

<b>STATE OF MICHIGAN</b> 44th JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	<b>ORDER OF DISQUALIFICATION/REASSIGNMENT</b>	<b>CASE NO.</b> 18-29890 PZ
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**Court address** 204 S. Highlander Way - Howell, MI 48843 **Court telephone no.** (517) 546-9816

Plaintiff name(s) and address(es) IN RE: CITIZENS GRAND JURY
Plaintiff's attorney, bar no., address, and telephone no. DANIEL A. BURRESS P-11445

v

Defendant name(s) and address(es)
Defendant's attorney, bar no., address, and telephone no.

In the matter of \_\_\_\_\_

**IT IS ORDERED:**

I, Hon. David J. Reader, Bar no. \_\_\_\_\_,  on motion of \_\_\_\_\_,  on my own motion,

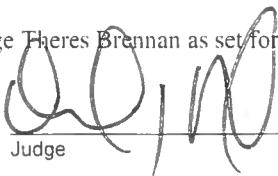
am disqualified under MCR 2.003 from hearing this case and I am requesting assignment of another judge for the following reason:

- 1. I am biased or prejudiced for or against a party or attorney.
- 2. I have, based on objective and reasonable perceptions, a serious risk of actual bias impacting the due process rights of a party as enunciated in *Caperton v Massey*, 556 US 868; 129 S Ct 2252; 173 L Ed 2d 1208 (2009).
- 3. I believe, based on objective and reasonable perceptions, my continued assignment would create an appearance of impropriety.
- 4. I have personal knowledge of disputed evidentiary facts concerning the proceeding.
- 5. I have been consulted or employed as an attorney in the matter in controversy.
- 6. I was a partner of a party, attorney for a party, or a member of a law firm representing a party within the preceding two years.
- 7. I know that I, individually or as a fiduciary, or my spouse, parent, or child wherever residing, or any other member of my family residing in my household, have more than a de minimis economic interest in the subject matter in controversy that could be substantially impacted by the proceeding.
- 8. I or my spouse, or a person within the third degree of relationship to either of us, or the spouse of such a person: (i) is a party to the proceeding, or an officer, director, or trustee of a party; (ii) is acting as a lawyer in the proceeding; (iii) is known by me to have a more than de minimis interest that could be substantially affected by the proceeding; or (iv) is to my knowledge likely to be a material witness in the proceeding.

9. Other: (specify)

I am a probable witness to the alleged criminal conduct of Judge Theres Brennan as set forth in the Judicial Tenure Commission formal complaint #99 of June 12, 2018.

06-21-2018  
Date

  
Judge

Bar no.

STATE OF MICHIGAN 44TH JUDICIAL CIRCUIT LIVINGSTON COUNTY	<b>ORDER SEALING AND SUPPRESSING FILE</b>	CASE NO.  18-29890-PZ
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**PRESENT: HONORABLE DAVID J. READER**

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**IN THE MATTER OF:**  
**PETITION TO IMPANEL A CITIZENS GRAND JURY**

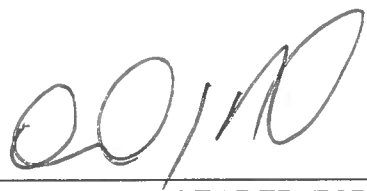
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On June 4, 2018, a Petition to Impanel a Citizens Grand Jury and Appoint a Special Prosecutor under MCL 767.3 was filed in relation to alleged incidents involving 53rd District Court Judge Theresa M. Brennan. The case was assigned to 44th Circuit Court Judge David J. Reader. Given the sensitive nature of the matters involved in this petition, the Court enters the following order on its own motion.

**IT IS HEREBY ORDERED**, until further order of the Court, that the file in this case is sealed and its contents suppressed; that the file shall be maintained in the chambers of Judge Reader; and that all filings in this case shall be made in the chambers of Judge Reader.

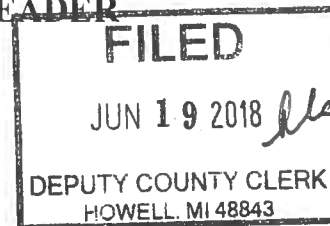
**IT IS SO ORDERED.**

6-7-2018  
DATE

  
\_\_\_\_\_  
HON. DAVID J. READER (P27877)  
CIRCUIT COURT JUDGE

STATE OF MICHIGAN 44TH JUDICIAL CIRCUIT LIVINGSTON COUNTY	<b>ORDER APPOINTING SPECIAL PROSECUTING ATTORNEY</b>	CASE NO.  18-29890-PZ
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**PRESENT: HONORABLE DAVID J. READER**




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**IN THE MATTER OF:**

**PETITION TO IMPANEL A CITIZENS GRAND JURY**

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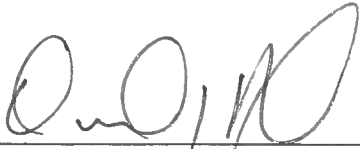
On June 4, 2018, a Petition to Impanel a Citizens Grand Jury and Appoint a Special Prosecutor was filed. Pursuant to an order of this Court, on June 18, 2018, petitioner filed an amended petition. After granting the petition, the Court now enters the following order.

**IT IS HEREBY ORDERED** that Thomas Kizer, Jr. is appointed Special Prosecuting Attorney in this matter and that Mr. Kizer has the authority to hire an Assistant Special Prosecuting Attorney.

**IT IS FURTHER ORDERED** that the Special Prosecuting Attorney may hire such investigators as may be needed to assist the Citizens Grand Jury with their investigation.

**IT IS SO ORDERED.**

June 20, 2018  
DATE

  
\_\_\_\_\_  
HON. DAVID J. READER (P27877)  
CIRCUIT COURT JUDGE

STATE OF MICHIGAN

44<sup>TH</sup> CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

IN THE MATTER OF:

PETITION TO IMPANEL A CITIZENS GRAND JURY

File No. 18-29890-PZ  
Honorable Miriam A. Cavanaugh

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**ORDER**

At a session of Court, held in the City of Howell,  
County Livingston, State of Michigan, on  
this 25<sup>th</sup> day of June, 2018

On June 4, 2018, a Petition to Impanel a Citizens Grand Jury was filed with the Court and assigned to Judge David Reader, File No. 18-29890-PZ.

On June 7, 2018, Judge David Reader entered an Order on his own motion sealing the case and suppressing its contents. Judge Reader further ordered that “the file shall be maintained in the chambers of Judge Reader; and that all filings in this case shall be made in the chambers of Judge Reader.”

On June 11, Judge David Reader entered an order requiring that “Petitioner shall file an amended petition in this case setting forth the alleged violations of law, both statutory and common of Judge Theresa Brennan for which investigation is sought and clarifying the type of Grand Jury sought in this matter . . . .” Judge Reader further ordered that Petitioner shall also provide a legal brief to the Court at the time of the filing of the amended petition in support of the amended petition.

An Amended Petition to Impanel a Citizens Grand Jury and Brief in Support were thereafter filed with the Court on June 18, 2018, and June 19, 2018, respectively.

On June 20, 2018, Judge David Reader entered an order granting the amended petition to convene a citizens grand jury finding:

After carefully considering the petition, the amended petition, and supporting exhibits in this case and with an appreciation of the gravity of the allegations, the Court GRANTS the petition to impanel a citizens grand jury under MCL 767.7 to investigate 53<sup>rd</sup> Judicial District Court Judge Theresa M. Brennan's alleged violation of Michigan criminal laws, including but not limited to perjury; common law misconduct in office; attempted obstruction of justice; and willful neglect of duty.

On June 20, 2018, Judge David Reader entered an order appointing attorney Thomas Kizer, Jr. as Special Prosecuting Attorney in this matter and authorizing Mr. Kizer to have the authority to hire an Assistant Special Prosecuting Attorney. Judge Reader further ordered that Mr. Kizer, as Special Prosecuting Attorney, "may hire such investigators as may be needed to assist the Citizens Grand Jury with their investigation." An Oath of Public Officers was signed by both Judge David Reader and Mr. Kizer on June 20, 2018. This Court takes judicial notice that Mr. Kizer served as the attorney for Judge Theresa Brennan's ex-husband, Donald C. Root, in a contested divorce proceeding, File No. 16-007127-DO, which forms the basis of many of the allegations in the petition to convene a citizens grand jury.

On June 21, 2018, Judge David Reader entered an Order of Disqualification, disqualifying himself from the matter, indicating that he is "a probable witness to alleged criminal conduct of Judge Theres[a] Brennan as set forth in the Judicial Tenure Commission formal complaint #99 of June 12, 2018."

MCR 2.003(C) (1) (c) requires disqualification for reasons that include, but are not limited to, the following:

- (a) The judge is biased or prejudiced for or against a party or attorney.
- (b) The judge, based on objective and reasonable perceptions, has either (i) a serious risk of actual bias impacting the due process rights of a party . . . , or (ii) has failed to adhere to the appearance of impropriety standard set forth in Canon 2 of the Michigan Judicial Code of Conduct.
- (c) The judge has personal knowledge of disputed evidentiary facts concerning the proceeding.

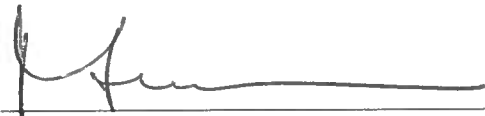
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The basis for recusal in this matter was known to Judge David Reader at the time of entry of the above described orders.

Pursuant to MCR 8.111(C)(1), as Chief Judge, this case is designated to me to act temporarily pending review by the Michigan Supreme Court State Court Administrative Office as described below. Further, pursuant to MCR 2.613(B), this Court hereby vacates all orders nunc pro tunc entered by Judge David Reader in this matter for the reason that mandatory disqualification was required from case initiation.

Finally, under the authority of MCR 8.110(C)(3)(g), this Court is referring the matter to the Michigan Supreme Court State Court Administrative Office for a determination as to whether this matter should be assigned to a judge from another county to handle any further proceedings.

IT IS SO ORDERED.

 6/25/2018  
\_\_\_\_\_  
Honorable Miriam A. Cavanaugh  
Chief Judge Livingston County Trial Courts