

Amicus Brief of David Shelton — Ballard v. Indiana Election Commission

Oct 20, 2026

STATE OF INDIANA — IN THE MARION SUPERIOR COURT,

COUNTY OF MARION — CAUSE NO. 49D03-2610-CT-058232

GREG BALLARD, Plaintiff,

v.

INDIANA ELECTION COMMISSION, Defendant(s).

**BRIEF OF AMICUS CURIAE DAVID SHELTON IN SUPPORT OF PLAINTIFF'S REQUEST
THAT THE COMMISSION BE ORDERED TO CONVENE AND DECIDE PENDING
CAMPAIGN FINANCE COMPLAINTS BEFORE THE NOVEMBER 3, 2026 GENERAL
ELECTION**

Motion for Leave to Appear as Amicus Curiae

David Shelton, respectfully moves for leave to file the attached brief as amicus curiae. In support, he states:

1. Mr. Shelton is the complainant in one of the four campaign finance complaints that Plaintiff asks this Court to require the Indiana Election Commission ("Commission") to decide. His complaint, filed July 24, 2026, concerns a \$60,000 contribution from Hoosier Leadership for America, Inc. to the campaign of Republican Secretary of State nominee Max Engling.
2. Mr. Shelton has a direct and particular interest in the outcome. A ruling on Plaintiff's request will determine whether his properly filed complaint is acted upon before the election to which it relates, or not at all while it can still matter to voters.
3. Mr. Shelton offers a perspective distinct from Plaintiff's. Plaintiff is a candidate in the race. Mr. Shelton is not on the ballot. He is a sitting county clerk who administers Indiana election law and who invoked the Commission's complaint process exactly as the statute contemplates.
4. The brief is limited to issues already before the Court. It does not seek to add parties, claims, or evidence beyond matters of public record.
5. Given the November 3, 2026 election date, Mr. Shelton files promptly and asks that the Court consider the brief on any expedited schedule it sets.

WHEREFORE, David Shelton requests leave to appear as amicus curiae and that the attached brief be deemed filed.

Interest of Amicus Curiae

David Shelton is the Knox County Clerk of the Circuit Court. In that office he serves on the Knox County Election Board and administers voter registration, absentee voting, and elections under Title 3 of the Indiana Code. He knows from daily experience that the public's confidence in elections depends on rules being enforced on time and even-handedly.

On July 24, 2026, Mr. Shelton filed a sworn complaint with the Commission. It alleges that the Engling campaign accepted a \$60,000 contribution on June 30, 2026 from Hoosier Leadership for America, Inc., a nonprofit corporation that does not disclose its donors, in excess of the \$5,000 annual corporate limit in IC 3-9-2-4(1), and reported it as coming from a non-corporate source. That complaint has been pending for 88 days without a Commission meeting.

Mr. Shelton does not ask this Court to decide whether a violation occurred. He asks only that the Commission be required to do what the General Assembly assigned it to do: convene, consider his complaint, and make the threshold determination the statute requires, before the election in which it matters.

Summary of Argument

The Commission has a statutory duty to decide properly filed campaign finance complaints, and it is running out the clock on that duty while Hoosiers vote. The Court should order it to convene and decide them before November 3, 2026.

First, the General Assembly commands that the Commission "shall" administer Indiana election laws, IC 3-6-4.1-14(a)(1), and that when it finds substantial reason to believe a violation occurred, it "shall expeditiously make an investigation." IC 3-6-4.1-21(b). The Commission has discretion over how it decides a complaint. It has no discretion to never decide it. Mandate lies to compel an agency to exercise its judgment, even where it cannot dictate the result.

Second, Mr. Shelton's complaint is substantial on its face. The \$60,000 contribution is twelve times the \$5,000 annual corporate limit for all statewide candidates combined. Either Hoosier Leadership for America is a corporation bound by that limit, or it was acting as an unregistered political committee that must disclose its donors. Both possibilities present a question the Commission must answer.

Third, timing is the whole case. In-person early voting began October 6, 2026, and mail ballots started going out in early September. A vote, once cast, cannot be changed. Every day the Commission does not meet, more Hoosiers vote without the information the campaign finance laws exist to provide. A decision after November 3 is no remedy for them.

Fourth, the other avenues the statute offers are not adequate substitutes. The Chair has not called a meeting since July. The vice-chair mechanism and the gubernatorial petition in IC 3-6-4.1-10 and -12 depend on the same partisan actors and impose no deadline. Only this Court can ensure the Commission acts in time.

Statement of Facts

The contribution. On June 30, 2026, ten days after Max Engling won the Republican nomination for Secretary of State, his campaign received \$60,000 by wire from Hoosier Leadership for America, Inc. It was the largest contribution Mr. Engling reported. Hoosier Leadership for America is registered with the Secretary of State as a nonprofit corporation with a post office box in Hometown, Allen County. It does not disclose its donors. Public reporting has described it as a dark money group associated with U.S. Senator Jim Banks, in whose Senate office Mr. Engling served as a senior adviser before entering the race. During the 2026 primary, the group reportedly spent about \$5.2 million on broadcast advertising against Republican state senators.

The complaint. On July 24, 2026, Mr. Shelton filed a complaint with the Commission. It alleges that (a) the contribution exceeded the \$5,000 aggregate annual limit on corporate contributions to all candidates for state office, IC 3-9-2-4(1); (b) the Engling campaign reported the contribution as coming from a non-corporate source; and (c) Hoosier Leadership for America has never registered as a political committee with the Election Division or the Federal Election Commission, so any claim that it is not bound by the corporate limit is an admission that it operated as an unregistered political action committee required to register and disclose its donors.

The campaign's response. The same day the complaint was filed, the Engling campaign told reporters it had refunded the \$60,000 on July 14, after an internal review found the donor's "entity type" unclear.

Commission inaction. The Election Division sent the Engling campaign a letter about Mr. Shelton's complaint. A second complaint, filed September 15, 2026, asks whether a Hoosier Leadership for America event the night before the state convention, at which Mr. Engling was billed as a "special guest," was an unreported in-kind contribution. Two further complaints concern Democratic nominee Beau Bayh's campaign. The Commission has not

met since July 2026 and has scheduled no meeting. According to Plaintiff, it has consistently met in September in past election years.

Voting is underway. Voter registration closed October 5, 2026. In-person absentee voting began October 6, 2026. The deadline to apply for a mail ballot is October 22, and Election Day is November 3, 2026.

Argument

I. The Commission has a clear statutory duty to decide properly filed campaign finance complaints, and mandate lies to compel it to act.

Indiana's mandate statute permits an action "to compel the performance of any act that the law specifically requires" or any "duty resulting from any office, trust, or station." IC 34-27-3-1. The Commission's duty here is clear on the face of the statute.

The General Assembly did not make enforcement of campaign finance law optional. The Commission "shall" administer Indiana election laws. IC 3-6-4.1-14(a)(1). It "shall" adopt rules to carry out IC 3-9, the campaign finance article. IC 3-6-4.1-14(a)(2)(B). When it determines there is substantial reason to believe a violation occurred, it "shall expeditiously make an investigation." IC 3-6-4.1-21(b). After notice and hearing, it "shall take the action it considers appropriate," including referral to the Attorney General or a prosecutor. IC 3-6-4.1-21(c). And the civil-penalty scheme for contributions that exceed the corporate limit is assigned to the Commission alone. IC 3-9-4-16(a)(5), (e).

Each of these provisions presupposes a threshold act: the Commission must look at a complaint and decide whether there is substantial reason to believe a violation occurred. That threshold decision involves judgment, and Mr. Shelton does not ask the Court to make it. But a duty to exercise judgment is still a duty. An agency that simply declines to convene has not exercised discretion at all. It has abandoned it.

The Chair's authority to call meetings "whenever the chair considers it necessary for the performance of the commission's duties," IC 3-6-4.1-9, does not change this. That provision governs the logistics of meetings. It does not license the Chair to suspend the Commission's substantive duties during the one period when they matter most. Read together with IC 3-6-4.1-14 and -21, a meeting is plainly "necessary" when four complaints about a statewide race sit undecided while ballots are being cast. A contrary reading would let a single officer nullify the enforcement scheme the General Assembly enacted.

II. Mr. Shelton's complaint presents a substantial question that only the Commission can answer.

The Court need not and should not decide the merits. But the substance of the complaint shows why the Commission's silence is not a reasoned exercise of discretion.

The amount is far beyond any limit. During a year, a corporation may not contribute more than "an aggregate of five thousand dollars (\$5,000) apportioned in any manner among all candidates for state offices." IC 3-9-2-4(1). A single \$60,000 contribution to one statewide candidate is twelve times that aggregate cap. If Hoosier Leadership for America is a corporation within the meaning of IC 3-9-2-4, the excess is \$55,000, and the Commission may assess a civil penalty of up to three times that excess, or \$165,000. IC 3-9-4-16(e).

The alternative is a disclosure violation. If the group contends it is not a corporation bound by IC 3-9-2-4, then, as the complaint explains, it was acting as a political committee that never registered with the Election Division or the Federal Election Commission and never disclosed its donors. See IC 3-9-1 (statement of organization); IC 3-9-4-16(a)(2). Either way, a violation is alleged with specificity.

The reporting question stands on its own. The complaint alleges that the Engling campaign recorded the contribution as coming from a non-corporate source. The accuracy of a candidate committee's sworn reports is a core concern of IC 3-9-5 and IC 3-9-4-16(a)(1), and it is independent of whether the money was later returned.

A refund does not end the inquiry. The campaign says it returned the funds on July 14, 2026. But IC 3-9-2-4 is violated when a corporation makes an excess contribution, and IC 3-9-4-16(e) penalizes the corporation for making it. A later refund by the recipient does not undo the donor's act.

A complaint of this kind, about a contribution of this size, to a candidate for this office, is not a close call at the threshold stage. At a minimum, it warrants a decision.

III. The harm is immediate and irreparable because votes cannot be recast.

Hoosiers began voting in person on October 6, 2026, and mail ballots were in voters' hands before that. Indiana provides no mechanism for a voter to retrieve and change a ballot once it is cast. Each day of delay therefore permanently removes some number of voters from the audience the campaign finance laws were written to inform.

The concern is not abstract. The office at stake is Secretary of State, Indiana's chief election official and a member of the State Recount Commission. Voters choosing that official have a particular interest in knowing whether the candidate's campaign complied with the election laws he would be charged with administering. A Commission determination after November 3 may still have legal consequences, but it cannot give those voters what the law intended them to have when they marked their ballots.

Mr. Shelton emphasizes what he is not asking for. He does not ask the Court to change any rule of voting, delay any deadline, or alter any ballot. The relief requested affects no voter's ability to vote. It affects only whether voters who have not yet voted will know what the enforcing agency concluded.

IV. No adequate alternative remedy exists.

The statutes offer two fallbacks when the Chair does not call a meeting. Neither is adequate.

Under IC 3-6-4.1-10, the vice-chair may convene a meeting only "with the written approval of the remaining two (2) commission members." On a four-member Commission split evenly between the two major parties, IC 3-6-4.1-2, that mechanism depends on bipartisan agreement that has not materialized since July. Under IC 3-6-4.1-12, the Governor "may" order the Commission to meet, on the Governor's own initiative or on a petition signed by a voter from each congressional district. That power is discretionary, carries no deadline, and is vested in a partisan elected official. A remedy that depends entirely on the choices of the officials whose inaction is at issue is not an adequate remedy at law.

Nor can the Commission's timetable be left to the ordinary course. Mr. Shelton's complaint has waited 88 days. Fourteen days remain before Election Day. Only an order of this Court, with a date certain, can ensure the Commission decides the pending complaints while the decision can still inform the electorate.

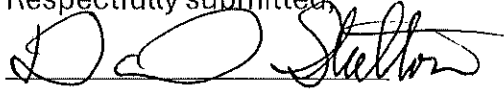
Conclusion

Hoosiers are entitled to know whether the candidates asking to run their elections followed the law, and they are entitled to know it before they vote. Amicus curiae David Shelton respectfully urges the Court to grant Plaintiff's requested relief and to:

1. Order the Indiana Election Commission to convene in a public meeting no later than October 23, 2026, or such other date as the Court finds will allow a decision before November 3, 2026;
2. Order the Commission, at that meeting, to consider the pending complaints, including Mr. Shelton's July 24, 2026 complaint concerning the \$60,000 contribution from Hoosier Leadership for America, Inc. to the Engling campaign, and to determine under IC 3-6-4.1-21(b) whether there is substantial reason to believe a violation occurred;
3. Order the Commission to record each member's vote on each complaint, as IC 3-6-4.1-13 requires; and

4. Grant all other just and proper relief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. W. Shelton", written over a horizontal line.

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Certificate of Service

I certify that on October 20, 2026, a copy of the foregoing was served on all counsel of record through the Indiana E-Filing System, including:

- Plaintiff Greg Ballard info@gregballard.com
- Counsel for Defendant Indiana Election Commission — Office of the Indiana Attorney General info@atg.in.gov

A handwritten signature in black ink, appearing to read "D. W. Shelton", written over a horizontal line.

David Shelton