

Clerk files to remove opponent from ballot

■ Jolene Upchurch's lawsuit alleges that Andrew William Frey failed to list his home precinct on his application and his name thus must be stricken from the list of clerk candidates.

BY RAY KISONAS

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After a Monroe judge ruled that a candidate's name for Erie Township supervisor must be stricken from the November ballot, the township's clerk filed a new lawsuit this week seeking to have the same legal decision made regarding her opponent.

Incumbent Clerk Jolene Upchurch on Monday filed a lawsuit in Monroe County Circuit Court asking a judge to remove her opponent's name, Andrew William Frey, from the ballot as her challenger. The reason, according to the lawsuit, was because Mr. Frey did not fill in the blank regarding his home precinct.

That was precisely the same argument that Mr. Frey's father, Erie Township Supervisor William D. Frey, used in court last week to successfully have his opponent's name — Chris Trapp — removed from the ballot. Mr. Frey admitted it was ironic that his successful argument in court was used in a lawsuit to have his son's name removed from the ballot.

"I find the whole thing ironic," the elder Mr. Frey said. "(Ms. Upchurch) is the one who caused this problem in the first place."

Monroe County and Erie Township attorney Philip D. Goldsmith said one of the main problems with the recent lawsuit is time. Erie Township must print new ballots without Mr. Trapp's name on them followed Friday's ruling. If 38th Circuit Judge Michael A. Weipert rules that Andrew Frey's name also be removed, it could be too late. A hearing to address the latest lawsuit is scheduled for next week.

"We're quickly running out of time," Mr. Goldsmith said. "Logistically, it'll be a real issue."

He added that if the judge rules in Ms. Upchurch's favor, then the younger Mr. Frey's name could remain on the Nov. 8

Ballot (cont.)

ballot but all votes for him would be eliminated. The elder Mr. Frey said that will not be necessary because he said the lawsuit was filed too late.

Mr. Frey contends there is a 45-day rule to have a candidate's name removed from the ballot, and there is 36 days left until the election from when the time the lawsuit was filed. His lawsuit to have Mr. Trapp's name removed was filed in July.

"She's known about this for months," Mr. Frey said of his son's opponent.

Ms. Upchuch's attorney, Kerry L. Bondy, could not be reached for comment.

The issue involving the removal of names from ballots now extends beyond Erie Township after Judge Weipert ruled last week that candidates must fill in the blank on their

candidate applications that ask in which precinct they live.

The judge ruled on Friday the law clearly states that candidates must specify which precinct they live on the application. Mr. Trapp, along with about 40 other candidates across the county, did not supply that information because it was common practice to leave it blank.

Mr. Goldsmith said all county candidates, such as for sheriff, did provide their precinct. The 40 or so others who did not fill in the blank are running as trustees and other positions in townships and villages. Mr. Goldsmith said since the ruling he knows of no other lawsuit being filed to remove names, aside from the one by Ms. Upchuch.

Andrew Frey acknowledged that the ruling could have countywide

implications, stating that many candidates "made the same mistake."

"I find it ironic that the clerk did not inform us that it was wrong," he said.

According to the lawsuit, the younger Mr. Frey, 39, indicated on his application for the clerk candidacy that his name was William Frey, the same first name as his father who is the incumbent supervisor. He explained that his middle name is William and at the time he was filing for the clerk's position, he was in the process of legally changing his name to William Frey. He said only that the reasons were "of other matters."

But he said he no longer is pursuing changing his name and will remain Andrew William Frey. His father added that it was perfectly legal for candidates to use their middle names if they wish.