

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION**

DONALD EASON, as candidate for United States  
Congress and in his Individual capacity,

Plaintiff,

V

HON:

CASE NO.

GRETCHEN WHITMER, Governor of  
Michigan, JOCELYN BENSON,  
Secretary of State of Michigan, and  
JONATHAN BRATER, Director of the  
Michigan Bureau of Elections, in their  
official capacities,

Defendants.

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**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff, DONALD EASON, in his capacity as a candidate for United States House of Representatives in Michigan's 13<sup>th</sup> congressional district and as a registered voter in Michigan, files this Complaint against Defendants Gretchen Whitmer, Governor of Michigan, Jocelyn Benson, Secretary of State of Michigan, and Jonathan Brater, Director of the Michigan Bureau of Elections, in their official capacities (collectively "Defendants" ).

**Summary of this Civil Action**

1. Donald EASON ("EASON") alleges that Michigan's ballot access procedure in combination with Governor Whitmer's March 10, 2020, Executive Order 2020-4 which declared a state of emergency in Michigan to address the COVID-19 pandemic, March

24, 2020 Executive Order No. 2020-21 (the "Stay-home Order"), April 1, 2020 Executive Order 2020-33 which expanded Executive Order 2020-4, April 30, 2020, Executive Order 2020-67 to continue the emergency declaration under the Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act., August 7, 2020 Executive Order 2020-165 **Declaration of state of emergency and state of disaster related to the COVID-19 pandemic** and approximately 135 additional orders violates rights guaranteed to him by the First and Fourteenth Amendments of the United States Constitution.

2. EASON is running for Congress in Michigan's 13<sup>th</sup> congressional district and filed his statement of candidacy with the Federal Election Commission. EASON is currently a Pastor and has been for the past decade.

3. Pursuant to Michigan election law, to appear on the official ballot, EASON and other independent candidates are required to file with the Michigan Secretary of State by July 16, 2020 (the "Filing Deadline" or "Deadline"), a qualifying petition to include three-thousand and up to six-thousand signatures of qualified and registered electors residing in the congressional district.

4. Pursuant to Governor Whitmer's Executive Orders and Directives, as well as, Michigan Department of Health and Human Services ("MDHHS") Epidemic Directives, and in light of a global pandemic, Michigan residents were required to stay in their homes as much as possible, essential workers were required to maintain social distance (6 feet or more), work from home if possible, restaurants, bars and other eateries were closed or restricted. Church services were restricted. Schools were closed. All public gatherings were prohibited including July 4, 2020 fireworks, parades, church services, in-home gatherings, etc. Additionally, workers who are deemed non-essential were required to stay home.

5. EASON, his campaign staff, professional petition gathers at a cost of \$8,000 and several volunteers diligently collecting signatures while following COVID-19 protocols. Although EASON has collected a substantial number of signatures (2,000) from qualified and registered electors, he has not yet obtained enough signatures to meet the statutory threshold to have his name placed on the November 3, 2020 ballot if he is not given the same accommodations as party candidates were given such as turning in 50% of required petitions, gathering signatures electronically, and a 30 day extension to file petitions. On June 16, 2020 Eason's campaign staff emailed Wayne County Election Commission requesting a link so that he could obtain electronic petition signatures, but Wayne County Election Commission failed to reply. Further, without accommodations afford party candidates, Eason and other Independent candidates are required to obtain **six times the required signatures of party candidates**.

6. Through the enforcement of Michigan election law in conjunction with the Executive Orders and Directives and providing accommodations for party candidates but not Independent candidates, Defendants have effectively precluded EASON and other similarly situated Independent candidates throughout the state from qualifying to have their name on the November 3, 2020 ballot.

7. Defendants have indicated that the current filing deadline of July 16, 2020 will be strictly enforced and they will not provide Independent candidates with equal protection and will not provide Independent candidates with the same accommodations as party candidates, notwithstanding that they have the power and obligation to do so.

8. Defendants' refusal to provide Independent candidates with the same accommodations as party candidates and extend the Deadline and reduce the number of required petition signatures places Independent candidates in the position of either having obtain six times the required signatures than party candidates, break the law and cause electors to break the law under threat of criminal prosecution, or forgo running for public office altogether.

9. EASON seeks prospective declaratory relief and injunctive relief as necessary to ensure his placement on Michigan's November 3, ballot. In support of this Complaint EASON submits his Declaration (Exhibit A).

**The Parties, Jurisdiction, and Venue**

10. EASON resides in Michigan and files suit in his capacity as candidate for Congress and as a registered voter in Michigan. EASON has filed his Statement of Candidacy with the Federal Election Commission. Further, EASON is a registered voter in Michigan.

11. Defendant Gretchen Whitmer is the Michigan Governor. Governor Whitmer has authority over the enforcement of the Michigan Election Code during a state of emergency and otherwise. EASON asserts claims against Governor Whitmer in her official capacity. Governor Whitmer's official address is P.O. Box 15282, Lansing, MI 48901.

12. Defendant Jocelyn Benson is the Michigan Secretary of State. Secretary Benson is the State's chief elections official and has ultimate authority over the enforcement of the Michigan Election Code, including the provisions challenged herein. EASON asserts his claims against Secretary Benson in her official capacity only. Secretary Benson's official address is 430 W. Allegan, Lansing, Michigan 48933.

13. Defendant Jonathan Brater is the Director of the Michigan Bureau of Elections. Director Brater accepts and reviews candidate petition filings, assists county and local election officials with their administrative duties, and administers the State's electoral process and Campaign Finance Act. EASON asserts his claims against Director Brater in his official capacity only. Director Brater's official address is Bureau of Elections, 430 W. Allegan, Lansing, Michigan 48933.

14. Venue is proper in this Court because EASON is a resident of Michigan, and because the Defendants are state officials who maintain offices throughout the State of Michigan. *See Bay County Democratic Party v. Land*, 340 F.Supp.2d 802 (E.D. Mich. 2004). This Court has personal jurisdiction over the Defendants because they are public officials of the State of Michigan and they are residents of Michigan. This Court is a proper venue for this civil action

under 28 U.S.C. 1391.

15. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331, because EASON's claims arise under the First and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983.

16. Declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202, and Rule 65 of the Federal Rules of Civil Procedure.

### **General Allegations**

17. EASON is an Independent candidate for Congress in Michigan's 13<sup>th</sup> congressional district.

18. EASON filed his "statement of candidacy" with the Federal Election Commission ("FEC").

19. EASON has hired campaign staff and has been diligently campaigning.

20. Pursuant to Michigan election law, to appear on the official general ballot, EASON and other Independent candidates were required to file with the Michigan Secretary of State's office by July 16, 2020, qualifying petition with at least three-thousand signatures and up to six-thousand(*six times the number of signatures for party candidates*) signatures of qualified and registered electors residing in the congressional district. M.C.L. §§ 168.133; 168.544.

21. EASON and his campaign team implemented a plan to collect the required number of signatures early on in his campaign.

22. EASON, his campaign team, professional petition signature gathers and several volunteers and supporters have been working diligently, and have already collected nearly two thousand (2000) valid signatures.

23. Governor Whitmer, to date, has issued 140 executive orders during the Covid-

19 pandemic.

24. To comply with those orders and protect Michigan's citizens, EASON and his campaign postponed some of its efforts to collect signatures and have been severely hindered in collecting petition signatures.

25. Covid-19 pandemic, which has disrupted nearly every aspect of American life, and Governor Whitmer 140 executive orders has made very difficult to collect petition signatures. The 140 executive orders, along with, the refusal to provide EASON with the same or similar accommodations given to party candidates will prohibit EASON from ballot access. The Defendants' enforcement of the deadline is inconsistent with other actions the Secretary of State has taken in these unprecedented times. Eason was not given any means to file petitions electronically.

26. On March 25, 2020, recognizing the severity of this pandemic, Governor Whitmer issued Executive Order 2020-22, extending the canvassing deadline of the state's primary election to April 24, 2020.

27. These extraordinary measures underscore the challenges we face as a state and nation during this pandemic: There is, under these unprecedented circumstances, absolutely no compelling or legitimate state interest to enforce the Filing Deadline or to not provide EASON the same or similar accommodations provided to party candidates. Refusing to grant EASON equal protection and failing to pursuant to a legitimate state interest is unconstitutional.

28. Collecting signatures is a time-consuming process, which requires close contact with electors who reside in the congressional district.

29. The enforcement of that Deadline under these unprecedented circumstances is unconstitutional because it imposes overly burdensome signature requirements upon EASON and simultaneously strips him of the ability to meet those requirements.

30. This effectively prevents EASON, through no fault of his own, from getting his

name on the ballot and running for office in a meaningful way.

31. EASON, as well as his supporters, will be further injured and will suffer irreparable harm to their voting, speech, and associational rights because they will not be able to vote for the candidate of their choice if EASON's name is not permitted to be on the ballot.

32. Based on information and belief, there are other Independent candidates in various congressional districts throughout the state who have not yet obtained the required number of signatures to have their names placed on the ballot.

33. Defendants' enforcement of the deadline and failure to provide the same or similar accommodations will serve to subvert our constitutional democracy by arbitrarily restricting their right to support and vote for the candidate of their choice and fails to provide Independent candidates equal protection.

**COUNT I - VIOLATION OF FIRST AND FOURTEENTH AMENDMENT**  
**RIGHTS**

**(M.C.L. §§ 168.133; 168.544(f) are unconstitutional as applied to EASON as  
a candidate)**

34. The preceding Paragraphs 1 - 33 are hereby incorporated by reference.

35. Considering the existence of an unprecedented viral pandemic and Governor Whitmer's and MDHHS' Orders, the application and enforcement of M.C.L. sections 168.133 and 168.544 is unconstitutional as applied to EASON because the enforcement of the statutes would have required EASON to collect and submit three thousand signatures and up to six thousand signatures by July 16, 2020, while simultaneously ordering EASON to stay home, socially distance, don't go to or preach at church, don't gather or be in close proximity to anyone in the state.

36. Defendants' actions effectively prohibit EASON from getting the required

number of signatures, and in turn, prevent him from having his name placed on the November 3, 2020 ballot, which violates EASON's freedom of speech and association, equal protection, and due process rights as guaranteed by the First and Fourteenth Amendments, and as enforced by 42 U.S.C. § 1983.

37. Defendants' enforcement of the statutory requirements in conjunction with the Executive Orders make it virtually impossible for EASON to get his name on the ballot without causing both himself and his supporters to violate the executive orders and face potential criminal charges. Under the circumstances, these requirements are burdensome, unreasonable, and are not narrowly tailored to meet any compelling or legitimate state interest.

38. These violations immediately injure EASON and will continue to injure EASON in the future in the absence of relief from this court.

**COUNT II - VIOLATION OF FIRST AND FOURTEENTH AMENDMENT**  
**RIGHTS**

**(M.C.L. §§ 168.133; 168.544(1) are unconstitutional as applied to EASON as  
a registered voter)**

39. The preceding Paragraphs 1 - 38 are hereby incorporated by reference.

40. EASON is a registered voter. He has consistently voted in past primary and general elections and has a constitutional right to effectively cast his vote.

41. The unconstitutional exclusion of EASON's candidacy through the unconstitutional enforcement of the Deadline, signature requirements and failure to accommodate deprives him of an effective choice at the ballot, is wholly unreasonable, and fails to meet any compelling or legitimate state interest.

42. Defendants' enforcement of the deadline hinders EASON's opportunity to choose among competing alternatives at the ballot, which would otherwise exist.

43. EASON is immediately injured by these unconstitutional acts.

**Prayer for Relief**

WHEREFORE, EASON respectfully requests that this Honorable Court enter a judgment in its favor and against Defendants and grant the following relief:

A. Enter declaratory judgment holding that M.C.L. sections 168.133 and 168.544(f) are unconstitutional as applied to EASON in his capacity as a candidate for Congress and qualified voter;

B. Enter a temporary restraining order and/or preliminary injunction, and permanent injunction, barring Defendants from enforcing the Deadline and/or signature requirements;

C. Enter an order requiring Defendants to either extend the deadline, decrease the signature requirements, or place EASON's name on the ballot upon his filing of the nominating petition with fewer than the required number of signatures;

D. Award attorneys' fees pursuant to 42 U.S.C. § 1988; and

E. Award such other relief as the Court deems just and proper.

Respectfully submitted,

BETTER DAYS LEGAL COUNSEL.

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