

To: Federal Election Commission
Office of General Counsel
999 E Street NW
Washington, DC 20463

From: Michael A. Gilmore, Esq.
Committee to Elect Michael Gilmore
6055 Oakman Blvd
Detroit, MI 48228

Date: February 28, 2018

Re: **Request for an Expedited Advisory Opinion (For Rush & Immediate Consideration)**

In April 2017, candidate for U.S. House, Michael Gilmore, filed FEC candidacy and committee forms to raise money toward being elected in the 2018 election cycle in Michigan's 13th Congressional District. On December 5, 2017, the incumbent and only other candidate for the seat at that time, John Conyers, Jr., retired abruptly and immediately vacated the seat. On December 8, 2017, Michigan Governor Rick Snyder declared that dates to fill the vacancy would be on the regular election dates of August and November 2018, depriving the people of the 13th Congressional District of numerous constitutional protections including the right of be represented in Congress.

On December 27, 2017, candidate Michael Gilmore and the Law Office of Michael Gilmore, as attorney and firm of record, filed a federal lawsuit in the Eastern District of Michigan, in the name of 5 voters of the 13th Congressional District and on behalf of the entire 13th Congressional District, as plaintiffs, asserting that the governor's failure to hold a timely, real, and actual special election to fill the congressional seat vacancy until the next regularly-scheduled election is in violation of numerous provisions of the U.S. Constitution; and a timely, real, and actual special election date must be set. Said election is candidate Michael Gilmore's congressional race. (Rhodes, et. al v. Snyder - case no.: 2:17-cv-14186-MAG-MKM).

The Law Office of Michael Gilmore maintains malpractice insurance in the State of Maryland through Minnesota Lawyers Mutual Insurance Company effective 12/13/17 – 12/13/18. Candidate and Attorney Michael Gilmore is licensed to practice law in the state of Maryland and the Federal Court in the Eastern District of Michigan. He serves as the legal promoter for the Law Office of Michael Gilmore and intends to register it, although the structure is not certain at this time. Other attorneys, in their individual capacities and on their personal time, may volunteer their nominal advisory services as attorneys in the lawsuit.

Attorney Michael Gilmore generally practices veterans law and is a democratic activist by profession for candidates and parties. He has previous experience with voter suppression and election-related issues. He has volunteered pro bono with the Lawyers Committee on Civil Rights to provide legal expertise in a national capacity for election issues. He has also served in the paid capacity of Regional Organizing Director for the Democratic National Committee during the 2016 Presidential Election Recount for all of Wayne County, MI, where his current election and lawsuit are taking place. Part of that job was to insure that volunteers had sufficient training regarding the legal perimeters of a state-wide ballot recount initiative.

The terms of any contract between the law firm and the campaign will be in accordance with usual and normal business practices. The rate to be charged will not exceed \$352 per hour. This cap was calculated using the Laffey Matrix. "The Laffey Matrix is a chart of hourly rates for attorneys and paralegals in the Washington, D.C. area that was prepared by the United States Attorney's Office for the District of Columbia[...]." Pickett v. Sheridan Health Care Center, 664 F.3d 632 at 649 (6th Cir. 2011). The 2018 rate of \$440 per hour for an attorney 4-7 out of law school (Michael A. Gilmore, Esq. graduated May 2012) will be reduced by 20% to account for differences between the charts intended area of use (Baltimore - Washington, D.C.) and the actual geographical area of practice (Detroit metro) to conceive the maximum rate to be charged for services. See Eley v. District of Columbia, 793 F. 3d 97 (U.S. Appeals Court, D.C. Cir. 2015) at 100: "We allow a fee applicant to submit attorneys' fee matrices as one type of evidence that "provide[s] a useful starting point" in calculating the prevailing market rate. Covington, 57 F.3d at 1109. The most commonly used fee matrix is the "Laffey Matrix"—the schedule of prevailing rates compiled in Laffey v. Northwest Airlines, Inc. (Laffey I), 572 F.Supp. 354, 371 (D.D.C.1983)[...]."

No attorney will receive compensation for the above described services on the case, pay any of the administrative costs or filing fees, nor use any organizational (including corporate) facilities in furtherance of the litigation. The candidate will act as sole counsel for the case and, pending this advisory opinion, will be the only compensated party.

This Legal Expense Would Not Exist Absent The Candidate's Campaign

The prosecution of this case would be non-existent absent Michael Gilmore's candidacy. To date, no other candidate, social organization, or attorney has expressed interest in joining the lawsuit or expressed interest in advancing the case, beyond providing nominal courtesy legal advice. To be clear, these plaintiffs are not traditional clients, who would have been organically interested in filing a lawsuit. Candidate Michael Gilmore went out and found these plaintiffs for this case by circulating an internet petition to send to the state's governor. The petition asked members of the community to sign if they wanted to demand a quick special election. He then called signers to ascertain who would be best to advance this case. Moreover, candidate Michael Gilmore initially intended to serve as the sole-named plaintiff. However, the delay of the FEC's case-by-case permission prerequisite eliminated the campaign's ability to timely hire an outside firm to represent the candidate, as the case itself is time-sensitive. Thus, the candidate had to find alternate-named plaintiffs, while serving as counsel of record instead. If not for the candidacy of Michael Gilmore in this race, this litigation and legal expenses would not exist.

Candidate Michael Gilmore and the Committee to Elect Michael Gilmore are requesting permission to use campaign funds to pay the legal costs, fees, and expenses associated with the special election lawsuit. In doing so, Michael Gilmore and the Committee to Elect Michael Gilmore are requesting an expedited advisory opinion answering the following questions, **where time is of the essence**:

1. Can campaign funds be used to pay legal costs, fees, and expenses of the lawsuit regarding the candidate's special election date, according to the facts stated above, including hourly market-rate billing for attorney work from the campaign to the candidate's law firm and fees directly associated with litigation, i.e. reimbursement for filing fees (which the candidates has already paid personally), costs associated with interrogatories, depositions, and expert witnesses, etc.?
2. Is the value of the candidate's, or other individual's, voluntary service toward the lawsuit subject to the Commission's reporting and limitation rules?

Respectfully,

/s/ Michael Gilmore

Michael A. Gilmore, Esq.

Candidate for U.S. House (H8MI13227)

Committee to Elect Michael Gilmore (C00637231)