STATE OF INDIANA))SS:	In The Monroe Circuit Court VIII Case No. <u>53C08-2308-MI-1910</u>	
COUNTY OF MONROE)		
JOSEPH B. DAVIS, PLAINTIFF,)		
VS.			
DIEGO MORALES, THE INDIANA ELECTION DIVISION, AND THE MONROE COUNTY VOTER REGISTRATION OFFICE, DEFENDANTS.			

ORDER ENLARGING TIME TO ANSWER BUT DENYING "AUTOMATIC" 30-DAY ENLARGEMENT

Each Defendant, by respective counsel, having filed for an Automatic Enlargement of Time per Local Rule, and the Court, being duly advised, hereby finds and orders:

- 1. Plaintiff commenced this action with the filing of a Complaint on August 24, 2023.
- 2. Defendant Indiana Election Division was served the Complaint on August 28, 2023.
- 3. Defendant Diego Morales, in the capacity of Indiana Secretary of State, was served the Complaint on August 29, 2023.
- 4. Defendant Monroe County Voter Registration Office appears to have been served, according to the CCS, on August 30, 2023; however, counsel alleges receiving the Complaint at an earlier date.
- 5. All Defendants concede that an Answer/Responsive Pleading would have been due by September 18, 2023, per Indiana Trial Rule 6(c), absent an enlargement of time.
- 6. All Defendants cite Monroe County Local Rule 53-TR00-0204 as grounds for an automatic 30-day enlargement of time within which to file an Answer.
- 7. Each Defendant's Request for Enlargement of Time was filed timely in that it was filed prior to the date by which the Answer/Responsive Pleading was due.
- 8. Plaintiff's claim seeks injunctive relief which is highly time-sensitive in nature in that the Complaint seeks an order compelling the placement of Plaintiff on the City of Bloomington mayoral ballot for the general election scheduled to occur on November 7, 2023.
- 9. Indiana Trial Rule 6(b) permits enlargement of time "for cause". Local Rule 53-TR00-0204 dispenses with the "for cause" component of Indiana Trial Rule 6(b) in that it applies "automatically" and without need to show cause.
- 10. Local Rules "are procedural and are intended to standardize the practice within a court, to facilitate the effective flow of information, and to enable the court to rule on the merits of the case". <u>Baker v. Baker</u>, 50 N.E.3d 401 Ind. Ct. App. 2016).
- 11. A Local Rule "which is inconsistent with the Indiana Trial Rules is deemed without force and effect". *Id.*

- 12. "Generally, Indiana courts have a strong preference for deciding matters on the merits as opposed to legal technicalities." <u>City of Lawrenceburg v. Franklin City</u>, 131 N.E.3d 758 (Ind. Ct. App. 2019).
- 13. Given the time-sensitive nature of the injunctive relief sought by Plaintiff, the inconsistency in "for cause" and "automatic" existing between Indiana Trial Rule 6(b) and Local Rule 53-TR00-0204, that an overarching purpose of Local Rules is to facilitate cases being heard on the merits rather than on legal technicalities (i.e., an automatic enlargement of time without cause increasing the likelihood of the claim being rendered moot), and that Plaintiff's claim appears likely to become moot in a matter of weeks, the Court has determined it appropriate to deviate from the automatic 30-day enlargement provided in Local Rule 53-TR00-0204 and to limit the enlargement of time in the absence of good cause for a further extension.
- 14. Each Defendant's Request for an Automatic 30-Day Enlargement of Time is denied.
- 15. Each Defendant hereby is granted an enlargement of time of 10 days such that Answers from each Defendant shall be filed with the Court on or before September 28, 2023, absent additional enlargement relief being hereafter timely sought and granted "for cause".

SO ORDERED this 19th Day of September, 2023.

Luke Rudisill, Special Judge Monroe Circuit Court VIII

Distribution:

File/RJO

Petitioner

Molly Turner-King, Attorney for Defendant Monroe County Voter Registration Office Trent Bennett and Kari Morrigan, Attorneys for Defendants Diego Morales/Indiana Secretary of State and Indiana Election Division