

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARTHA HAYES,

Plaintiff,

Case No. 1:07-cv-1237

v.

MICHIGAN DEMOCRATIC PARTY,

Hon. Robert J. Jonker

and

THE STATE OF MICHIGAN AND TERRI LYNN LAND,
solely in her official capacity as Secretary of State of Michigan
JOINTLY AND SEVERALLY,

Defendants.

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**ANSWER AND AFFIRMATIVE DEFENSES OF MICHIGAN DEMOCRATIC PARTY
TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Defendant Michigan Democratic Party (“MDP”), by its attorneys, answers the Complaint for Declaratory and Injunctive Relief as follows:

1. Denied.
2. Denied.
3. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs; upon information and belief, plaintiff joined MDP in November, 2007.
4. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
5. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
6. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
7. Denied.
8. Denied.
9. Defendant denies that it “participated” in the January 15, 2008 Primary; as to the remaining allegations, Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
10. Admitted.
11. Defendant admits that the National Democratic Party adopted Delegate Selection Rules.
12. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.

13. Defendant answers that the Rules speak for themselves.
14. Defendant answers that the Rules speak for themselves.
15. Defendant admits that it submitted a plan, which was approved.
16. Defendant answers that the Plan speaks for itself.
17. Admitted.
18. Denied.
19. MCL 168.613a(2) provides in part: “Not later than 4 p.m. on November 14, 2007, the chairperson of each participating political party shall notify the secretary of state if his or her political party will be using a method other than the results of the January 15, 2008 presidential primary to select delegates to his or her respective national convention to nominate a candidate for president of the United States in 2008.”
20. Admitted.
21. Defendant denies that its Chairperson notified the Secretary of State that MDP would “participate” in the Primary, and further answers that the November 14, 2007, letter speaks for itself.
22. Admitted.
23. Admitted.
24. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
25. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
26. Admitted.

27. The Rule speaks for itself and no answer is called for.
28. The Rule speaks for itself and no answer is called for.
29. The Rule speaks for itself and no answer is called for.
30. The Rule speaks for itself and no answer is called for.
31. The Rule speaks for itself and no answer is called for.
32. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
33. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
34. Admitted.
35. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
36. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
37. Defendant admits that Joe Biden, John Edwards, Barack Obama and Bill Richardson were not on the Primary ballot.
38. Denied.
39. Defendant neither admits nor denies, lacking sufficient information upon which to answer, and leaves Plaintiff to her proofs.
40. Denied.
41. Denied.
42. The Rule speaks for itself and no answer is called for.

43. No answer is called for.
44. The Charter speaks for itself and no answer is called for.
45. The allegation asserts a legal conclusion or argument and no answer is called for.
46. The allegation asserts a legal conclusion or argument and no answer is called for.
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64. The allegation asserts a legal conclusion or argument and no answer is called for.

65. The allegation asserts a legal conclusion or argument and no answer is called for.
66. Denied.
67. Denied.
68. Denied.
69. Denied.
70. Denied.
71. Denied.
72. Denied.
73. Denied.

Wherefore Defendant MDP requests that the Complaint for Declaratory and Injunctive Relief be dismissed with prejudice.

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim upon which relief can be granted.
2. Plaintiff failed to exhaust the administrative appeal procedure and remedies.
3. The court lacks subject matter jurisdiction.
4. The claim is a non-justiciable political question beyond the court's jurisdiction.
5. The plaintiff lacks standing.
6. The required state action is not properly pleaded or shown.
7. The required injury to plaintiff is not properly pleaded or shown.
8. The required causation is not properly pleaded or shown.
9. The claimed injury is not redressable by the court.
10. The court lacks jurisdiction because the Complaint does not present a case or

controversy that is ripe for adjudication.

11. Plaintiff's claims are barred by laches.
12. Plaintiff does not meet the equitable requirements for injunctive relief; specifically: there is insufficient likelihood of success, threat of irreparable harm is not shown, the balance of equities does not favor Plaintiff, and an injunction will not serve the public interest.
13. To the extent an assertion contained in any of the above answers constitutes an affirmative defense, the same is incorporated by reference as if fully set forth herein.
14. Defendant reserves the right to amend and add affirmative defenses.

Wherefore Defendant MDP requests that the Complaint for Declaratory and Injunctive Relief be dismissed with prejudice.

Respectfully Submitted,

SACHS WALDMAN, P.C.

s/ Andrew Nickelhoff

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Dated: January 23, 2008

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **Answer and Affirmative Defenses of Michigan Democratic Party To Complaint for Declaratory and Injunctive Relief** using the ECF system on this 23rd day of January, 2008, which will send notice of this filing to all registered parties via electronic transmission.

SACHS WALDMAN, P.C.

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