



**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

**KAYLA KOETHER, in her individual capacity as the Democratic Nominee for the Iowa House of Representatives District 55,**

**Plaintiff,**

**vs.**

**PAUL PATE in his official capacity as Iowa Secretary of State; BENJAMIN STEINES in his official capacity as County Auditor for Winneshiek County, Iowa, Defendants.**

**CASE NO.: EQCE083821**

**ORDER ON MOTION TO DISMISS,  
MOTION TO CHANGE VENUE AND  
MOTION TO ENLARGE**

This matter came before the Court on Defendant Benjamin Steines's Motion for Change of Venue, Plaintiff Kayla Koether's Motion to Enlarge and Defendant Paul Pate's Motion to Dismiss. A hearing was held on December 20, 2018. Present at the time of the hearing was Plaintiff's Counsel, Shayla McCormally and Kolby Warren. Present for Defendant Paul Pate was Matthew Gannon. Stephen J. Belay appeared by phone for Defendant Benjamin Steines. After considering the briefs and argument on this matter, the Court issues the following ruling and order.

**FACTUAL BACKGROUND**

As the Court noted in its previous ruling, this case arises from the November 6, 2018 election for Iowa House District 55. The Plaintiff in this matter, Kayla Koether, is the Democratic candidate for that seat. Her opponent is Republican Michael Bergan. The election was extremely close. Of the nearly 14,000 ballots cast, only nine votes separated Koether and Bergan, with Bergan in the lead.

**CONCLUSION**

In sum, this Court holds that the Iowa House of Representatives, in exercising its sovereign power under Article III, section 7, has the exclusive right to determine the merits of this contest. Therefore, this Court must conclude that it lacks subject matter jurisdiction to consider this action because a vote contest of this nature is a role constitutionally given to the legislative branch. Having found the initial issue to be dispositive of this case, the Court deems it unnecessary to address the remaining issues asserted in Defendant Steines’s Motion for Change of Venue and Plaintiff’s Motion to Enlarge and Clarify.<sup>2</sup>

**ORDER**

The Defendants’ Motion to Dismiss is hereby GRANTED. The Plaintiff’s claim is dismissed. Court costs will be assessed to the Plaintiff.

**IT IS SO ORDERED**

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<sup>2</sup> As part of the House of Representative’s duty and responsibility as the “contest court”, it will need to determine the meaning of “intelligent mail barcode” under Iowa Code § 53.17(2). In deference to the separation of powers, this Court will not address that issue. See *Luse v. Wray*, 254 N.W.2d at 330.