

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MANISTEE

SUZANNE SCHWING,

Plaintiff,

v.

Case No. 12-14654-AW
Honorable James M. Batzer
Circuit Court Judge

HELEN MATHIEU, CLERK, ONEKAMA TOWNSHIP

Defendant,

Rudolph L. Milasich, Jr. (P70347)
Attorney for Plaintiff
8497 Mill Street
Onkama, MI 49675
(231) 889-0813

TRUE COPY
JILL M. NOWAK
Manistee County Clerk

**MOTION FOR AN EX PARTE TEMPORARY RESTRAINING ORDER, SHOW CAUSE ORDER
AND PRELIMINARY INJUNCTION**

Plaintiff requests that this Court issue a temporary restraining order and an order to show cause why a preliminary injunction should not be issued pursuant to MCR 3.310 for the following reasons and those outlined in the attached brief in support:

1. On August 2, 2012, Plaintiff filed a Complaint and Affidavit of Plaintiff with the Court.
2. As stated in Complaint and Affidavit, Defendant Onkama Township Clerk is denying to plaintiff, a Village of Onkama elector, her clear right to vote on the Village disincorporation ballot issue separately from the votes of the electors of Onkama Township on the Village disincorporation ballot issue and her clear right to have her vote and the vote of all other Village electors tallied separately from the votes of electors of Onkama Township at the August 7, 2012 election.
3. Defendant Onkama Township Clerk is violating MCL 74.18a(6) which states that the "[t]he clerk . . . shall conduct the election in the village and the portions of the township outside the boundaries of the village, respectively."
4. Plaintiff will suffer irreparable harm and loss if defendant Onkama Township Clerk is permitted to carry out her decision to add together the number of votes cast on the

Village disincorporation issue by the Village electors and Township electors in district 5 (County Commissioner District 5) and the number of votes cast by the Township electors in district 1 (County Commission District 1) because it will be impossible for there to be a post-election recount of the votes cast solely by Village electors

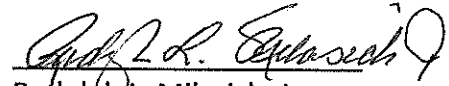
5. Plaintiff has no adequate remedy at law to restore the loss of her right to vote.
6. Plaintiff will suffer greater injury from the denial of temporary injunctive relief than Defendant Onekama Township from the granting of the relief. The granting of the temporary injunction will further the public interest in protecting the right to vote .
7. Any delay in the issuance of a temporary restraining order until a hearing on a preliminary injunction will result in following immediate and irreparable harm:
 - a. the election is only 4 days away;
 - b. plaintiff and other village electors are being discouraged from voting by the fact that their votes will be diluted by being counted together with Township votes given the fact that there are more than twice as many Township electors (816) as there are Village electors (383).
8. Any attempt of provide notice to defendant Onekama Township Clerk will be ineffective because the Township Offices are only open on Mondays , Tuesdays and Wednesdays.

WHEREFORE, plaintiff respectfully requests that this Court order the following:

1. Defendant Onekama Township Clerk is immediately enjoined and restrained, directly and indirectly, whether alone or in concert with other Township officers, agents, employees or election officials, until further order of this Court, from doing any of the following:
 - a. conducting the election on the Village Disincorporation ballot issue in the Village and the portions of the Township outside the Village together in one vote count;
 - b. combining the votes cast by the Village electors on the Village Disincorporation ballot issue with the votes cast by the Township electors on the Disincorporation ballot issue.
2. This order shall remain if full force and effect until this court specifically orders otherwise.

3. Defendant Clerk shall show cause before this Court on _____, 2012, at _____ or as soon thereafter as counsel may be heard, why a preliminary injunction should not be ordered according to the terms and conditions set forth above.

Dated: August 3, 2012



Rudolph L. Milasich, Jr.
Attorney for Plaintiff
8497 Mill Street
Onkama, MI 49675