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## Judges would select new clerk if Spranger removed



Macomb County Clerk Karen Spranger talks to her former campaign manager Joe Hunt while waiting for a hearing in Macomb County Circuit Court earlier this year. MACOMB DAILY FILE PHOTO

By [Jameson Cook](#), The Macomb Daily

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Judge Kathryn Viviano

If Macomb County Clerk Karen Spranger is removed from office, her replacement will be named by the Circuit Court judges.

A “simple majority” of the 14 judges on the bench would appoint the new clerk and register of deeds if Macomb County officials gain Spranger’s removal by Judge Kathryn Viviano based on its claim that she may have falsified her home address when filing to run for office, according to county attorney John Schapka.

Schapka said Friday state law takes away the appointment authority from the three-member county Election Commission because Spranger is a member.

Meanwhile, Spranger’s attorney, Frank Cusumano, on Friday filed an emergency motion to have Viviano and the entire bench of Macomb County Circuit Court disqualified from Spranger’s lawsuit against the county in which she seeks greater independence from the county executive office.

Cusumano claims there is a conflict of interest and/or appearance of impropriety because of Chief Judge James Biernat Jr.’s rejection of multiple candidates proposed by Spranger for appointed positions in her office and the court’s reliance its funding from the county, a party in the case.

Cusumano seeks a change of venue by the state Court Administrative Office to another circuit court or “another authority deemed by the court.”

Spranger sued the county June 22, and on Aug. 1 the county and county Board of Commissioners asked Viviano to allow it to file a counter-claim to determine whether Spranger should be removed for lying about her residence address on her affidavit of identity. Spranger says she lived at 7520 Hudson Ave. in Warren in April 2016 when she filed for office.

A hearing on the county's motion and Spranger's disqualification motion is scheduled for Monday morning in front of Viviano in the county courthouse in downtown Mount Clemens.

County Executive Mark Hackel, speaking at a news conference Friday at the Fraser sinkhole, said he merely wants the court to decide whether Spranger legitimately holds office. He said Spranger has been difficult to work with since she started Jan. 1.

"It's very confusing working with her right now," Hackel said. "I'm not going to pretend it's not a problem."

Spranger has wrangled with county officials as well as employees in her department.

Spranger is also under investigation for perjury by the Sheriff's Office regarding her residency declaration. Sheriff Anthony Wickersham said Thursday the investigation will take at least another week or two weeks to complete.

Cusumano also sent a letter to county Prosecutor Eric Smith on Thursday saying Spranger "declines the invitation to be interviewed" under her Fifth Amendment right against self-incrimination.

However, Spranger, in an exhibit accompanying the legal brief in the civil case, makes statements in a sworn affidavit. In it, she says she discarded documents that would support her "years" of residency on Hudson.

"I have discarded them, including numerous pieces of mail, notices and other documentary evidence that I received at the Hudson address," she says in a sworn statement dated Wednesday. "The Hudson address was, to the best of my knowledge and belief, my residence as judicially interpreted."

In the letter, Cusumano also asks for an investigation by an outside agency, pointing out the assistant prosecuting attorney overseeing the case is represented by UAW Local 412, from which Spranger has been the subject of grievances through supervisory employees in her department.

But county Prosecutor Eric Smith said Friday that his office will not ship a potential prosecution of Spranger to another office.

"I don't see any reason to recuse ourselves or see a conflict of interest," Smith said.

In her reply to the county's effort to challenge her residency, Spranger admits she recently changed her voter registration to another address. On July 28, she switched her voter registration from the Hudson home near Nine Mile and Van Dyke Avenue in Warren to the Stanley Street address of her former campaign manager, Joseph Hunt, near 12 Mile Road and Van Dyke in Warren, according to city records.

In that reply, Cusumano argues Spranger didn't lie on her affidavit of identity because she was registered to vote at 7520 Hudson at the time she filed it.

"Spranger satisfied requirements under the National Voter Registration Act and was 'registered and qualified to vote,' " under state law, "the only requirement to hold the office of Macomb County clerk," Cusumano wrote.

But in a 7-page reply filed by the county Friday, Schapka says "a candidate must comply with election law," which requires filing an affidavit of identity.

"Spranger did so, but compelling evidence demonstrates that she deliberately falsified her residence," he says. "There is very strong evidence 7520 Hudson was inhabitable when Spranger swore on the affidavit of identity that 7520 Hudson was her address."

Schapka says Spranger shut off the water at 7520 Hudson on Dec. 18, 2012, and stopped electrical service April 6, 2015, and both have remained off.

Also, "months prior" to the April 2016 filing date, "the United States Post Office recognized 7520 Hudson was vacant and returned mail to send, as such was undeliverable," he says.

Spranger also may have committed voter fraud by voting in Precinct Seven in Warren when she didn't live there, Schapka says.

Spranger contends in the reply that the county and the board do not have standing and filed too late.

Cusumano says that the proposed plaintiffs must be a "private party," not a governmental entity such as the county or board.

But to cure that, Schapka seeks to add an individual – Hackel – as a party to the lawsuit "acting in his private capacity ... a private citizen."

In arguing a lack of a timely filing, Cusumano contends the county waited too long, adding county officials knew or should have known a long time ago about his client's alleged misrepresentation.

But Schapka argues that county officials only recently learned of her residency issues in media reports.

Cusumano repeats prior assertions that Spranger is the subject of an organized political attack campaign since she took office Jan. 1 by "entrenched special interests and their political allies in county government."

"Since her election Spranger has been subjected to unrelenting attacks and a drumbeat by the Office of County Executive, the unionized staff of the Clerk's Office and members of the Board of Commissioners to remove her from office, or recall her," he says. "This filing ... is yet another page in the playbook."

He also contends that if Spranger is removed, it could usurp contracts or her other actions, such as a deal she signed for new voting machines.

“The detriment to the public is rendering voter-machine contracts made by Spranger voidable since her holding of office and all official acts are considered void,” the brief asserts.

Cusumano says Spranger wants an evidentiary hearing “to determine what (the county and board) knew and when they knew it ..., lack of diligence, prejudice to Spranger and detriment to the public.”

Cusumano also argues her removal could only be pursued if she had a felony conviction but Schapka disputes that.

Schapka told The Macomb Daily that Cusumano’s brief “fails to make any cogent argument in opposition to the county’s motion.”

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#### About the Author



My beat is the courts of Macomb County and general assignment. Read more of Jameson Cook's court coverage on his blog <http://courthousedish.blogspot.com/> Reach the author at [jamie.cook@macombdaily.com](mailto:jamie.cook@macombdaily.com) or follow Jameson on Twitter: [@jamesoncook](https://twitter.com/jamesoncook).

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