

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

JOHN CONYERS, III, an individual,

Plaintiff,

vs.

Civil Action No. 18- -AW  
Hon. Chief Judge Colombo

CATHY M. GARRETT, in her official capacity as  
Clerk for the County of Wayne, and WAYNE  
COUNTY ELECTION COMMISSION,

Defendants.

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**CERTIFICATE**

There are no other pending or resolved civil actions arising out of the same transactions or occurrences as alleged in this Complaint. Furthermore, this matter is filed in this Court before Hon. Chief Judge Colombo pursuant to LAO 2017-08.

s/Melvin B. Hollowell (P37834)

**VERIFIED COMPLAINT FOR EMERGENCY WRIT OF MANDAMUS AND OTHER  
RELEIF**

NOW COMES Plaintiff John Conyers, III, by and through his attorneys, The Miller Law Firm, P.C., and for his Verified Complaint For Emergency Writ of Mandamus and Other Relief: states as follows:

**PARTIES**

1. Plaintiff John Conyers, III ("Plaintiff") is a candidate for Congress in the Thirteenth Congressional District. He is over 25 years of age, a U.S. Citizen for at least seven years, is a resident of the State of Michigan, and is a resident and qualified elector of the Thirteenth Congressional District. As such, he meets the qualifications requirements set forth in the United States Constitution. (Art. I, Sec. 2, Clause 2, U.S. Const.; MCL 168.131). He is running as a Member of the Democratic Party for the Partial Term and the Full Term for the open seat in the Thirteenth Congressional District. In addition to meeting the requirements for qualifications for office set forth in the U.S. Constitution, Mr. Conyers also meets the qualifications requirements set forth under the Michigan Election Law (MCL. 168.133; MCL 168.590c; 544f), namely, he filed over 1,000 valid petition signatures with the Wayne County Clerk by 4:00pm on April 24, 2018, along with an Affidavit of Identity. He, therefore, has standing to seek mandamus and other relief. *Berry v. Garrett*, 316 Mich. App. 37; 890 N.W.2d 882 (2016); *Protect Michigan's Constitution v. Secretary of State*, 297 Mich. App. 553, 824 N.W.2d 299 (2012); *Helmkamp v. Livonia City Council*, 160 Mich. App. 442, 408 N.W.2d 470 (1987).

2. Defendant Cathy M. Garrett is the County Clerk for the County of Wayne, Michigan, ("Defendant Clerk") charged by Michigan Election Law with the administration of elections in the county, including but not limited to receiving required documents including

Affidavits of Identity from individuals filing to run for public office, reviewing those documents, receiving, investigating and determining challenges to candidate compliance with filing requirements and declaring the eligibility of candidates, among other duties.

3. Defendant Wayne County Election Commission ("WCEC") is charged by Michigan Election Law with exercising powers, including but not limited to certifying eligible candidates for the ballot, printing and distributing primary election ballots, correcting errors in ballots, and otherwise exercising certain election duties consistent with law.

#### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this action for equitable relief, MCL 600.601.
2. This Court has jurisdiction over this request for Mandamus, MCR 3.305
3. Venue in this court is proper, MCL 600.1615, MCL 600.1621.

#### **CHALLENGE TO CANDIDACY**

4. After a vacancy was created in the Thirteenth Congressional District seat, which includes portions of Detroit, Dearborn Heights, Highland Park, Redford Township, Ecorse, Garden City, Inkster, Melvindale, River Rouge, Romulus, Wayne and Westland, mid-term, the Governor of Michigan set August 7, 2018 as the election date for filling the Partial Term, which expires on December 31, 2018; and November 6, 2018 as the date for filling the Full 2-year term in Congress, which commences on January 1, 2019.

5. This means that 1,000 valid petition signatures must be filed for the Partial Term, and 1,000 valid petition signatures for the Full Term.

6. Based on counsel's review of the State of Michigan's Qualified Voter File ("QVF"), comparing Mr. Conyers' gathered signatures to the QVF, Mr. Conyers duly and diligently collected and submitted at least 1,068 valid petition signatures for the Partial Term,

though only 884 signatures were credited by Defendant Clerk; and he submitted at least 1,131 valid petition signatures the Full Term, though only 943 signatures were credited by Defendant Clerk, after receiving a Challenge from a Cindy Davis.

7. In filing these petition signatures, which included reviewing petition signatures in Defendant Clerk's Office, at least 188 valid petition signatures were not accepted by Defendants, despite the fact that these voters are registered voters in the QVF. This review, had it been conducted in a timely manner, would verify that enough signatures were submitted.

### COUNT I- MANDAMUS

8. Plaintiff repeats and incorporates by reference the preceding paragraphs as though fully set forth herein.

"Mandamus is the appropriate remedy for a party seeking to compel action by election officials." *Citizens Protecting Michigan's Constitution v. Secretary of State*, 280 Mich. App. 273,283; 761 N.W.2d 210 (2008). "The general interest of ordinary citizens to enforce the law in election cases is sufficient to confer standing to seek mandamus relief." *Protect MI. Constitution*, 297 Mich. App. at 566-567.

In order to be entitled to mandamus, it must be demonstrated that: "(1) the plaintiff has a clear legal right to the performance of the duty sought to be compelled, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial in nature, and (4) the plaintiff has no other adequate legal or equitable remedy". *Citizens Protecting Michigan's Constitution v Secretary of State*, 280 Mich. App., at 284; *White-Bey v. Dep't of Collections*, 239 Mich. App. 221, 223- 224; 608 N.W.2d 833 (1999).

### NO OTHER ADEQUATE REMEDY

9. Aside from the action for mandamus, "plaintiff has no other adequate legal remedy", particularly given that the election is mere weeks away and the ballot printing deadline is imminent.

### COUNT II- THE RIGHT TO VOTE IS FUNDAMENTAL

10. Plaintiff repeats and incorporates by reference the preceding paragraphs as though fully set forth herein.

11. The voting and election provisions in Michigan were specifically enacted to protect Plaintiffs, as well as others who have and choose to exercise their right to vote. In *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966), the U.S. Supreme Court held that the right to vote is a “[f]undamental political right because it is preservative of all rights.” In Michigan the Michigan Election Law, Secretary of State Regulations, public policy, and a long line of decisional authority all favor access to the ballot. *Charter Township of Bloomfield v. Oakland County Clerk*, 253 Mich. App. 1 (1976). Most notably, our courts have ruled that “[a]s a general principle, all doubts as to technical deficiencies or failure to comply with the exact letter of procedural requirements are resolved in favor of permitting the people to vote and express their will on any [e]lection.” *Meridian Charter Township v. East Lansing*, 101 Mich. App. 805, 810 (1980).

**COUNT III- DEPRIVATION OF PROCEDURAL DUE PROCESS UNDER  
ARTICLE I, § 17 OF THE MICHIGAN CONSTITUTION OF 1963**

12. Plaintiff repeats and incorporates by reference the preceding paragraphs as though fully set forth herein.

13. Article I, Section 17 of the Michigan Constitution guarantees that a person be entitled to a fair hearing of life, liberty, or property.

14. Defendant Clerk is charged with the administration of elections in the county, including but not limited to receiving required documents including Affidavits of Identity from individuals filing to run for public office, reviewing those documents, receiving, investigating and determining challenges to candidate compliance with filing requirements and declaring the eligibility of candidates, among other duties.

15. The inability of the Defendant Clerk to process otherwise valid signatures is an abuse of the procedural process in violation of the Michigan Constitution. At least 188 valid petition signatures were not accepted by Defendants, despite the fact that these voters are registered voters in the QVF. This review, had it been conducted in a timely manner, would verify that enough signatures were submitted.

16. Defendants' violation is casually linked to Plaintiff's injuries, including losing the opportunity to have Plaintiff's name on the ballot to be a candidate for the U.S. House of Representatives in the Thirteenth Congressional District elections, as well as time and funds invested in competing for said office.

**COUNT IV- DEPRIVATION OF PROCEDURAL DUE PROCESS UNDER THE  
FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION IN  
VIOLATION OF 42 U.S.C. § 1983**

17. Plaintiff repeats and incorporates by reference the preceding paragraphs as though fully set forth herein.

18. Defendants violated Federal law under the Fourteenth Amendment of the United States Constitution which guarantees that a person be entitled to a fair hearing before being deprived of life, liberty, or property.

19. Defendant Clerk violated Plaintiff's procedural due process rights under the above provision when Defendant Clerk failed to follow the procedural process, and refused to accept and process otherwise valid signatures, which were submitted timely. At least 188 valid petition signatures were not accepted by Defendants, despite the fact that these voters are registered voters in the QVF. This review, had it been conducted in a timely manner, would verify that enough signatures were submitted.

20. Defendants' violation is casually linked to Plaintiff's injuries, including losing the opportunity to have his name on the ballot to be a candidate for the U.S. House of Representatives in the Thirteenth Congressional District elections, as well as time and funds invested in competing for said office.

**WHEREFORE**, Plaintiff requests this Honorable Court enter an Order and Writ of Mandamus:

- (a) Declaring that John Conyers, III is eligible as a candidate for the U.S. House of Representatives in the Thirteenth Congressional District elections to take place on August 7, 2018 (the Partial Term), and November 6, 2018 (the Full Term) respectively.
- (b) Declaring that John Conyers, III shall be placed on the ballot as a candidate for the U.S. House of Representatives in the Thirteenth Congressional District in the Partial Term and Full Term elections;
- (c) Ordering Defendants Cathy M. Garrett, the Clerk of the County of Wayne and the Wayne County Election Commission to certify John Conyers, III as a candidate for the U.S. House of Representatives in the Thirteenth Congressional District in the Partial Term election scheduled for August 7, 2018, and the Full Term election scheduled for November 6, 2018;
- (d) Ordering Defendants Cathy M. Garrett, the Clerk of the County of Wayne and the Wayne County Election Commission not to print official ballots for the Democratic Primary Election scheduled for August 7, 2018 and November 6, 2018 without the name of John Conyers, III as a candidate for the U.S. House of Representatives in the Thirteenth Congressional District;

- (e) Ordering an expedited evidentiary hearing in this matter, allowing the Parties to offer evidence and testimony;
- (f) Ordering such other and further relief as is necessary and appropriate to provide complete relief to Plaintiff; and
- (g) Award attorney fees and costs necessitated by bringing this action.

Respectfully submitted,

**THE MILLER LAW FIRM, P.C.,**



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Dated: May 29, 2018



VERIFICATION

I, John Conyers, III, have read and made this Verified Complaint for a Writ of Mandamus and Other Relief, and attest that those facts stated herein of my own knowledge are true and accurate and that those matters stated otherwise are those of which I have been informed and I believe to be true after reasonable inquiry.



John Conyers, III.

Dated: May 29, 2018