voting in precinct delegates into statutory positions and censuring members for their vote are violations of their rights under the MCL 168.599 and MIGOP and KGOPEC Bylaws.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

37. The Plaintiffs' request relief in this matter. Without further intervention of the Court, the Plaintiffs' will suffer irreparable harm by being permanently removed from the KGOPEC, by the dilution of their votes by new members having voting rights as statutory members who were not nominated into those seats by the Kalamazoo electorate among other harms and unlawful precedent that the Defendants have ignored the law. The Plaintiffs have been denied the equal protection of the laws, the right to assembly and tortious interference in the enjoyment of the lawfully elected rights that the people of Kalamazoo voted upon for their representation from their county and individual precincts. The electorate of Kalamazoo County

did not vote for the precinct delegates who have been seated into the statutory positions and as such, they were not placed there by the will of the people, just the will of the Defendant Sackett.

**ANSWER: Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

### COUNT I

#### JUDICIAL DECLARATION: MICHIGAN COMPILED LAWS 168.599

#### MRSC BYLAW ARTICLE XIII and KGOPEC BYLAW SECTION 7

38. Plaintiffs incorporate by reference paragraphs 1-33 as if fully stated herein.

**ANSWER: Defendants incorporate their answers to the preceding paragraphs above as if fully set forth herein.**

39. (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 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.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

40. The Defendants violated MCL 168.599 when they purposely ignored the statute and the MRSC/MIGOP and KGOP Bylaws by voting and seating precinct delegates into statutory seats that the statute clearly states cannot be done lawfully. Further MRSC/MIGOP Bylaw Article XIII follows the language of the statute that the statutory seats must be filled by nominated Republicans from their respective counties. KGOP Bylaws under section 3 also follow the same language. The Defendants have ignored the law and bylaws that detail how a statutory vacancy must be filled by a new nominee which will not occur until the next election cycle after primaries for 2024 or there must be a special election for that particular seat which in this case, those positions were won by democrats and will not be available for a special election.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

41. The Defendants, acted outside any actual authority of MCL 168.599, MRSC/MIOOP and KOOP Bylaws by holding an election to seat precinct delegates into statutory positions. The KOOP Bylaws stated specifically under Section III:

### III. COUNTY EXECUTIVE COMMITTEE

#### 1 - Establishment

This committee is established by law (section 168.599 MCLA) and State Party Rules. The KOOP Bylaws are crystal clear that they follow the State Statute and the State Party Rules that state specifically and purposely that statutory seats are given to those who run and win their respective primaries in county and state seats, precinct delegates are voted into the executive committee by a super-majority of all delegates within Kalamazoo County.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

42. The Defendants have censored and removed three elected KOOPEC members, one being Plaintiff Harris, a party to this lawsuit, based on a lawful vote cast by a member at the Michigan Republican State Convention and contrary to KOOPEC Bylaw section 7. Her removal is for retaliatory reasons only.



**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

WHEREFORE, Defendant requests this Honorable Court dismiss this action, award Defendant her actual costs and attorney fees incurred in defending this claim, and grant Defendant such other relief as this Court deems reasonable and just.

## COUNT II

### JUDICIAL DECLARATION: MICHIGAN CONSTITUTION: ARTICLE 1 § 2 EQUAL PROTECTION OF THE LAWS AND DUE PROCESS

43. Plaintiffs incorporate by reference paragraphs 1-42 as if fully stated herein.

**ANSWER: Defendants incorporate their answers to the preceding paragraphs above as if fully set forth herein.**

44. The Defendants have censored and removed a delegate-elected KGOPEC member and ex officio from the KGOPEC for casting a lawful vote on the request for special consideration by District 4 of Kalamazoo County with nominations from the floor that was cast based on the Defendants unlawful act of voting precinct delegates into statutory seats contrary to the relevant Michigan Statutes and Bylaws of both MRSC and KGOP.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

45. In the Defendants Motion for Summary disposition, the Plaintiffs are vilified as anarchist delegates focused on burning down the party. Specifically, through the Defendants own words and admissions states, "...delegates who support Plaintiff Pritchett-Evans want to focus on burning down the party; where raising money and getting Republicans elected is not important;

but instead desire to push a radical agenda through a "Christian only" cult mentality that will "purify" the party; and only when the party is "purified" will the party be able to attract the "right kind" of donors needed to transform the party into their image."

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

46. The mentality of the Defendants to quash the religious views that these Plaintiffs are beholden to and by casting their vote based on their beliefs and the unlawful acts of the Defendants violates their equal protection under the law. This was further exemplified by Defendant Sackett's unlawful letter to the Clerk's office to have them removed from the Republican Party. Defendant Sackett's unilateral attack on 17 duly elected delegates to be removed from the Republican Party was an act that rose to the level of a state actor. The Supreme Court has found that private discriminatory conduct to be state action and violative of Equal Protection in *Woodland v. Michigan Citizens Lobby*, 423 Mich. 188, 205, 378 N.W.2d 337 (1985). This conduct can be considered by this court to be discriminatory state action, not only by the case law cited, but by the words used and admitted to by the Defendants in their summary disposition motion.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

47. In *Scalise v Boy Scouts of America*, 265 Mich. App 1 (COA 2005), the Court exemplified in its dicta that a private actor could be found to have taken state action by conduct.

The Equal Protection Clause of the Michigan Constitution provides:

No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation. [Const. 1963, art. 1, § 2.]

Our Supreme Court has held this clause to be coextensive with the Equal Protection Clause of the United States Constitution. *Harville v. State Plumbing & Heating, Inc.*, 218 Mich.App. 302, 305-306, 553 N.W.2d 377 (1996). Thus, the Michigan Constitution, like the United States Constitution, only protects individuals from discriminatory "state action." *Woodland v. Michigan Citizens Lobby*, 423 Mich. 188, 205, 378 N.W.2d 337 (1985); \*\*873 *Shelley v. Kraemer*, 334 U.S. 1, 13, 68 S.Ct. 836, 92 L.Ed. 1161 (1948) ("[The Fourteenth] Amendment erects no shield against merely private conduct, however discriminatory or wrongful."). Yet, in certain limited circumstances, the Supreme Court has found private discriminatory conduct to be state action and violative of the Equal Protection Clause. *Brentwood Academy v. Tennessee Secondary School Athletic Ass'n*, 531 U.S. 288, 295, 121 S.Ct. 924, 148 L.Ed.2d 807 (2001) ("[T]he deed of an ostensibly private organization or individual [will] be treated sometimes as if a State had caused it to be performed. Thus ... state action may be found if, though only if, there is such a 'sufficiently close nexus between the State and the challenged action' that seemingly private behavior 'may be fairly treated as that of the State itself.' [*Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 351, 95 S.Ct. 449, 42 L.Ed.2d 477 (1974)]."). Thus, whether the plaintiffs' right to equal protection was violated will turn on whether defendants' conduct can be considered discriminatory state action.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

48. Plaintiff s have been removed from being members of the KGOPEC as a result of the unlawful conduct of the Defendants and the obvious calculated name calling vilifying them as Christians.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

49. The Defendants' bad a fiduciary duty to the duly elected executive committee members including these plai ntiffs and instead of realizing that the precinct delegates were unlawfully voted into the statutory seats, the KGOPEC and its chair censured them and have revoked their membership for casting a vote against their illegal actions based on the Plaintiff's conscience.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

50. Based on the general allegations that the Defendant has used her position of power to call for a vote for seating of precinct delegates and censure ship, the plaintiff s seek declaratory and injunctive relief to refrain the Defendant from being able to take a vote on the removal of the members in this amended verified complaint or any other member not named in a similar circumstance.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

WHEREFORE, Defendant requests this Honorable Court dismiss this action, award Defendant her actual costs and attorney fees incurred in defending this claim, and grant Defendant such other relief as this Court deems reasonable and just.

### **COUNT III**

#### **BREACH OF FIDUCIARY DUTY**

51. Third Party-Plaintiffs incorporate by reference paragraphs 1-50 as if fully stated herein.

**ANSWER: Defendants incorporate their answers to the preceding paragraphs above as if fully set forth herein.**

52. At all times relevant to this litigation, Defendant Sackett owed a common law and other fiduciary duties to the individual members of the KGOPEC through her position as chairperson of the KGOPEC, having legal obligations to uphold the statutory rights and will of the Kalamazoo County Republican delegates exercised under MCL 168.599, to recognize that each person in that committee has individual rights including the right to vote their conscience. Further, the KGOPEC body recognized that the Defendant was breaching and usurping the rule of law when Sackett put up a vote to elect precinct delegates to statutory seats, a clear violation of the law under MCL 168.599, and both the MRSC and KGOP Bylaws. The Defendant ignored these rules and did so anyway in breach of her fiduciary duty. This breach of her duty escalated when it came time for the Michigan Republican State Convention when a motion was floored and explained to the delegates who voted upon the news that the chair of Kalamazoo breached her duty by seating precinct delegates into statutory seats. This led to a vote being taken that in

essence amounted to the Republican delegate who voted upon that motion to understand that this chairperson violated the law and bylaws voting to amend Rule 9. In part, Rule 9 states that "The District shall hold nomination s and vote to fill those unfilled seats. The county shall have the right to reject any nominees they feel will not represent their county properly." As part of that vote, it is apparent the delegates did not have trust in the KGOPEC chair and took away valuable voting rights based on the mistrust. This resulted in the Defendant poi nting the finger at 4 people who were only a small fraction of the voters who voted to amend Rule 9. In conclusion , the Defendant did this to herself by not following the law.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

53. An Article presented by Vincent R. Johnson (hereafter VJ) cited as Vincent R. Johnson, *The Fiduciary Obligations of Public Officials*, 9 ST. MARY'S J. ON LEGAL MALPRACTICE & ETHICS 298 (2019) on *The Fiduciary Obligations of Publ ic Officials* is being used as an abstract to show that Defendant Sackett i n fact, also at common law, had a fiduciary duty to KGOPEC and to not use her position to retaliate against these members of the KGOPEC. VJ writes, "At various levels of government, the conduct of public officials is often regulated by ethical standards laid down by legislative enactments, such as federal or state statutes or municipal ordinances. These rules of government ethics are important landmarks in

the field of law that defines the legal and ethical obligations of public officials. Such provisions can form the basis for the kinds of government ethics training that helps to minimize wrongful conduct by public servants and reduces the risk that the performance of official duties will be clouded by appearances of impropriety. Codified government ethics rules also frequently provide mechanisms for the investigation of charges of misconduct, and for the enforcement of ethical standards through criminal penalties and other sanctions. However, codified government ethics rules vary widely in quality and scope. Such provisions are often incomplete, poorly drafted, and weakened by legislative compromises made during the adoption process. This article argues that, notwithstanding the proliferation and usefulness of government ethics codes, common law fiduciary-duty principles continue to play an important role in shaping the law of government ethics. Regardless of whether specific rules of government ethics have been adopted, public officials have a broad fiduciary duty to carry out their responsibilities in a manner that is faithful to the public trust that has been reposed in them. The duties of public officials may extend beyond minimal compliance with codified ethics rules. Even if no ethics code has been adopted, or if no code provision is on point, public officials must act in a manner that comports with their common law fiduciary duty obligations. Government ethics laws, criminal provisions, 299 and other legislative enactments should be interpreted and applied in light of the demanding loyalty obligations that are imposed on public officials as fiduciaries."

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

54. The Defendants negligently breached that fiduciary duty on more than one occasion, namely by ignoring the plain language of MCL 168.599 and the pertinent bylaws regarding the election of precinct delegates into statutory provisions. As a result of the breach of fiduciary duty, by KGOPEC and chair Defendant Sackett, the defendants placed the blame on sitting members of the KGOPEC who objected to EC members electing precinct delegates into statutory seats at their regular meeting. Defendant Sackett overruled those objections and moved forward with a vote that was contrary to the laws of the state and the bylaws of their institution. Such breaches were the actual and proximate cause of harm to these members, being that Defendant Kelly Sackett stripped the delegates of their votes by not following the law and usurping MCL 168.599 and relevant bylaws. This was also a violation of MCL 168.932 (a), A person shall not attempt, by means of bribery, menace, or other corrupt means or device, either directly or indirectly, to influence an elector in giving his or her vote, or to deter the elector from, or interrupt the elector in giving his or her vote at any election held in this state. This is a crime in the State of Michigan. The reality of the vote to amend Rule 9 at the Michigan Republican Party State Convention District 4 was that only 4 votes were cast by these 4 members who lawfully voted their conscience. The motion to amend Rule 9 required 2/3rds vote of District 4 delegation. Of the 174 eligible people to vote on this issue, over 116 voted to amend, winning the vote by over 2/3rds.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899**



**F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

55. In discussing *Chapman v Higbee Co*, 319 F.3d 825 (USCA 6<sup>111</sup> Cir 2003), under the symbiotic or nexus test, a section 1983 claimant must demonstrate that there is a sufficiently close nexus between the government and the private party's conduct so that the conduct may be fairly attributed to the state itself. See *Wolotsky*, 960 F.2d at 1335; see also *Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 295, 121 S.Ct. 924, 148 L.Ed.2d 807 (2001) (noting that a challenged activity may be state action "when it is entwined with governmental policies or when government is entwined in [its] management or control." The inquiry is fact-specific, and the presence of state action is determined on a case-by-case basis. See *Burton v. Wilmington Parking Auth.*, 365 U.S. 715, 81 S.Ct. 856, 6 L.Ed.2d 45 (1961). Although "it is possible to determine ... whether a person acted under color of state law as a matter of law, there may remain in some instances unanswered questions of fact regarding the proper characterization of the actions for the jury to decide." *Layne*, 627 F.2d at 13. Defendant Sackett has portrayed herself as a state actor by singling out delegates that she deems too Christian to be part of the Republican Party and her precise conduct to remove people by use of her title as chairperson for the County Republican Party and the stroke of a pen on the letterhead she represents, a clear breach of her duty owed to those delegates as the head of the Republican Party in Kalamazoo County.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the**

**grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

56. Defendant Sackett has a duty to perform all duties required of the Party, its Committee, its Executive Committee and Officers, by law (Michigan Election Law, 1954 Act 116, effective June 1, 1955, as written in Section 2 of the KOOP Bylaws and she failed in that duty miserably. Accordingly, Defendants are liable in damages to the Plaintiffs in excess of \$25,000.00, the exact amount to be proven at jury trial, arising out of the Defendants' willful and negligent breach of her fiduciary duty to the Plaintiffs.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

WHEREFORE, Defendant requests this Honorable Court dismiss this action, award Defendant her actual costs and attorney fees incurred in defending this claim, and grant Defendant such other relief as this Court deems reasonable and just.

COUNT IV

MCL 600.2911 ACTION FOR LIBEL OR SLANDER

57. Plaintiffs incorporate by reference paragraphs 1-56 as if fully stated herein.

**ANSWER: Defendants incorporate their answers to the preceding paragraphs above as if fully set forth herein.**

58. Plaintiffs' allege that KGOP, and KGOPEC vicariously through their chairperson Defendant Sackett defamed them with false propaganda via a mass text message and also in a press release published February 21, 2023 and republished the same on their website, naming them individually as members of the KGOPEC and not private citizens on March 1, 2023. They were then publicly censured and labeled as giving false statements (lying) marring their character and reputations not only as members of the Republican GOP but as to members of the committee KGOPEC, Kalamazoo County Community and business relationships. As elected members of their respective positions in the EC and District 4, their reputations have been tarnished bringing unwanted fame for their lawful actions at the Michigan State Republican Convention. The Defendants published this material knowing it was false and with reckless disregard as to its veracity. The documents were published on KGOP letterhead signifying that they were coming from the authority of the Defendant chairperson, Kelly Sackett.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

59. Doing a simple Google search of the Plaintiffs' names pulls these negative and false accusations to light and it is foreseeable that any future endeavors to run for elected office within the Republican Party or current and future business activities will bring light to the tainted reputation that the KGOPEC and Defendant Sackett intentionally meant to do.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. To the extent an answer is required, the case law speaks for itself and no answer is required or given. To the extent an answer is required, Defendant denies the allegation contained in this paragraph of Plaintiffs' Amended Verified Complaint.**

60. The specifics of libel and slander are as follows:

On Sunday, February 19, 2023, at 4:02 PM a text was sent by KGOP on behalf of Kalamazoo County Republican Party to all Kalamazoo County Republican Precinct Delegates stating the following false statement s:

1- A hostile faction Kalamazoo County delegates aligned with Ottawa Cou nty delegates to disenfranchise the Kalamazoo Republican party

2 - A hostile faction Kalamazoo County delegates aligned with Ottawa County delegates to steal the sovereignty of Kalamazoo Republican Party

3 - A hostile faction of Kalamazoo County delegates aligned with Ottawa County delegates to violate the equal protection rights of Kalamazoo County delegates.

4 - A hostile faction of Kalamazoo County delegates committed a coup d'etat

5 - A hostile faction

Hostile Definition: 1. Adverse. 2. Showing ill will or desire to harm. 3. Antagonistic; unfriendly  
Blacks Law Dictionary 11th Edition

On February 21, 2023, Kelly Sackett emailed a press release to the Kalamazoo County Republican Party's entire email list and posted the press release on the KGOP website:

"It became very clear that the small group of delegates from Kalamazoo County who were running for District Executive Committee and State Committee seats had likely orchestrated this apparent "*coup d 'etat* " with the help of factions within other counties. This move seemed expressly for the purpose of getting elected at any cost, and in this case it was likely the sovereignty of their neighbors and fellow member delegates from Kalamazoo.

The small group of delegates likely knew they did not have the majority support within the Kalamazoo County caucus and would not have been elected. So essentially, they decided to disregard their fellow delegates rights, which consequently resulted in their own personal benefit.

The delegates of Kalamazoo County had their votes "diluted" through this parliamentary move, resulting in a potential equal protection violation. And in the end the rule change was passed, over the objections of those opposing it in Kalamazoo County, but the District went ahead and over-whelming voted to trample on the rights of Kalamazoo County delegates."

On March 1, 2023 Kel ly Sackett held a Special Meeting. At the special meeting Sabrina Pritchett-Evans and Kimberly Harris were censured. The following false statements were made

maligning Sabrina Pritchett-Evans and Kimberly Harris and posted to the KGOP Website and a link on the KGOP website:

Falsely stated on February 17, 2023 that KGOP Executive Committee took an illegal vote on February 13, 2023. Ms. Pritchett-Evans never made this statement on February 17, 2023 before the MIGOP convention. Ms. Harris never made this statement on February 17, 2023 at MIGOP convention.

In the Censure notice released to the public Ms. Sackett stated on behalf of the Kalamazoo County Republican Party that Sabrina Pritchett-Evans put forth a hostile amendment for a hostile motion to set aside rule 9. Ms. Pritchett-Evans did not put forth an amendment at the MIGOP convention.

Statement in Censure: "Whereas. we believe Sabrina Pritchett-Evan's false statement, hostile amendment, and vote are a betrayal of her fellow delegates and the core values of the KOOP. We believe her false statement and vote were against the interest of voters in Kalamazoo County."

On March 1, 2023, KGOP Chair, Kelly Sackett issued a press release by posting on the public KOOP website after the Special meeting called due to events that took place at the district caucus in Lansing on February 17th, 2023 that involved precinct delegates from Kalamazoo County.

Statement from Chair, Kelly Sackett:

"We need to ensure all delegates have a voice and they deserve to be heard and that the credibility of the KGOP has been diminished and discredited, we won't let this disenfranchisement of our delegates go unanswered, even if the MIGOP Chair does nothing."

"We are done playing games with delegates who think winning a seat by disenfranchising our voters is the end game."

In this Press Release Sabrina Pritchett-Evans and Kim Harris were named.

Sabrina Pritchett-Evans and Kimberly Harris were falsely accused of disenfranchising voters.

This information was publicly published on March 1, 2023. and a link to February 21, 2023, press release was embedded in the March 1, 2023, press release.

Sabrina Pritchett-Evans and Kimberly Harris are falsely accused of being anarchist-minded delegates with a focus on burning down the party.

Falsely accused of having a Christian Cult mentality.

In the response Attorney Matt DePerno Falsely states that Sabrina Pritchett-Evans and Kim Harris formulated a coup d'etat.

"Therefore, Plaintiffs Pritchett-Evans and Harris, along with Veronica Pero and William Bennett formulated a coup d'etat in conjunction with other like-minded delegates from other counties."

Stated that Pritchett-Evans and Harris violated U.S. Constitution and Michigan Constitution's basis principle of "one person, one vote" and equal protection.

Plaintiff Pritchett-Evans is a Democrat and a disruptor.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

61. Namely, the press releases were written to finger the Plaintiffs as the whistleblowers who voted for a Rule 9 amendment during the state convention and were the basis of the Defendant's multiple false allegations. Composite Exhibits D and E are incorporated by reference previously filed with the original verified complaint as the documents of the libel perpetrated by the Defendants to tarnish their character and reputations within the Republican Party. Exhibit F is incorporated by reference and previously filed with the original verified complaint as the demand letter to retract the false accusations.

62. Sec. 600.2911 reads as follows:

(1) Words imputing a lack of chastity to any female or male are actionable in themselves and subject the person who uttered or published them to a civil action for the slander in the same manner as the uttering or publishing of words imputing the commission of a criminal offense.

(2)(a) Except as provided in subdivision (b), in actions based on libel or slander the plaintiff is entitled to recover only for the actual damages which he or she has suffered in respect to his or her property, business, trade, profession, occupation, or feelings.

(b) Exemplary and punitive damages shall not be recovered in actions for libel unless the plaintiff, before instituting his or her action, gives notice to the defendant to publish a retraction and allows a reasonable time to do so, and proof of the publication or correction shall be admissible in evidence under a denial on the question of the good faith of the defendant, and in mitigation and reduction of exemplary or punitive damages. For libel based on a radio or television broadcast, the retraction shall be made in the same manner and at the same time of the day as the original libel; for libel based on a publication, the retraction shall be published in the same size type, in the same editions and as far as practicable, in substantially the same position as the original libel; and for other libel, the retraction shall be published or communicated in substantially the same manner as the original libel.

(3) If the defendant in any action for slander or libel gives notice in a justification that the words spoken or published were true, this notice shall not be of itself proof of the malice charged in the complaint though not sustained by the evidence. In an action for slander or for publishing or broadcasting a libel even though the defendant has pleaded or attempted to prove a justification he or she may prove mitigating circumstances including the sources of his or her information and the ground for his or her belief. Damages shall not be awarded in a libel action for the publication or broadcast of a fair and true report of matters of public record, a public and official proceeding, or of a governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body, or for a heading of the report which is a fair and true head note of the report. This privilege shall not apply to a libel which is contained in a matter added by a person concerned in the publication or contained in the report of anything said or done at the time and place of the public and official proceeding or governmental notice, announcement, written or recorded report or record generally available to

the public, or act or action of a public body, which was not a part of the public and official proceeding or governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body.

(4) A person against whom a judgment is recovered for damages arising out of the authorship or publication of a libel is entitled to recover contribution in a civil action from all persons who were originally jointly liable for the libel with the defendant or defendants, whether joined as defendants or not, to the same extent as and with the same effect that joint sureties are liable to contribute to each other in cases where they are sureties on the same contract. If the libel has been published in a newspaper, magazine, or other periodical publication or by a radio or television broadcast, the servants and agents of the publisher or proprietor of the periodical or radio or television station or network, and the news agents and other persons who have been connected with the libel only by selling or distributing the publication containing the libel and who have not acted maliciously in selling or publishing the libel, shall not be required to contribute and shall not be taken into account in determining the amount that any joint tortfeasor is required to contribute under the provisions of this section. If the author of the libel acted maliciously in composing or securing the printing or the publication of the libel and the printer, publisher, or distributor of the libel acted in good faith and without malice in printing and publishing the libel, the author of the libel is liable in a civil action to that printer, publisher, or distributor for the entire amount of the damages which are recovered against and paid by that printer, publisher, or distributor.

(5) In actions brought for the recovery of damages for libel in this state, it is competent for the defendant or defendants in the action to show in evidence upon the trial of the action that the plaintiff in the action has previously recovered a judgment for damages in an action for libel



to the same or substantially the same purport or effect as the libel for the recovery of damages for which the action has been brought, or that the plaintiff in the action has previously brought an action for the libel or has received or agreed to receive compensation for the libel.

(6) An action for libel or slander shall not be brought based upon a communication involving public officials or public figures unless the claim is sustained by clear and convincing proof that the defamatory falsehood was published with knowledge that it was false or with reckless disregard of whether or not it was false.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

63. Plaintiffs assert that the Defendants violated the statute by printing falsehoods. The Defendants were given an opportunity to correct the effort by certified mail demanding a retraction of the press releases and to publish a new press release with a correction of the facts. The Defendants did not respond either by self-representation or through legal representation.

**ANSWER: This Court denied Plaintiffs' request for declaratory relief in its entirety on April 10, 2023; therefore, no answer is required or given. No response is required because Plaintiffs' allegation states a legal conclusion. Defendants object on the grounds that Plaintiffs' allegation violates MCR 2.111(A). Plaintiffs have combined multiple allegations in one paragraph which are not clear, concise, and direct. Further, MCL 168.599 was ruled unconstitutional in 1990 in *Heitmanis v Austin*, 899 F.2d 521, 529 (6th Cir. 1990) when the court stated "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." To the extent an answer is required, Defendants deny the compounding and confusing allegations in the manner stated in this paragraph of Plaintiffs' Amended Verified Complaint.**

WHEREFORE, Defendant requests this Honorable Court dismiss this action, award Defendant her actual costs and attorney fees incurred in defending this claim, and grant Defendant such other relief as this Court deems reasonable and just.

Respectfully submitted

DePERNO LAW OFFICE, PLLC

Dated: June 9, 2023

/s/ Matthew S. DePerno  
Matthew S. DePerno (P52622)  
Attorney for Defendant Kelly Sackett  
Attorney for KGOPEC (KGOP) *on limited appearance*