

IN THE SUPREME COURT OF THE STATE OF MICHIGAN

ORIGINAL PETITIONERS, a **Coalition of Concerned Legal Michigan Voters**, Shelly I. Lake, Larry A. Bass, Brenda J. Bellmore, Victoria L. Betit, Gari L. Bowling, William James Bowling, Kelli Case, Robbie L. Case, Jasmine Curtis Moore, James R. Dull, Kelly R. Dull, John D. Gallagher, Adam M. Gillen, Jacqueline R. Gillen, Robert Edwin Goris, Stephanie M. Hester, Amber L. Holtrust, Billy J. Holtrust, Nancy J. Hooker, Cynthia M. Huisman, David S. Laansma, Robin J. Laansma, John K. Lake, Michael G. Marlow, David W. Minnaar, Frederick P. Moore, Sharon L. Olson, Rick Ray Reynolds, Jeffery Michael Schantz, Peter Reinhardt Schantz, Darrell Robert Slaughter, Gordon John-Van Smith, Jennifer Eve Smith, Karen L. Snyder, Douglas R. Sokolowski, Janet L. Sokolowski, Karen R. Strayer, Barbara J. Townsend, Carla J. Walker, Ronald V. Walker, Gary A. White, Luke Lynn Deming, Geneva L. Woodmansee, Marie D. Calderon, Allison L. Case, Connie L. Case, James M. Case, Lorraine Marie Blair, Julie A. Romeyn, Rodney J. Romeyn, Loretta M. Romeyn, Catherine S. Leaf, Ty R. Leaf, Anita Yvette Clark, Bonnie Jean Gustavison, Timothy Dale Gustavison, Deborah Ann Blick, James Paul Blick, Susan Amytis Higgins, Pamela Ann Herbert, Richard Stiles Cutshaw II, Elizabeth K. Cutshaw, Rodney Stewart Halcomb, Tracy Jo Stevens, Megan Kathleen Haan, Jomaa Chafic Berjawi, Ruth Kathryn Berjawi, Kimberly Ann Harris, David B. Harris, Barry Glenn Holley, Julie Lee Holley, Janet Talbot Beuckelaere, James Franklin Bloomfield, Sandra Kay Bloomfield, Vincent Edward Wilson, Patricia Mary Doran, Shelby L. Nowak, Veronica K. Carra, Biruta Puike Wilson, Gary Edward Mitchell, John Thomas Elieff, Kerry Lynn Elieff, Jacquelyn Ann Fershin, Carol Jean Reed, Nancy E. Thomachefski, John Joseph Thomachefski, Maryhelen Neal, Susan C. Vandeberghe, Virginia Rosalie Carriveau, Karen Ann Gary, Patricia Ann Gary, Deanna Christine Gilbert, Timothy Mauro-Vetter, Timothy Lawson

Civil Action No. _____

**CIVIL PETITION FOR EXPEDITED
REVIEW AND DECLARATORY
JUDGMENT AND PRELIMINARY
INJUNCTION**

**EMERGENCY
ORIGINAL JURISDICTION
REQUESTED**

Jacobs, Stephanie A Beltinck, Ray Rolla McCall, Esq, Clarissa A. Filhart, Christine Kelly Fountain, Linda Marie Richardson, Kevin J. Salisbury, George E. Moore, Rona Alexander, Jeff Alexander, Benjamin C. Hoats, Charles D. Hoats, Holly L. Hoats, William D. Hoats, Michael Brewer, Carol Lea Backer, Debra Kay Horanoff, Brian Albert Horanoff, Dean K. Evink, Amy L. Evink, Jeffrey Robert Strasser, Randall Ray Clark, Jennifer Mary-Jones Allam, Valerie Allemon-Raimi, Roswell K. Barranco, Barbara Basinski, Dawn M. Blum, Christopher J. Bond, Joyce Joann Bond, Donna Lynn Brandenburg, Justin Compagner, Larry Allen Corell, Jeffery Paul Dawson, Luke Lynn Deming, Richard Dittenber, Joanne Clare Emery, Amy L. Evink, Dean K Evink, Cheryl Facione, Rodney Kent Francisco, Daniel Garcia, Braden Giacobazzi, Susanne M. Gordon, Ruth Ann Halcomb, Kristina Marie Harrison, Lawrence Harrison, Dorthea Pearl Harvey, Jody Heskett, Diane Ruth Heyboer, Tammy Lynn Hitts, Lewis Hitts, Jody Lynn Heskett, William W. Johnson, Barbara Jean Lang, Deborah Maria Lowell, Kyle Andrew Maas, Kimberly Manor, Christian Marcus, Scott William Martzke, Jane Marie May, Frank Floyd McClelland, Carl W. Merkh, Joseph Molnar, Melanie Nivelte, Gale Parr, Anna R. Pierce, Janice Denise Pittman, Martha Kay Purser Beher, Joan Rietdyk, Jose Rizo, Jacob David Roberson, Laura J Roselle, Dawn Ross, LeAnna Eileen Slates, Venard Sova, Kodeen Sower, Cheryl A. Tague, Marla J. Weber, Karen J. Williamson, Kent County Taxpayers/Constitution Party, Randolph Schiffer, Craig L. Crabill, Kristine Ann Paraker, et al

Petitioners,

v.

JOCELYN BENSON,
SECRETARY OF STATE OF
THE STATE OF MICHIGAN
In her official capacity

430 West Allegan Street
Richard H. Austin Building - 4th Floor
Lansing, Michigan 48918
Or Secretary of State Building
Secondary Complex
7064 Crowner Drive
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and

GRETCHEN WHITMER
GOVERNOR OF THE STATE MICHIGAN
In her Official Capacity and as
Vice Chair of the Democratic National Committee
Richard H. Austin Building - 4th Floor
430 W. Allegan Street
Lansing, Michigan 48918

and

JONATHAN BRATER,
DIRECTOR OF ELECTIONS,
OFFICE OF THE SECRETARY OF STATE OF
THE STATE OF MICHIGAN
Richard H. Austin Building - 4th Floor
430 W. Allegan Street
Lansing, Michigan 48918

and

The MICHIGAN BOARD OF STATE
CANVASSERS, an agency within the
OFFICE OF THE SECRETARY OF STATE OF
THE STATE OF MICHIGAN
Binsfeld Office Building, Room 1100
201 Townsend Street
Lansing, Michigan 48909

and

Mary Ellen Gurewitz, Chair
of The MICHIGAN BOARD OF STATE
CANVASSERS in her official capacity
Binsfeld Office Building, Room 1100
201 Townsend Street
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and

Richard Houskamp, Vice-Chair
of The MICHIGAN BOARD OF STATE
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and

Jeannette Bradshaw, Member of
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and

Anthony Daunt, Member of
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and

THE STATE OF MICHIGAN
c/o Attorney General Dana Nessel and
the other Co-Respondents

Respondents.

I. INTRODUCTION

1. This Petition arises out of an Original Jurisdiction Michigan Supreme Court Order based upon procedural action in Order # 164755 & (7)(8)(14)(15)(16)(17), the case PROMOTE THE VOTE 2022 v BOARD OF STATE CANVASSERS, SECRETARY OF STATE, and

DIRECTOR OF ELECTIONS, issued on September 8, 2022, which ordered the deadlocked State Board of Canvassers to place Proposal 22-2 on the Michigan Ballot. Petitioners have good reason to believe this Proposal resulted in a number of unconstitutional revisions to the Michigan Constitution, and numerous subsequent new election laws, making it impossible for the State of Michigan to offer or guarantee all legally eligible Michigan voters a free, fair, lawful, secure, and transparent election process in the 2024 elections.

2. Aggrieved Petitioners seek an expedited review, a declaratory judgment and a preliminary injunction to obtain a clear interpretation and understanding of the recent revisions made to Michigan's Constitution and election laws. This lawsuit focuses on the amendments made to the Michigan Constitution after the November 8, 2022, ballot initiative 22-2 which are at best ambiguous and unclear, if not intentionally misleading. Petitioners contend that the Respondents may not legally apply, follow, or enforce a different meaning or interpretation of the 2022 amendments to the Michigan State Constitution than what the voters intended in their limited understanding, under color of law. The only proposals placed before the voters were vague and ambiguous.

3. The correct interpretation should be determined by this Court as sought through this declaratory judgment. In the alternative, Petitioners ask the Court to interpret the revisions made under color of law, under a request for a permanent injunction against enforcing or implementing the revisions other than by their correct interpretation.

4. Petitioners suggest that when revising the State Constitution, this Court should interpret the apparent changes asserted in the least adventurous way, similar to the Rule of Lenity. (See detailed discussion of civil litigation applications of lenity, in Section VIII, *infra*.) When revising the Constitution, the most certain, the most defensible interpretation of the asserted

revision is the most proper, not the most adventurous and least supportable concept. When it is the Constitution being revised or amended, for the same reasons and reasoning of the criminal doctrine of Lenity, a cautious approach is to be preferred. Courts should not lightly interpret an amendment of the Constitution in the broadest possible way, but rather exercise restraint.

5. The aggrieved Petitioners contend that the inadequate descriptions (summaries) of the proposed revisions presented to the voters in initiative 22-2 mark the outer boundary of what the voters of Michigan actually approved and therefore, the Constitutional Amendments and any resulting legislation flowing therefrom cannot extend beyond or “rise above” what the voters allegedly understood and gave their approval to at the time.

6. The summaries were a series of broad, sweeping generalities that raise many issues of interpretation as outlined herein, creating a deprivation of rights under color of law.

7. The 22-2 ballot initiative did not present actual amendments, but only a series of uninformative summaries, which were mostly only clichés devoid of substance.

8. Petitioners also request a preliminary injunction to enjoin the application, implementation, or enforcement of these revisions to the Constitution and the Michigan election laws pending a decision here on these unresolved questions. While at first blush an injunction involving elections might sound consequential, in reality, here, it is not, due to perfectly constitutional election laws in place prior to the efforts to amend found in Proposal 22-2.

9. Aggrieved Petitioners also request a permanent injunction to implement what it decides here is the legitimate and actual effect of Proposal 22-2 and to forbid any implementation that is inconsistent with the correct interpretation of the 9 separate revisions which appeared in the 22-2 proposal.

II. THIS COURT’S AND LOWER COURT’S PRIOR HISTORY WITH THIS CONSTITUTIONAL AMENDMENT INITIATIVE

10. In 2022, this Court previously considered – only -- whether Proposal 22-2, this constitutional amendment voter initiative, met the technical form requirements to appear on the November 8, 2022 ballot for voters of Michigan to either approve or disapprove the combination of nine (9) different topics in a single voter-initiative to amend the Michigan Constitution.¹

11. However, Petitioners construe those proceedings – and now contend – that this Court’s prior look was of a limited and completely different procedural only character and focus from this Petition here now.

12. Specifically, Petitioners bring this Petition on the understanding that this Court’s previous review left unreviewed and undecided the questions now presented herein concerning Proposal 22-2, leading to a “constitutional crisis” threatening the rights of all legal Michigan citizen voters, under color of law.

13. Previously, the various Justices’ opinions decided that the voter initiative amendments COULD be interpreted in such a way to avoid “abrogating” certain existing provisions and requirements of the Michigan Constitution and therefore there were not significant grounds to bar the initiative from appearing on the November 5, 2022, ballot.

14. However, at that time, the court was not asked to review or rule upon the constitutional boundaries of the content of Amendment 22-2, but rather just the technical procedural form of Proposal 22-2.

15. In 2022, this Court considered a barrage of challenges from other voters and private “partisan government lobby” groups such as Stand Up for Democracy, 1630 Fund, Promote the Vote, and Defend Our Vote.

16. Petitioners agree with all those challenges argued against Proposal 22-2, due to wholly inadequate information provided to voters, necessary to acquiring the “informed consent” of the lawful citizen voters of Michigan. All of the reasons opposing placing Proposal 22-2 on the ballot seem correct to the Petitioners.

17. Nevertheless, what is presented in this case is a more focused range of issues than those brought against Proposal 22-2 in 2022 and then Petitioners out-of-court public comments. This case raises different concerns and different questions not resolved in previous actions.

18. Among other problems, Proposal 22-2 is a “revision” (rewrite) of the Constitution on elections and not an “amendment” to use the terminology Michigan courts have chosen to use to express the distinction. The test appears to be whether the revision alters the structure or substance of the Constitution, and/or how the Constitution as amended operates compared to before. Michigan in effect, Petitioners believe, considers that major revisions are in effect a constitutional convention, and not a minor adjustment consistent with or in furtherance thereof, previous language, intent, and purpose. As a result, this Court using a slightly different term of art explored in 2022 considered whether the revisions to the Michigan Constitution suggested by Proposal 22-2 were so great a revision to fundamental aspects of the Constitution as to “**abrogate**” existing provisions of the Constitution, based upon the very limited text information provided to the court, which appeared in the Proposal Petition itself.

19. In 2022, the proponents of Proposal 22-2 Promote the Vote 2022 sued the Michigan Board of State Canvassers, which this court decided in *Promote The Vote 2022 v. Bd. of State Canvassers*, 510 Mich. 884; 979 N.W.2d 188; 2022 Mich. LEXIS 1626; 2022 WL 4110880 (Mich. 2022).²

² Counsel might normally attach a key precedent, but here this is this Court’s own opinion.

20. In 2020, the prior state of the law on challenges to voter registration, which is required under Federal law, was set forth in *Promote the Vote v. Sec'y of State*, 333 Mich. App. 93; 958 N.W.2d 861; 2020 Mich. App. LEXIS 4595; 2020 WL 4198031 (Ct. of Appeals, July 20, 2020) (Appellate Record Nos. 353977, 354096).³

21. In 2012, the proponents of a different amendment proposal being presented to the voters sued. Exploring some of the rules for proposed amendments to the Constitution to be presented on the ballot for voter approval, in 2012, *Stand Up For Democracy v. Secretary Of State and Board Of State Canvassers, and Citizens For Fiscal Responsibility as Intervenor*, 492 Mich. 588; 822 N.W.2d 159; 2012 Mich. LEXIS 1243 (Mich. 2012) (Appeal Record No. 145387). The lower court's decision was *Stand Up for Democracy v. Sec'y of State, 2012 Mich. App. LEXIS 1085 (Mich. Ct. App., June 8, 2012)*.

22. This Court in 2022, at least guided by some of the Justices separate opinions as seeming to express the overall sentiment of this Court, decided that it would be possible to interpret the revisions proposed by Proposal 22-2 in a way that it would not “abrogate” fundamental rights or provisions of the State Constitution, and/or basic Civil Liberties protected by the U.S. Constitution.

23. Now, in 2024, Petitioners contend that the voter initiative amendments **MUST** be interpreted in **ONLY** those ways that pass that test of validity and definition, and that the Respondents **MAY NOT** use the Proposition 22-2 amendments as spring boards to a completely different result than what this Court contemplated, or what subsequent voters allegedly approved on November 8, 2022.

24. Petitioners expect as being certain from past experience, advocates for removing

³ Copy from Michigan Court of Appeals attached.

credibility and integrity of Michigan elections, will use one interpretation to slide Proposal 22-2 into law, but then promptly twist and warp the meaning of Proposal 22-2 into becoming something entirely different in practice.

25. In fact, already, advocates of unsecure, inaccurate, unaccountable, and non-transparent elections are now trying to expand on the revisions of Proposal 22-2 to allow illegal aliens who do not have U.S. or Michigan citizenship to vote in Michigan elections. See Section IV, *infra*.

26. Even prior to the voters alleged approval of the nine (9) constitutional revisions of Proposal 22-2, Respondents Secretary of State Jocelyn Benson, and Michigan Director of Elections Jonathan Brater suddenly created a new set of rules titled “The Appointments, Rights, and Duties of Poll Challengers and Election Workers,” only months before Michigan’s August 2, 2022, Primary Election. The trigger for the revisions to Michigan election guidance was:

On the day of the Primary Election in Detroit, under the new guidance of MI Soros-funded SOS Jocelyn Benson Jonathan Brater, an unknown third-party security group by the name of “ICU,” threw Braden Giacobazzi, an Independent poll challenger out of the former TCF Center (now the Huntington Place) for asking too many (legitimate) questions about ballots and the processes that he claims were not being followed. Braden’s story can be found [here](#).

Patty McMurray, "BREAKING: Lawsuit Filed by MI Residents Demands Michigan’s Dirty SOS Jocelyn Benson Rescind Newly Created, Unconstitutional Rules To Make Poll Challengers Job In Upcoming Election Almost Impossible, 100 Percent Fed Up (news site), Oct 10, 2022, <https://100percentfedup.com/breaking-lawsuit-filed-by-mi-residents-demands-michigans-dirty-sos-jocelyn-benson-rescind-newly-created-unconstitutional-rules-to-make-poll-challengers-jobs-in-upcoming-election-almost-impossibl/>
(The developments are reported by “100 Percent FedUp” because their reporter videotaped the incidents and presented evidence of what happened.)

Three of the five individuals who are plaintiffs in the case served as poll challengers in Detroit during the most contentious counting of absentee ballots in Michigan history. The GOP and Independent poll challengers, whose only goal was to ensure free and fair elections in 2020, quickly became targets of what appeared to be a coordinated attack by select election workers, supervisors, and election officials.

Id. See, also, Patty McMurray, "DETROIT: Poll Challenger Thrown Out Of Counting Center For Challenging Ballots and Internet Connection To Computer...Demands Detroit Police Officer Arrests Men Who Broke The Law! [VIDEO]," 100 Percent Fed Up, Aug 4, 2022, <https://100percentfedup.com/mi-republican-poll-worker-physically-thrown-out-of-detroit-counting-center-for-challenging-ballots-asks-detroit-police-officer-to-arrest-men-who-broke-the-law-and-threw-him-out-video/>

27. That is, even before the pretextual cover of Proposal 22-2 was even presented to the voters under the guise of COVID emergency authority (apparently even before early voting), the Respondents were already acting to further deform Michigan's election laws even further than the unauthorized and illegal changes made during the now-past COVID-19 epidemic.

28. Therefore, Petitioners bring this case now and contend on information and belief that the Respondents will adopt new election procedures that go far beyond what this Court thought was acceptable interpretations to pass the test of not "abrogating" provisions, substance, and rights of the existing State Constitution.

29. Today, in 2024, Petitioners ask this Court to determine that if there is one particular interpretation which the Court found in 2022 passes muster of not abrogating the prior Michigan Constitution, no OTHER interpretation can be permitted that fails that crucial test.

30. In 2022, known partisan advocates organized a voter "lobby" initiative to amend the State Constitution.

31. In Michigan, the Michigan Board of State Canvassers, consisting of only four individuals appointed by the Governor, among other duties, receives state-wide petitions including voter initiatives to amend the Michigan Constitution.

32. Promote the Vote 2022 presented to the Michigan Board of State Canvassers a complete package to put Proposal 22-2 on the November 8, 2022, ballot with allegedly 664,000 legal Michigan signers, void of any proof that these signers were in fact legal U.S. citizens or legal

residents of Michigan.⁴

33. However, the Board deadlocked and did not reach a decision, including with public comments that the Board “is not a court” and lacks the expertise or power to resolve unclear questions of law, therefore seeking State Supreme Court review under the original jurisdiction of the high court concerning State Constitutional questions.

34. Therefore, the proponents filed a lawsuit here seeking a Writ of Mandamus for the Board to place the ballot initiative on the November 8, 2022, ballot.

In a statement after the lawsuit was filed, Promote the Vote expressed confidence that voters will ultimately have a chance to weigh in on its proposal this fall.

“The ‘challengers’ have made frivolous arguments to block this proposal,” board president for Promote the Vote Khalilah Spencer said in a statement Thursday. “More than 664,000 Michigan voters signed our petition to place the fundamental right to vote in Michigan’s Constitution and their voices should not be silenced. It’s time to get partisan politics out of the way and let the people of Michigan decide.”⁵

35. However, this is baffling. Petitioners contend that the “fundamental right to vote” for all legal Michigan voters was already in Michigan’s Constitution prior to 2022 and appears in Proposal 22-2 as only an unnecessary *cliché*.

36. Petitioners contend that there is nothing in the Michigan Constitution or law, or other circumstances which would *de jure* silence the voices of legally eligible voters.

37. However, Proposal 22-2 appears to be an overt effort to protect an unconstitutional right of ineligible voters to have their ballots cast, counted, and certified, as if they were legally eligible voters.

⁴ Clara Hendrickson, “Promote the Vote files lawsuit to put proposal on ballot after elections panel deadlocks,” Detroit Free Press, September 1, 2022, <https://www.freep.com/story/news/politics/2022/09/01/promote-the-vote-lawsuit-early-voting-ballot-proposal/65467607007/>

⁵ *Id.*

38. Otherwise, it seems baffling why the fundamental right to vote needs to be placed in Michigan's Constitution, when it is already in Michigan's Constitution.

39. Proposal 22-2 appears to make it possible for potential identity theft of genuine voters, by allowing the casting and counting of unlawful ballots fraudulently cast in their name.

40. There is no attempt to silence any legally eligible voters, but rather only unlawful ineligible voters. The purpose of Michigan law must of course include preventing invalid votes. No election system can be valid unless it allows valid votes and blocks invalid votes.

41. Thankfully, the COVID-19 pandemic is now long over. This means that any COVID related emergency election procedures put in place during a "pandemic threat," are also long over.

42. Yet, Promote the Vote 2022 and State Officials on information and belief, specifically the Respondents herein, are acting to make permanent a hodge-podge chaotic patch-quilt of election law and procedural revisions which they previously claimed to be appropriate only because of a COVID-19 "emergency."

43. Therefore, in 2022, this Court heard the appeal of the dead-locked indecision of the Michigan Board of State Canvassers, and then ruled that:

The Board's duty with respect to petitions is "limited to determining the sufficiency of a petition's form and content and whether there are sufficient signatures to warrant certification." *Stand Up for Democracy v Secretary of State*, 492 Mich 588, 618; 822 N.W.2d 159 (2012) (opinion by MARY BETH KELLY, J.). It is undisputed that there are sufficient signatures to warrant certification. The only challenge to the petition was that it failed to include all the constitutional provisions that would be abrogated by the proposed [***2] amendments, as is required by *Const 1963, art 12, § 2* and *MCL 168.482*. See *Protect Our Jobs v Bd of State Canvassers*, 492 Mich 763; 822 N.W.2d 534 (2012). We disagree. Instead, we conclude that the proposed amendments would not abrogate any of the constitutional provisions identified by the challenger. The Board thus has a clear legal duty to certify the petition.

44. And a Concurring Opinion expands on this:

MCCORMACK, C.J. (*concurring*). I agree with the Court's decision to grant the complaint for mandamus and declaratory relief and order the Board of State Canvassers (the Board) to certify the Promote the Vote petition for the ballot. I write separately to address one issue that ought to be clear but apparently isn't—the Board's role in certifying petitions is very limited. The Board's duty is to determine whether a petition has sufficient signatures and whether its form complies with statutory requirements.¹

[*885] **There** is no dispute about the [***3] **signatures** or form of this petition. Rather, the challengers [*189] believe that the petition violates *Article 12, § 2 of the Michigan Constitution* because its *substance* abrogates various provisions of the Constitution without publishing those provisions. This quintessential legal question is far outside the Board's legal role (and expertise). See, e.g., *Protect Our Jobs v Bd of State Canvassers*, 492 Mich 763, 776-784; 822 N.W.2d 534 (2012) (determining the meaning of "alter" and "abrogate" in *Article 12, § 2*).

45. And Justice McCormack added:

Absent an insufficient number of signatures or a petition form that doesn't comply with unambiguous statutory requirements, the Board lacks the authority to refuse to certify a petition. Because the challenger here alleged neither of those defects, the Board had a duty to certify the petition. See *Reproductive Freedom for All v Bd of State Canvassers*, Mich, 2022 Mich. LEXIS 1628 (September 8, 2022) (Docket No. 164760) (September 8, 2022) (Docket No. 164760); *Mich Civil Rights Initiative v Bd of State Canvassers*, 268 Mich App 506, 520; 708 N.W.2d 139 (2005) ("Because there is no dispute that the form of the petition is proper or that there are sufficient signatures, we conclude that the board is obligated to certify the petition, and thus, breached its clear legal duty to certify the petition.").

46. However, Justice Welch offers an important analysis of what it means for an amendment to "abrogate" an existing provision of the Constitution, and also expands on the obligation of the Board to review the "form" of the proposed ballot initiative including as to substance (including abrogation concerns). "Form" does not just mean "format."

¹ While in *Stand Up for Democracy v Secretary of State*, 492 Mich 588, 618; 822 N.W.2d 159 (2012) (opinion by MARY BETH KELLY, J.), the lead opinion stated that "[t]he board's duty with respect to referendum petitions is limited to determining the sufficiency of a petition's form and content and whether there are sufficient signatures to warrant certification," the statutes cited for that proposition address only the Board's authority to approve the "form" and "sufficiency" of the petition. See *id.* at 601 n 23, 618 n 58 (citing various statutes). The statutes do not explicitly authorize the Board to make determinations about the "content" of the petition. So I question whether that statement from *Stand Up for Democracy* is correct. See *Reproductive Freedom for All v Bd of State Canvassers*, Mich, n 1, 2022 Mich. LEXIS 1628 (September 8, 2022) (Docket No. 164760) (MCCORMACK, C.J., concurring).

47. Petitioners here, of course, agree with the Dissent by Justice Zahra, and rely upon the arguments in that Dissent here as important guidance for this Petition.

III. JURISDICTION AND VENUE

48. This action arises under the laws and Constitution of the State of Michigan and the Original Jurisdiction of the Michigan Supreme Court and emergency conditions, following the courts order that caused the State Canvassers to place Proposal 22-2 on the 2022 ballot, and under existing emergency conditions due to both the rightful authority of the court and extreme time limitations in this matter. In accordance with an order from U.S. Western Michigan District Judge Paul Maloney in June of 2020 regarding Governor Whitmer's claimed Executive Powers related to then COVID19 executive orders, declared unlawful and unconstitutional by the Michigan Supreme Court in October 2020, in which the Federal Court ordered the arguments to be heard in the Supreme Court of Michigan, rather than a Federal Court, or lower court, similarly, the matters brought in this case are issues created by the State of Michigan, affecting the lawful voters in the State of Michigan, and under extreme time constraints due to the current election cycle, we believe that the proper Original Jurisdiction for this matter has to be the Michigan Supreme Court as the court of first review. Further, because we are seeking a Declaratory Judgement and Emergency relief via an immediate injunction with prejudice, preventing the State of Michigan from implementing their blatant efforts to undermine secure, free, fair, lawful, and transparent election procedures in the 2024 Michigan elections, time will not allow for a lengthy appellate process on the matter, which would undoubtedly run a time span far beyond the 2024 General Elections now less than six months away.

IV. PARTIES

Petitioners

ORIGINAL PETITIONERS, a Coalition of Concerned Legal Michigan Voters, Shelly I. Lake, Larry A. Bass, Brenda J. Bellmore, Victoria L. Betit, Gari L. Bowling, William James Bowling, Kelli Case, Robbie L. Case, Jasmine Curtis Moore, James R. Dull, Kelly R. Dull, John D. Gallagher, Adam M. Gillen, Jacqueline R. Gillen, Robert Edwin Goris, Stephanie M. Hester, Amber L. Holtrust, Billy J. Holtrust, Nancy J. Hooker, Cynthia M. Huisman, David S. Laansma, Robin J. Laansma, John K. Lake, Michael G. Marlow, David W. Minnaar, Frederick P. Moore, Sharon L. Olson, Rick Ray Reynolds, Jeffery Michael Schantz, Peter Reinhardt Schantz, Darrell Robert Slaughter, Gordon John-Van Smith, Jennifer Eve Smith, Karen L. Snyder, Douglas R. Sokolowski, Janet L. Sokolowski, Karen R. Strayer, Barbara J. Townsend, Carla J. Walker, Ronald V. Walker, Gary A. White, Luke Lynn Deming, Geneva L. Woodmansee, Marie D. Calderon, Allison L. Case, Connie L. Case, James M. Case, Lorraine Marie Blair, Julie A. Romeyn, Rodney J. Romeyn, Loretta M. Romeyn, Catherine S. Leaf, Ty R. Leaf, Anita Yvette Clark, Bonnie Jean Gustavison, Timothy Dale Gustavison, Deborah Ann Blick, James Paul Blick, Susan Amytis Higgins, Pamela Ann Herbert, Richard Stiles Cutshaw II, Elizabeth K. Cutshaw, Rodney Stewart Halcomb, Tracy Jo Stevens, Megan Kathleen Haan, Jomaa Chafic Berjawi, Ruth Kathryn Berjawi, Kimberly Ann Harris, David B. Harris, Barry Glenn Holley, Julie Lee Holley, Janet Talbot Beuckelaere, James Franklin Bloomfield, Sandra Kay Bloomfield, Vincent Edward Wilson, Patricia Mary Doran, Shelby L. Nowak, Veronica K. Carra, Biruta Puike Wilson, Gary Edward Mitchell, John Thomas Elieff, Kerry Lynn Elieff, Jacquelyn Ann Fershin, Carol Jean Reed, Nancy E. Thomachefski, John Joseph Thomachefski, Maryhelen Neal, Susan C. Vandeberghe, Virginia Rosalie Carriveau, Karen Ann Gary, Patricia Ann Gary, Deanna Christine Gilbert, Timothy Mauro-Vetter, Timothy Lawson Jacobs, Stephanie A. Beltinck, Ray Rolla McCall, Esq, Clarissa A. Filhart, Christine Kelly Fountain, Linda Marie Richardson, Kevin J. Salisbury, George E. Moore, Rona Alexander, Jeff Alexander, Benjamin C. Hoats, Charles D. Hoats, Holly L. Hoats, William D. Hoats, Michael Brewer, Carol Lea Backer, Debra Kay Horanoff, Brian Albert Horanoff, Dean K. Evink, Amy L. Evink, Jeffrey Robert Strasser, Randall Ray Clark, Jennifer Mary-Jones Allam, Valerie Allemon-Raimi, Roswell K. Barranco, Barbara Basinski, Dawn M. Blum, Christopher J. Bond, Joyce Joann Bond, Donna Lynn Brandenburg, Justin Compagner, Larry Allen Corell, Jeffery Paul Dawson, Luke Lynn Deming, Richard Dittenber, Joanne Clare Emery, Amy L. Evink, Dean K. Evink, Cheryl Facione, Rodney Kent Francisco, Daniel Garcia, Braden Giacobazzi, Susanne M. Gordon, Ruth Ann Halcomb, Kristina Marie Harrison, Lawrence Harrison, Dorthea Pearl Harvey, Jody Heskett, Diane Ruth Heyboer, Tammy Lynn Hitts, Lewis Hitts, Jody Lynn Heskett, William W. Johnson, Barbara Jean Lang, Deborah Maria Lowell, Kyle Andrew Maas, Kimberly Manor, Christian Marcus, Scott William Martzke, Jane Marie May, Frank Floyd McClelland, Carl W. Merkh, Joseph Molnar, Melanie Nivelte, Gale Parr, Anna R. Pierce, Janice Denise Pittman, Martha Kay Purser Beher, Joan Rietdyk, Jose Rizo, Jacob David Roberson, Laura J. Roselle, Dawn Ross, LeAnna Eileen Slaters, Venard Sova, Kodeen Sower, Cheryl A. Tague, Marla J. Weber, Karen J. Williamson, Kent County Taxpayers/Constitution Party, Randolph Schiffer, Craig L. Crabill, Kristine Ann Paraker, et al

49. Petitioners hereby claim that the results of the actions taken by the State of Michigan to revise the State Constitution in Proposal 22-2 and issue new subsequent election laws,

constitute both Civil Rights and Civil Liberties violations and a Deprivation of Rights under Color of Law against all legally eligible Citizen voters within the State of Michigan, by intentionally opening up election procedures that will result in legal ballots being cancelled by illegal ballots cast by legally ineligible voters from a variety of courses. The law guarantees that only “legally eligible Michigan voters” be allowed to vote in Michigan elections, and that the State guarantees all legal citizen voters in Michigan secure, free, fair, lawful, and transparent elections. The measures taken in Proposal 22-2 and the subsequent new election statutes do the exact opposite. The measures taken by the respondents herein, make it even more likely that Michigan will experience a flood of illegal and untraceable voting, depriving the rights of all legal citizens of the State to one-citizen, one-vote, making it impossible for the State or the court to provide and guarantee the people of Michigan a secure, free, fair, lawful, and transparent election process under these conditions.

Respondents

50. **Respondent JOCELYN BENSON** is a Respondent in her official capacity to establish the correct construction and Application of Michigan Election Law, and the State and Federal Constitution, and serves as SECRETARY OF STATE OF THE STATE OF MICHIGAN, 430 West Allegan Street, Richard H. Austin Building - 4th Floor, Lansing, Michigan 48918. The Secretary of State is also listed with a main office at the Secretary of State Building, Secondary Complex, 7064 Crouner Drive, Dimondale, Michigan 48821. Benson is not only responsible for the conduct of elections in Michigan but an aggressive activist in revising the election laws and procedures in ways that facilitate, encourage, and allow widespread election fraud and voter fraud. Further, she is currently publicly conspiring with Secretaries of State of other States, specifically

Arizona, Wisconsin, Nevada, Georgia, and Pennsylvania, to pervert the election laws of other States across the country so as to weaken safeguards and sound procedures in elections which will increase the incidence of fraud in elections beyond Michigan borders. Benson's initiative constitutes an interstate compact without the agreement of Congress prohibited by the U.S. Constitution.

51. In addition, under these circumstances, with more than 150,000 "aliens" currently in the State of Michigan, Secretary Benson cannot guarantee the legal citizens of Michigan that "aliens" currently residing within the State of Michigan, especially in "sanctuary" or "welcoming" areas of the state, will not be able to vote in the 2024 or future elections, in the direct violation of 18 U.S. Code § 611 - Voting by aliens – as well as an apparent violation of 18 U.S. Code § 241 – Conspiracy against rights.

52. Furthermore, Benson has already been found in violation of the law by six separate courts. By any objective measure, she has demonstrated a pattern of knowingly and intentionally conducting unlawful elections and creating unconstitutional election procedures. In this light, the meaning of amendments to the Michigan Constitution and of legislation must be interpreted as including the need for equal public access to election records (digital and physical) in other words, complete transparency. <https://letsfixstuff.org/2023/09/five-courts-have-concluded-that-mi-sos-jocelyn-benson-conducts-unlawful-elections/> The voters and the legislature understand and are aware of the failure of the Secretary of State to inform them of the truth about the elections. Secretary Benson has repeatedly and consistently demonstrated total contempt for the courts, the Michigan Constitution, Michigan Election Laws, the US Constitution, Federal Election statutes, and the lawful voters of Michigan. Benson has a long and distinguished history of violating her fundamental Oath of Office, demonstrating an overt effort to control elections to benefit highly

partisan interests, and is therefore, unfit to manage or oversee any election in the State of Michigan.

53. See for example:

- (a) **Jocelyn Benson loses in court for third time over her voting rules**, Oralandar Brand-Williams, Votebeat, Bridge Michigan, <https://www.bridgemi.com/michigan-government/jocelyn-benson-loses-court-third-time-over-her-voting-rules>
- (b) **Michigan Supreme Court strikes down governor's emergency Covid powers**, October 2, 2020 <https://www.cnn.com/2020/10/02/politics/michigan-supreme-court-whitmer-covid-emergency/index.html> and <https://michiganlcv.org/case/court-declares-gov-whitmers-covid-emergency-powers-unconstitutional/>
- (c) **Michigan Supreme Court rules against governor again, ending Covid-19 executive orders**, October 12, 2020, retroactive back to April 28, 2020, declaring her actions both “unlawful and unconstitutional.” <https://www.cnn.com/2020/10/12/politics/michigan-supreme-court-whitmer-covid-emergency/index.html>

54. **Respondent GRETCHEN WHITMER** is a Respondent in her official capacity to establish the correct construction and Application of Michigan Election Law, and the State and Federal Constitution, and serves as Vice Chair of the Democratic National Committee, and GOVERNOR OF THE STATE MICHIGAN the Chief Executive of the State, Richard H. Austin Building - 4th Floor, 430 W. Allegan Street, Lansing, Michigan 48918.

55. **Respondent JONATHAN BRATER** is a Respondent in his official capacity to establish the correct construction and Application of Michigan Election Law, and the State and Federal Constitution, and serves as DIRECTOR OF ELECTIONS, SECRETARY OF STATE OF THE STATE OF MICHIGAN, Richard H. Austin Building - 4th Floor, 430 W. Allegan Street, Lansing, Michigan 48918. Brater is responsible under the Secretary of State for the conduct of elections in Michigan.

56. **Respondent DANA NESSEL** is a Respondent in her official capacity to establish the correct construction and Application of Michigan Election Law, and the State and

Federal Constitution, and serves as ATTORNEY GENERAL OF THE STATE OF MICHIGAN and Chief Law Enforcement Official for the State of Michigan, G. Mennen Williams Building, 525 West Ottawa Street, P.O. Box 30212, Lansing, Michigan 48909. As Attorney General, Nessel is responsible for the interpretation of laws and the Michigan and Federal Constitution and the implementation and enforcement of laws concerning elections.

57. **Respondent MICHIGAN BOARD OF STATE CANVASSERS**, made up of just four individuals appointed by Democratic National Committee Vice Chair and Michigan Governor Whitmer, whose duties include: (a) Canvassing and certifying statewide elections, elections for legislative districts that cross county lines and all judicial offices except Judge of the Probate Court. (b) Conducting recounts for state-level offices. (c) Canvassing nominating petitions filed with the Secretary of State. (d) Canvassing state-level ballot proposal petitions. (e) Assigning ballot designations and adopting ballot language for statewide ballot proposals. And (f) Approving electronic voting systems for use in the state. See: <https://www.michigan.gov/sos/elections/bsc> . The Board is an actual office, agency, or component of the Office of the Secretary of State of Michigan. The Board exists as an entity apart from any individual Board members. Nevertheless, out of an abundance of caution, and not for any hidden reason, Petitioners also name as Respondents the four Board members in their official capacity to ensure that this crucial component of elections in Michigan is covered and protected.

58. **Respondent STATE OF MICHIGAN**, by and through the named Respondents, particularly the Attorney General of Michigan.

V. WHAT WAS PRESENTED TO VOTERS FOR APPROVAL ON THE 2022 BALLOT?

59. Upon the general ballot for the election on November 8, 2022, voters purportedly

approved “Proposal 2” (also referred to as Proposal 22-2 given the year was 2022) to amend the Constitution of the State of Michigan, which could only be found in its allegedly amended form at: <https://legislature.mi.gov/Laws/MCL?objectName=MCL-CONSTITUTION>

60. The voters were presented upon voting with the following limited and uninformative language, and nothing more by way of any details or explanation:

Proposal 22-2

A proposal to amend the state constitution to add provisions regarding elections

This proposed constitutional amendment would:

- **Recognize fundamental right to vote without harassing conduct;**
- **Require military or overseas ballots be counted if postmarked by election day;**
- **Provide voter right to verify identity with photo ID or signed statement;**
- **Provide voter right to single application to vote absentee in all elections;**
- **Require state-funded absentee-ballot drop boxes, and postage for absentee applications and ballots;**
- **Provide that only election officials may conduct post-election audits;**
- **Require nine days of early in-person voting;**
- **Allow donations to fund elections, which must be disclosed;**
- **Require canvass boards certify election results based only on the official records of votes cast.**

Should this proposal be adopted? [] YES [] NO

If a majority of the electors vote "yes" on Proposal 22-2, the following articles and sections of the State Constitution will be amended to include

the proposed language: Article II, Sections 4, 6, and 7; Article IV, Sections 1 and 16; Article V, Sections 1 and 13; Article VI, Sections 1, 2, 8, 23, and 26; Article VII, Sections 3, 10,18, 22, and 28; Article VIII, Sections 3 and 5; and Article IX, Section 6.

VI. SUMMARY DESCRIPTIONS REQUIRED TO APPEAR ON THE BALLOT

61. Pursuant to [Article XII § 2](#), the Constitution of Michigan may be amended by petition and vote of electors (individual lawful citizen voters in Michigan).

62. Amendment requires as a mandatory condition of constitutional force that a summary must be presented to the voter that

“shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.”

63. Thus, a petition to amend the Michigan Constitution and the resulting purported amendment, along with all subsequent revisions of State Election Laws, would be legally invalid if the wording is not “a true and impartial statement” of the purpose of the amendment.

64. Here, the summary descriptions of Proposal 22-2 for 9 different topics were squeezed into a total of 100 words maximum.

65. No interpretation of Proposal 22-2, which is different from the vague and inadequate summary descriptions can now be considered as valid amendments to the Constitution.

VII. BACKGROUND AND SUMMARY OF LEGAL CLAIMS

66. Voters may propose changes to the State Constitution by way of a ballot initiative, but not replace it by any alleged amendment process: In the legal test of Michigan courts, a voter initiative-based amendment to the Michigan Constitution may only be an “amendment” *not a revision.* Perhaps this legal test could be defined more clearly, but this is the touchstone established by the Supreme Court of Michigan.

In an opinion by Justice VIVIANO, joined by Justices MCCORMACK, BERNSTEIN, and CLEMENT, the Supreme Court held: A voter-initiated amendment under Const 1963, art 12, § 2 is permissible if it proposes *changes that do not significantly alter or abolish the form or structure of the government in a manner equivalent to creating a new constitution*. Because VNP's proposal would leave the form and structure of the government essentially as it was envisioned in the 1963 Constitution, it was not equivalent to a new constitution and was therefore a permissible amendment under Article 12, § 2.

Accordingly, the judgment of the Court of Appeals was affirmed.

CITIZENS PROTECTING MICHIGAN'S CONSTITUTION v SECRETARY OF STATE, Docket No. 157925, Supreme Court of Michigan (Decided July 31, 2018), attached. (*Emphasis added.*)

The Court of Appeals held that the proposal was *an amendment rather than a revision* because no fundamental government operations would be altered: the proposal would continue the redistricting commission, with modifications, already in the Constitution; the proposal involved a single, narrow focus—the independent citizens redistricting commission; and the Supreme Court would retain control over challenges to redistricting plans.

Id. (*Emphasis added.*) This case appears to reject multi-pronged, multi-farious voter initiatives combining more than one topic.

67. Here, Petitioners contend the proposal included drastic revisions of Michigan's Constitution, such as striking the role of the legislature to supervise elections of its own members, and specifically, Presidential and Vice-Presidential elections. This Petition asks this Court to construe that only election officials can audit election officials, thereby creating a stunning lack of accountability, a total lack of transparency, and a radical Stalinist shift from American jurisprudence, resulting in a deprivation of rights under color of law for every legal eligible Michigan voter.

VIII. HOW SHOULD THIS COURT INTERPRET THE ATTEMPTED REVISIONS TO THE MICHIGAN CONSTITUTION?

68. One of the primary proponents of the revisions in Proposal 22-2 was "Promote the Vote" or more accurately "Promote the Vote 2022." They apparently issued a flyer, attached as

Exhibit A, consistent with their public statements reported in the news media, in which they announced their goals as including:

- (a) “Promote the Vote is cutting through the partisan noise to advance and enhance voting rights for the people of Michigan.”
- (b) “...preserving and protecting voting rights in Michigan”
- (c) “...expand access to the ballot...”
- (d) “Eliminate disparities and expand civic participation in Michigan elections.”
- (e) “...protect democracy in Michigan.”

69. Petitioners contend that *the proponents agree* that only “the legal U.S. citizens of Michigan” should have the right to vote in Michigan, not illegal aliens forbidden from voting under Federal Election Code, nor activists from other States hijacking the votes of Michigan citizens through what could easily be interpreted as a form of identity theft.

70. Petitioners argue that *the proponents agree* with Article II, Section 4, Subsection (2) of the Constitution of Michigan of 1963 (as amended),

(2) Except as otherwise provided in this constitution or in the constitution or laws of the United States the legislature shall enact laws to regulate the time, place and manner of all nominations and elections, *to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise,* and to provide for a system of voter registration and absentee voting. * * *

71. Therefore, the revisions made by Proposal 22-2, if any in reality, must be interpreted to protect the voting rights of legal Michigan citizens, not interlopers from other States or other countries, and “to preserve the purity of elections” and “to guard against abuses of the elective franchise.”

72. In terms of normal interpretation, Petitioners contend that the Court must adopt the most cautious, restrained, least adventurous, and least expansive interpretation of the summary

descriptions in the alleged revisions to the Constitution.

73. Petitioners understand that the proponents raised \$20 million and went to a lot of effort. But it appears clear from recent history and patterns that the proponents' intent is a "bait and switch" of sorts, in which the voters are asked to approve clichés. Then the votes are used to justify radical revisions to Michigan's election laws stripping away safeguards of accurate, free, fair, lawful, and transparent elections. It does not seem that political activists spend \$20 million merely to repeat what the Michigan Constitution already says. Petitioners do not see any good faith in this effort.

74. The Petitioners also contend that the Court should adopt the rule of Lenity – a fundamental guideline of jurisprudence commonly used in interpreting both criminal and civil law. The Rule of Lenity is also accepted as a Rule of Strict Construction, which Petitioners contend is of utmost critical importance especially when it pertains to both revising a Constitution, and administering a truly secure, free, fair, lawful, and transparent election. The principle is based upon two critical constitutional objectives, the separation of powers, and the protection of individual legal citizen rights.

75. Therefore, Petitioners argue that an approach of Lenity and/or Strict Construction is required here:

76. A Harvard Law Review explores the controversies within the – clearly non-criminal – topic of *Chevron* deference to administrative agencies from *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

* * *

It is not necessary to alter the *Chevron* doctrine in order to find a theoretical foundation for it. It is only necessary to enrich our understanding of one of the doctrine's original rationales: political accountability. * * *

* * * Part II explores the way in which the Court unsuccessfully attempted to rehabilitate some of these rationales by limiting the scope of the *Chevron* doctrine in *Mead*. Part III suggests an alternate means of rehabilitating the doctrine through an enriched understanding of the political accountability *rationale for Chevron, as informed by the rule of lenity*. Part IV concludes.

* * *

Note, “Justifying The Chevron Doctrine: Insights From The Rule Of Lenity,” *Harvard Law Review*, Vol. 123, Page 2043, (*emphasis added*), accessible publicly at https://harvardlawreview.org/wp-content/uploads/2010/06/vol123_justifying_the%20chevron_doctrine.pdf

Additionally, Justice Scalia and Professor Bryan Garner have helped elevate the rule of lenity by including it in a set of fifty-seven recommended canons of construction in their widely read treatise on interpretation.⁹ Second, the rule of lenity carries authoritative weight. Almost one-third (13) of the 42 appellate judges surveyed considered lenity and/or constitutional avoidance “actual rules” of “mandatory application.”¹⁰ For some respondents, the Supreme Court designated these rules as binding and, for others, the Constitution did so.¹¹ Third, lenity is generally valid on a spectrum of interpretive approaches, regardless of ideological commitments. Most appellate judges who participated in the survey signaled a willingness to consider the canons of construction, and all judges actually used them even when they said they did not.¹² Most explained that they consider as much information and as many canons as possible to make the most informed decision about a case of statutory construction.¹³ This “interpretive eclecticism”¹⁴ suggests that appellate judges would consider lenity to be relevant to their review of challenged criminal statutes.¹⁵

Intisar A. Rabb,⁶ “Responding to Abbe R. Gluck & Richard A. Posner, Statutory Interpretation on the Bench: A Survey of Forty-Two Judges on the Federal Courts of Appeals,” *HARVARD LAW REVIEW FORUM*, Volume 131 Issue 8, June 2018, accessible publicly at <https://harvardlawreview.org/forum/vol-131/the-appellate-rule-of-lenity/>

77. Petitioners contend that the Lenity or Strict Construction doctrine should be applied to a narrow, limited construction of the alleged revisions in light of the serious nature of amending the Constitution, particularly as it pertains to such a fundamental right of all legal citizens to enjoy

⁶ Professor of Law, Harvard Law School; Professor of History, Harvard University; Susan S. & Kenneth L. Wallach Professor, Radcliffe Institute for Advanced Study at Harvard. This paper benefited from helpful comments and feedback from Ryan Doerfler, Abbe Gluck, Joshua Kleinfeld, Nina Mendelson, Zachary Price, and Jane Schacter. Michael Decker, Marilyn Robb, and Samuel Rubinstein provided excellent research assistance. The author thanks all of them as well as the editors of the *Harvard Law Review* for their scholarly enthusiasm, astute comments, and careful editing.

secure, free, fair, lawful, and transparent elections. This rule requires the Court to construe the 22-2 revisions and subsequent statues against the party who drafted it, typically, the government, or the agency responsible for enforcing it. In this instance, the Court should interpret the many issues raised herein, in a manner more favorable to the Petitioners, on behalf of all legal U.S. citizen Michigan voters, rather than the government.

IX. DECLARATORY JUDGMENT SOUGHT

78. Under this case, no government officials are sued for liability or compensation for damages but are instead sued as nominal Respondents who are responsible for applying, enforcing, and/or administering the void laws to challenge them as unconstitutional and legally unethical.

79. Transparency must be achieved in any system to ensure confidence in the election results. Citizens are entitled to equal access to election records equal to that provided to election officials and their designated representatives under Michigan Constitution Article I Section 1. Secrecy is the number one cause of increasing voter distrust in elections and government as a whole.

80. Among the other issues raised, Petitioners ask the Court to resolve each of the following individual conflicts or questions by Declaratory Judgment:

1. When asking voters to allow their government to amend their constitution via partisan private organization agendas, is it necessary under the law to provide voters the actual language of the proposed amendment in order to gain the true informed consent of the voters to that amendment? Yes or no?
2. Have voters truly consented to a constitutional amendment they never had a chance to read first? Yes or no?
3. Even if the abbreviated language presented on the original signature petition was adequate for the purpose of gaining signatures on the petition, is that language also adequate for the voters to provide their informed consent to

amendment language they never had an opportunity to review before casting a ballot? Yes or no?

4. Petitioners ask the court to declare if the information and text provided to the voters in 2018 and 2022, pertaining to both Proposal 22-2 and 18-3, was in any way “ambiguous” and therefore, insufficient for the voters to know what they were voting for or against? Yes or no?

5. Under these circumstances, is such an amendment lawful and constitutional, without the clear understanding and informed consent of the voters? Yes or no?

6. Under the 22-2 and 18-3 amendments to the Michigan Constitution, we ask the court to answer the following questions;

a) Are non-citizens of the United States permitted to vote in Michigan elections? Yes or no?

b) Are deceased individuals who still may appear in the voter rolls permitted to vote in Michigan elections? (This pertains to the scenario wherein a ballot is cast in their name by someone else, as a form of identity theft.) Yes or no?

d) What are the measures in Proposals 22-2 and 18-3 that safeguard Michigan elections against unlawful acts, as-in ineligible ballots being cast, counted, or certified?

e) Does opening up elections to untraceable ineligible voters constitute disenfranchising all legal voters, and in the end, a Deprivation of Rights under color of law? Yes or no?

7. Can Proposal 22-2 combine 9 different proposals in a single amendment to the Michigan Constitution which leads to very vague inadequate descriptions to the voters to fit within the 100-word maximum, be legitimate and constitutional? Yes or no?

8. Because 9 distinct and separate revisions to the Michigan Constitution appeared all on 1 amendment proposal as 1, are the 9 items severable from each other? Yes or no?

9. Does Proposal 22-2 affect elections for the U.S. President, which arise uniquely under Article II, Section 1? (There are no elections for U.S. President. The U.S. Constitution provides for an Electoral College, to be chosen by the methods established by the Michigan State legislature alone.) Yes or no?

10. Does the first revision item in Proposal 22-2: “Recognize fundamental right to vote without harassing conduct;” have any meaning beyond a cliché where the voters were asked only that the Constitution “recognize” the fundamental right to vote? The Constitution already previously recognized the fundamental right of legal US Citizens and lawful citizens of Michigan to vote.

11. Does this new language make it a crime to legitimately challenge illegal activities witnessed in the election process, via an unlimited open-ended use of the term “harassment?” Yes or no?

12. Does the first revision item in Proposal 22-2 “without harassing conduct;” change anything or merely reference existing Michigan law against harassment? Or is it an overt attempt to silence legitimate challenges to visible illegal activities in the election process?

13. What does “harassing conduct” mean in the first revision item in Proposal 22-2? Today, when people seriously contend that “words are violence” or complain about how someone looks at them, what did the voters understand “harassing conduct” means when voting on Proposal 22-2? Was the bait of a cliché used as a “bait and switch” to change the system of elections at the polls?

14. Does the first revision item abrogate the electoral process of having poll observers for all parties with candidates on the ballot and allowing contemporaneous challenges to irregularities in the election when observed?

In the wake of 2022-2 passage, the Michigan legislature passed HB 4129 into law making it a felony to "intimidate" a poll worker which is pretty much the definition of a poll "challenger".

<https://legislature.mi.gov/Bills/Bill?ObjectName=2023-HB-4129> Is this authorized by Proposal 22-2? Yes or no?

15. Does the third revision item requiring Michigan to “Provide voter right to verify identity with photo ID or signed statement;” mean that voters can claim to be someone they are not by signing a false statement as to their identity, only to maybe be determined later long after an election has been “certified?” Yes or no?

16. Does the third revision item requiring Michigan to “Provide voter right to verify identity with photo ID or signed statement;” mean that although the alleged affiant has no lawful means of proof of identity at all, they will none the less be allowed to vote as if they were a proven legally eligible voter in Michigan, by merely signing some name to the document, even though they have no proof of legal voter Rights? Yes or no?

17. Does the third revision item requiring Michigan to “Provide voter right to verify identity with photo ID or signed statement;” mean that – as the federal government has been issuing Social Security Cards to “illegal aliens,” that this card will pass as “proof of voter eligibility” even though the “alien” is not a legal citizen of the United States? Yes or no?

18. Does the third revision item requiring Michigan to “Provide voter right to verify identity with photo ID or signed statement;” mean that – because this common practice is what the voters must have intended -- voters must either present an identification card with their photograph on it or fill out an officially-drafted, officially-approved, pre-printed affidavit sworn under oath whose language is standardized and requires the voter to swear under oath that they are who they claim to be, are eligible to vote in Michigan, they are legal citizens of the United States, and are old enough and not disabled such as by a felony conviction? Yes or no?

19. Does the third revision item requiring Michigan to “Provide voter right to verify identity with photo ID or signed statement;” mean that – because this common practice is what the voters must have intended -- voters must present an identification card which is a Michigan or U.S. Government issued identification with the person’s photograph shown on it, not expired, and not obviously fake or altered. It would not mean a gym membership card or library card or foreign card like a Mexican-issued Matricula Consular Card or foreign identification. Yes or no?

20. Does the fourth revision item requiring Michigan to “Provide voter right to single application to vote absentee in all elections;” - mean that a voter may request absentee ballots for all elections in the same year by one application or does it mean that the voter will be receiving absentee ballots forever, even after the voter has died, is mentally incapacitated by extreme age, has moved out of Michigan, or have moved within Michigan so that they are receiving the wrong ballot for the legislative districts and county offices up for election?

21. Does the fifth revision item to “Require state-funded absentee-ballot drop boxes, and postage for absentee applications and ballots;” have any standards, such as how many drop boxes, where they are to be placed, can they be placed so as to discriminate between areas which historically vote for one political party over another? Can the Respondents manipulate elections by placing drop boxes only in areas that are strongholds of one political party to increase votes received for one party over another? Can all the drop boxes in the State of Michigan all be put in one spot next to each other? Or is there some non-partisan standard or plan for how and why drop boxes should be distributed throughout the vast State? Can drop boxes be placed in the woods to capture the hunter vote? Or across the street from Christian mega-churches?

22. Since the COVID epidemic is thankfully over, what is the purpose or goal or “need” for absentee-ballot drop boxes, which might guide us in knowing what was intended by the voters and how to implement this requirement?

23. Absentee ballots are typically requested and cast by legitimate voters who will be absent from the State of Michigan or their home precinct on election day. If absentee ballots are used by those who are absent, why would they physically go to a drop box despite being absent? Again, the task is to find clues to aid in the interpretation.

24. Under new “no excuse” absentee voting rules, is this an overt attempt to permanently convert all “in-person” voters to “absentee” voters, also known as “mail-in” voters, making it impossible to provide a secure, free, fair, lawful, and transparent election in the State of Michigan? Yes or no

25. Can Michigan fulfill the requirements of the fifth revision item of Proposal 22-2 by using the vast network of mail boxes of the U.S. Postal Service, which is provided for in the U.S. Constitution, instead of unsecure dropboxes? Yes or no?

26. Given that Proposal 22-2 requires “postage for absentee applications and ballots;” did the voters likely understand that absentee ballot drop boxes means mail boxes of the U.S. Postal Service, which is established in the U.S. Constitution? Yes or no?

27. Does the requirement for “postage” in the fifth revision item mean that Michigan officials will pre-print official applications and ballots with pre-paid postage permits or that Michigan election officials must distribute postage stamps?

28. What does the sixth revision item of Proposal 22-2 that the Michigan Constitution should “Provide that only election officials may conduct post-election audits” mean? Does this guarantee a “non-transparent” election? Yes or no?

29. Notwithstanding the sixth revision item of Proposal 22-2 that the Michigan Constitution should “Provide that only election officials may conduct post-election audits” - can the news media continue to access public records including voter history and registration files and voter participation records and conduct their own audits of elections? As all of it is paid for by taxpayers, making these records “public property,” isn’t open equal access to the election records not only lawfully appropriate, but necessary to guaranteeing a secure, free, fair, lawful, and transparent election? Yes or no?

30. Does the sixth revision item of Proposal 22-2 that the Michigan Constitution should “Provide that only election officials may conduct post-

election audits” abrogate the freedom of the press and freedom of speech guaranteed by the First Amendment to the U.S. Constitution?...and create an ‘insider closed circuit’ audit condition making it easy for partisan political operatives to hide election irregularities from the citizens of Michigan? Yes or no?

31. Does the sixth revision item of Proposal 22-2 that the Michigan Constitution should “Provide that only election officials may conduct post-election audits” abrogate the existing right of citizens to access currently-public records concerning elections and impose a wall of secrecy? Yes or no?

32. Does the eighth revision item of Proposal 22-2 that the Michigan Constitution should “Allow donations to fund elections, which must be disclosed” mean that private persons or organizations, such as the 1630 Fund or numerous other partisan political groups, can bribe Michigan election officials to change election rules or procedures? Yes or no?

33. Does the eighth revision item of Proposal 22-2 that the Michigan Constitution should “Allow donations to fund elections, which must be disclosed” mean that Michigan cannot afford to pay for its own elections? Yes or no?

34. What is the purpose of donations addressed in the eighth revision item of Proposal 22-2 that the Michigan Constitution should “Allow donations to fund elections, which must be disclosed.” Why is Michigan unable to pay for its own elections without the inherent odor and conflicts of interest presented by this purported amendment?

35. Does the eighth revision item of Proposal 22-2 that the Michigan Constitution should “Allow donations to fund elections, which must be disclosed” mean that donors can impose conditions that Michigan election officials must meet as a *quid pro quo* for providing donations? Yes or no?

36. What does “disclosure” mean in the eighth revision item of Proposal 22-2 that the Michigan Constitution should “Allow donations to fund elections, which must be disclosed?” When must it be disclosed, and how?

37. Can “disclosure” in the eighth revision item of Proposal 22-2 that the Michigan Constitution should “Allow donations to fund elections, which must be disclosed” mean disclosure after the election is over? Yes or no.

38. Notwithstanding the eighth revision item of Proposal 22-2 that the Michigan Constitution should “Allow donations to fund elections, which must be disclosed” must Government officials retain full and ultimate decision-making about, and responsibility and accountability for, the use of all of the

resources and assets of Michigan's election system including any donated to any election official or agency. Yes or no?

39. Does passing the eighth revision item of Proposal 22-2 requiring that the Michigan Constitution must "Allow donations to fund elections, which must be disclosed" allow for any consequences or enforcement from "disclosure" that private donations may not be used to manipulate elections, including at the voter registration drive stage? Yes or no?

40. Does the eighth revision item of Proposal 22-2 that the Michigan Constitution should "Allow donations to fund elections, which must be disclosed" mean that Michigan election officials can take donations from the National Rifle Association to go to gun shows and conduct official voter registration drives among gun enthusiasts? Yes or no?

41. What does it mean in the ninth revision item of Proposal 22-2 that the Michigan Constitution should "Require canvass boards [to] certify election results based only on the official records of votes cast?" What are canvassing boards using now? Are canvassing boards using unofficial records now? Are canvassers using something other than votes cast to certify election results? In other words, the eighth revision item is not a change from current law. Therefore, the eighth revision item means nothing. Yes or no?

42. Does the ninth revision item of Proposal 22-2 that the Michigan Constitution should "Require canvass boards [to] certify election results based only on the official records of votes cast?" *abrogate* Article IV, Section 16, of the Michigan State Constitution which makes the legislature the judge of its elections, and in conflict with Article II, Section 1, of the U.S. Constitution which makes the legislature the authority to set rules for Presidential elections through the Electoral College? Yes or no?

43. How is "Require canvass boards certify election results based only on the official records of votes cast" any different from what canvassing boards are doing now? Can we interpret a change from current law and practice if we can't tell the difference between what is proposed versus what is already being done? Does the ninth revision item mean anything at all?

X. ONLY LEGAL U.S. CITIZENS MAY VOTE IN MICHIGAN ELECTIONS

81. Advocates of these constitutional revisions are taking it even further in a progression, by also pushing for legislation that would allow illegal aliens who are not legal citizens of this country (but citizens of their own country) to obtain a State ID in the form of a

Driver's License, and to register to vote and vote in Michigan's elections.⁷

These attempts to encourage non-citizens to vote, or open the door to later expansion are pre-empted by Federal law. 18 U.S. Code § 611 - Voting by aliens – "(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector;"

82. These attempts to encourage non-citizens to vote or open the door to later expansion are pre-empted by Federal law.

18 U.S. Code § 611 - Voting by aliens –

"(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector;"

* * *

83. The Secretary of State's instructions to all election officials, the "Election Officials' Manual" dated February 2019, attached as Exhibit A, recites that the Federal "**HELP AMERICA VOTE ACT**" "Required addition of citizenship and age questions to voter registration form." See 42 U.S.C. 1973i

(b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.—

* * *

(4) CONTENTS OF MAIL-IN REGISTRATION FORM.— (A) IN GENERAL.—The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following: (i) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

XI. CORRECT INTERPRETATION OF 8th POINT OF AMENDMENT PROPOSAL

84. If a donation to the election system could be targeted to be spent only on certain activities or only in certain places, this would amount to the government making government

⁷ David Jaroslav, "Michigan Introduces Driver's License Bill For Illegal Aliens Again," Federation for American Immigration Reform, May 21, 2021, <https://www.fairus.org/legislation/state-immigration-legislation-policies/illegal-immigration/michigan-introduces-drivers>

decisions or operations policies as a *quid pro quo* for receiving the donation. The donation becomes an illegal bribe, to the extent that it changes government rules or functions affecting voters generally in the County or region in exchange for paying money.

85. Michigan State Law provides that:

750.118 Public officer; accepting bribe.

Sec. 118. Public officer accepting bribe—

Any executive, legislative or judicial officer who shall corruptly accept any gift or gratuity, or any promise to make any gift, or to do any act beneficial to such officer, under an agreement, or with an understanding that his vote, opinion or judgment shall be given in any particular manner, or upon a particular side of any question, cause or proceeding, which is or may be by law brought before him in his official capacity, or that in such capacity, he shall make any particular nomination or appointment, shall forfeit his office, and be forever disqualified to hold any public office, trust or appointment under the constitution or laws of this state, and shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars

86. Therefore, this Court should now decide this Petition by construing if the 22-2 proposal is consistent with standing Michigan criminal law. An interpretation that would allow a criminal act should be rejected as an incorrect interpretation, including as obviously not what the voters had in mind or intended.

87. If Michigan *does not “need”* donations to run its elections, then what is the purpose of the donations? The purpose can easily be interpreted as an overt attempt to manipulate the elections to alter the winners of a legitimate election contest, to suit the preferences of the partisan donor.

XII. GOVERNING LAW: CONSTITUTIONAL PROVISIONS

88. The Constitution of the State of Michigan of 1963 (as amended from time to time) – as of the year 2021 (i.e., before the alleged amendment at issue) -- begins with the foundational right that:

Article I § 1 Political power.

Sec. 1.

All political power is inherent in the people, meaning the legal citizen eligible voters. Government is instituted for their equal benefit, security, and protection.

89. The current Constitution of the State of Michigan of 1963 (as amended from time to time) begins with the following paragraph (a) --

Article II § 4 Place and manner of elections.

Sec. 4.

Sec. 4. (1) Every citizen of the United States who is an elector qualified to vote in Michigan shall have the following rights:

(a) The fundamental right to vote, including but not limited to the right, once registered, to vote a secret ballot in all elections. No person shall: (1) enact or use any law, rule, regulation, qualification, prerequisite, standard, practice, or procedure; (2) engage in any harassing, threatening, or intimidating conduct; or (3) use any means whatsoever, any of which has the intent or effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.

Any Michigan citizen or citizens shall have standing to bring an action for declaratory, injunctive, and/or monetary relief to enforce the rights created by this part (a) of subsection (4)(1) on behalf of themselves. Those actions shall be brought in the circuit court for the county in which a plaintiff resides. If a plaintiff prevails in whole or in part, the court shall award reasonable attorneys' fees, costs, and disbursements.

For purposes of this part (a) of subsection (4)(1), "person" means an individual, association, corporation, joint stock company, labor organization, legal representative, mutual company, partnership, unincorporated organization, the state or a political subdivision of the state or an agency of the state, or any other legal entity, and includes an agent of a person.

* * * *

(Emphasis added.)

90. Even after the attempted amendment by the ballot initiative 22-2 held on November 8, 2022, the legislature of the State of Michigan is not merely empowered but required under the

Constitution of the State of Michigan to:

* * *

(2) Except as otherwise provided in this constitution or in the constitution or laws of the United States the legislature shall enact laws to regulate the time, place and manner of all nominations and elections, to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames. `

Constitution of Michigan of 1963 (as amended), Article II, Section 4, Subsection (2).
(*Emphasis added*).

91. Therefore, (a) the legislature is required to act, (b) it is the law mandated by the Michigan Constitution, and (c) every law must be either interpreted consistently with the Michigan Constitution or else be struck down as unconstitutional, that:

- A. The laws of Michigan must “preserve the purity of elections.”
- B. The laws of Michigan must “preserve the secrecy of the ballot.”
- C. The laws of Michigan must “guard against abuses of the elective franchise.”

Anything to the contrary being unconstitutional in Michigan.

92. Michigan courts have noted that a legally eligible voter is entitled to have his vote counted and the defendant has a duty to maintain an accurate and secure election, free from any unlawful ballots being cast, counted, or certified. *Bailey v. Antrim County*, 341 Mich. App. 411 (2022).

93. Furthermore, the Court must examine the purpose and intent of a statute especially when its exact meaning is a difficulty:

“In interpreting constitutional provisions, the primary duty of the judiciary "is to ascertain the purpose and intent as expressed in the constitutional ... provision in question." *Adair v. Michigan*, 486 Mich. 468, 477, 785 N.W.2d 119 (2010) (quotation marks and citation omitted). In doing so, "we are mindful that the interpretation given the provision should be the sense most obvious to the common

understanding and one that reasonable minds, the great mass of the people themselves, would give it." *Id.* (quotation marks and citations omitted). "When the language of a constitutional provision is unambiguous, resort to extrinsic evidence is prohibited...." *Nat'l Pride at Work, Inc. v. Governor*, 481 Mich. 56, 80, 748 N.W.2d 524 (2008)."

Bailey v. Antrim Cnty., 341 Mich.App. 411, 420-421, 990 N.W.2d 372 (Mich. App. 2022).

And:

"The primary goal of statutory interpretation is to give effect to the intent of the Legislature. If the language of a statute is clear and unambiguous, the statute must be enforced as written and no further judicial construction is permitted." *Mich. Head & Spine Institute, PC v. Mich. Assigned Claims Plan*, 331 Mich.App. 262, 272, 951 N.W.2d 731 (2020) (quotation marks and citations omitted).

Id.

94. Petitioners further argue that the Court should consider by analogy the “rule of lenity” with regard to the abrogation of fundamental civil and constitutional rights of Michiganders. If there is a close call or ambiguous analysis, this Court must rule against the weakening or dilution of the civil rights and civil liberties of actual legal Michigan voters.

95. 18 U.S. Code § 241 - Conspiracy against rights prohibits a "conspiracy to deprive lawful voters of Michigan" of their rights pertaining to all civil rights, including the right to vote as a fundamental form of democratic systems of self-governance under the guarantee of a “Republican form of government” in the U.S. Constitution, establishing the Constitutions of a State and the Federal Government as the “Supreme Law of the Land.”

96. Diluting the votes of genuine Michigan citizens by allowing activists from out of state through “identity theft” to masquerade as some of Michigan’s genuine voters or allowing anyone to vote multiple times by “identity theft”—and doing so foreseeably, knowingly and/or intentionally -- harms the civil rights and liberties of all actual legitimate Michigan voters.

97. All recent legislative changes or revisions and/or changes to procedures, policies, and rules, taken by the Michigan State Government will directly and negatively affect the

legitimacy of elections, and undermine the Electoral College via fraudulent redistricting by the use of exploding "illegal alien" populations.

98. Further, "interstate compacts " are prohibited by the U.S. Constitution without Congressional consent, but Jocelyn Benson has publicly admitted and even openly celebrated entering into a compact and conspiracy to deprive voters of their rights with at least five other states, all of which happen to be “swing states.”

99. What is the purpose of the Secretary of State of Michigan interfering in the voting rights and outcomes of elections in other States? Clearly, Secretary Benson is violating her duties and abusing her limited election system authorities to interfere with the outcome of national elections, as well as other State elections.

100. The job of Secretary of State (as it pertains to elections) is to be a neutral supervisor and arbiter operating the election system for the benefit of all legal Michigan voters equally, not to manipulate the outcome of elections into her preferred result.

101. Secretary Benson has also acted as “lobbyist” in the Michigan legislature which is at odds with her actual role as an honest broker and neutral supervisor of Michigan elections.

102. The Constitution of the State of Michigan of 1963 (as amended from time to time) – as of the year 2021 (i.e., before the alleged amendment at issue) -- begins with the foundational right that:

Article II § 3 Presidential electors; residence.

Sec. 3.

For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall

not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

103. Note that the foregoing 2021 version of the Michigan Constitution includes changes made in 2018/2019 in 2018 Proposal 3, which were also defective and invalid for the same reasons as Proposal 22-2 in 2022. However, Petitioners take one step at a time and note that the alleged changes from Proposal 22-2 have never been put into practice in an actual election and therefore an injunction to preserve the *status quo ante* is easier and more compelling.

104. The Constitution of the State of Michigan of 1963 (as amended from time to time) – as of the year 2021 (i.e., before the alleged amendment at issue) -- begins with the foundational right that:

Article IV § 16 Legislature; officers, rules of procedure, expulsion of members.

Sec. 16.

... Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member.

...

105. The Constitution of the State of Michigan of 1963 (as amended from time to time) – as of the year 2021 (i.e., before the alleged amendment at issue) -- begins with the foundational right that:

Article II § 4 Place and manner of elections.

Sec. 4.

(1) Every citizen of the United States who is an elector qualified to vote in Michigan shall have the following rights:

(a) The right, once registered, to vote a secret ballot in all elections.

(b) The right, if serving in the military or living overseas, to have an absent voter ballot sent to them at least forty-five (45) days before an election upon application.

(c) The right, once registered, to a "straight party" vote option on partisan general election ballots. In partisan elections, the ballot shall include a position at the top of the ballot by which the voter may, by a single selection, record a straight party ticket vote for all the candidates of one (1) party. The voter may vote a split or mixed ticket.

(d) The right to be automatically registered to vote as a result of conducting business with the secretary of state regarding a driver's license or personal identification card, unless the person declines such registration.⁸

(e) The right to register to vote for an election by mailing a completed voter registration application on or before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications.

(f) The right to register to vote for an election by (1) appearing in person and submitting a completed voter registration application on or before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications, or (2) beginning on the fourteenth (14th) day before that election and continuing through the day of that election, appearing in person, submitting a completed voter registration application and providing proof of residency to an election official responsible for maintaining custody of the registration file where the person resides, or their deputies. ***Persons registered in accordance with subsection (1)(f) shall be immediately eligible to receive a regular or absent voter ballot.***⁹

(g) The right, once registered, to vote an absent voter ballot without giving a reason, during the forty (40) days before an election, and the right to choose whether the absent voter ballot is applied for, received and submitted in person or by mail. During that time, election officials authorized to issue absent voter ballots shall be available in at least one (1) location to issue and receive absent voter ballots during the election officials' regularly scheduled business hours and for at least eight (8) hours during

⁸ This is a "revision" of the Constitution, prohibited with regards to a voter initiative amendment procedure, not an amendment -- under the test set by the Supreme Court of Michigan. That test does not require that a change address all or most of the Constitution. But it is a fundamental change of the structural nature and substance of the Constitution. Pushing otherwise-disinterested voters to register generates a pool for election fraud of registered voters who were not seeking to register on their own and are unlikely to vote, thereby allowing fraudulent activists to hijack their vote, commit identity theft, and vote in their name, undetected.

⁹ Ditto. Emphasis added to identify the revision, not amendment.

the Saturday and/or Sunday immediately prior to the election. Those election officials shall have the authority to make absent voter ballots available for voting in person at additional times and places beyond what is required herein.¹⁰

(h) The right to have the results of statewide elections audited, in such a manner as prescribed by law, to ensure the accuracy and integrity of elections.

All rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes. Nothing contained in this subsection shall prevent the legislature from expanding voters' rights beyond what is provided herein. This subsection and any portion hereof shall be severable. If any portion of this subsection is held invalid or unenforceable as to any person or circumstance, that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this subsection.

(2) Except as otherwise provided in this constitution or in the constitution or laws of the United States the legislature shall enact laws to regulate the time, place and manner of all nominations and elections, to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

106. The Constitution of the State of Michigan of 1963 (as amended from time to time)

– as of the year 2021 (i.e., before the alleged amendment at issue) -- begins with the foundational

right that:

Article II § 5 Time of elections.

Sec. 5.

¹⁰ Eliminating proof that the person “mailing it in” as an absentee or mail-in ballot is actually the genuine voter in whose name the person is voting – not identity theft – such as a Notary Public’s confirmation of identity or at a minimum the weak alternative of attaching a photocopy of a government-issued identification card, and allowing non-citizens to cast ballots in the name of actual, real voters by identity theft, is a prohibited revision not an amendment by fundamentally changing the substance and nature of voting, on which all of State government stands.

Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

107. Even in the current, as amended Constitution of Michigan, it provides in Article II, Section 4, paragraph (1) [Following but not part of subparagraph (m)] that:

* * *

All rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes. Nothing contained in this subsection shall prevent the legislature from expanding voters' rights beyond what is provided herein. This subsection and any portion hereof shall be severable. If any portion of this subsection is held invalid or unenforceable as to any person or circumstance, that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this subsection.

* * *

108. However, here, unlike most legislation, the touchstone of “to effectuate its purposes” runs afoul of the lack of any indication of “its purposes” other than to facilitate and promote election fraud, voter fraud, and election-related identity theft.

109. In order that Article II, Section 4, “be liberally construed in favor of voters' rights in order to effectuate its purposes,” we have to know what those purposes are. Is the purpose of Proposal 22-2 to make it more efficient for legally eligible voters to participate in elections, or make it easier for non-citizens or otherwise ineligible voter ballots to be cast, counted, and certified, when only officials involved in election procedures are exclusively authorized to audit themselves?

110. This is not discretionary. For better or worse, whether the result is the opposite of what advocates wanted or not, the Court must construe the provisions in line with its purposes.

111. But we do not know the true or necessary purposes of Proposal 22-2. Does the Court?

112. The only indications we have are that (1) Preventing the spread of COVID-19 was the purpose for these same provisions implemented earlier, then without authorization, but now that the threat of COVID-19 is gone, they still want those same revisions anyway. So, the purposes asserted are pretextual and disingenuous, not to be believed. (2) All the offered revisions go in one direction, to facilitate more election fraud. The uniformity of the effect of these amendments reveals the purpose and intent as being in conflict with the Constitutional requirement of secure, accurate, free, fair, lawful, and transparent elections.

113. the only “purpose” we have to go on is --

* * *

(2) Except as otherwise provided in this constitution or in the constitution or laws of the United States the legislature shall enact laws to regulate the time, place and manner of all nominations and elections, to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Constitution of Michigan of 1963 (as amended), Article II, Section 4, Subsection (2).
(*Emphasis added*).

CAUSES OF ACTION

FIRST CAUSE OF ACTION (*Declaratory Judgment*)

114. Petitioners repeat and re-allege all of the previous allegations of the entirety of this Complaint, including in other causes of action, and incorporate them herein in support of this count with the same force and affect, as if fully set forth herein again at length.

115. Petitioners as stated above are lawful residents and legally eligible voters of the State of Michigan and others with standing whose election-related actions are unconstitutionally revised by the terms of Proposal 22-2.

116. There is an actual controversy which may rise to the level of a “constitutional crisis” because the Petitioners will be governed by recent revisions to Michigan election law which they contend cannot be validly implemented in Michigan, or any other State.

117. There is an actual controversy because the Petitioners contend that the purported amendments presented to the voters on November 8, 2022, are too vague and ambiguous and/or expressing undefined, poorly-defined, or fuzzy terms incapable of guiding and determining the rights and obligations of the voters and the election officials running elections, including as being unworkable and unclear, at least without clarification by this Court.

118. There is an actual controversy because the Petitioners contend that what the private parties and voters lobbying for Proposal 22-2 purportedly approved will change their rights and obligations. But the Petitioners contend that the alterations to election law and policy in Michigan have not been validly approved to amend the State Constitution.

119. There is an actual controversy because the Petitioners contend that what the Michigan State legislature passed to implement new election laws subsequent to the purported amendments is not tethered to what the voters supposedly approved, and yet the Petitioners will be governed immediately by those allegedly unauthorized laws, absent any form of “informed consent” of the good people of Michigan.

120. There is a present controversy because voters on November 8, 2022, allegedly approved Proposal 22-2 for the purpose of amending the Michigan State Constitution, without knowing what the nine different amendments were or meant, or what the real purpose of the proposal was, or what has been passed by the Legislature since, all following the order of this Court to place Proposal 22-2 on the 2022 ballot, on the basis of very limited procedural challenges alone.

121. The election nominally occurring on November 5, 2024, (but with ever expanding early voting and mail-in voting spreading out the time of the election from a single date to a season) will be the first general election governed by the purported revisions in Proposal 22-2.

122. The revisions proposed and purportedly approved by the voters, absent the voters “informed consent,” will affect the Petitioners in this next upcoming general election and in all future elections.

123. The controversy is ripe and must be heard, adjudicated and expedited because it is May 2024, and the general election is in November 2024, and significant and substantial preparation, organizing, and planning is required prior to election day on November 5, 2024, that will be affected by Proposal 22-2 constitutional revisions and subsequent new election laws if allowed to stand, putting in question the States lawful ability to legally “certify” any election results in 2024, creating a “constitutional crisis” which Petitioners are hereby attempting to avoid.

124. Indeed, various officials of Michigan and its Counties must now be expending additional funds and effort more than they otherwise would ahead of the election to redesign elections according to Proposal 22-2, including to figure out what these revisions mean, or how to even implement them, while at the same time, protecting the rights of all legal Michigan voters to a secure, free, fair, lawful, and transparent election process.

125. The Michigan State legislature has enacted revisions to Michigan law based upon the proposals of Proposal 22-2, which Petitioners contend are in many respects, untethered from what the voters allegedly approved and not valid legislation to implement Proposal 22-2. Even if properly tethered, Petitioners contend that the implementation of these revisions to Michigan Election Laws will result in an unlawful and unconstitutional election process, which cannot be certified by the State or Congress, as it pertains to Presidential Electors specifically.

126. The Proposal 22-2 as presented to the voters claimed that the following articles and sections of the State Constitution would be amended to include the proposed language: Article II, Sections 4, 6, and 7; Article IV, Sections 1 and 16; Article V, Sections 1 and 13; Article VI, Sections 1, 2, 8, 23, and 26; Article VII, Sections 3, 10, 18, 22, and 28; Article VIII, Sections 3 and 5; and Article IX, Section 6.

127. The controversy is justiciable because it involves familiar and routine interpretation and construction of the proposals placed before the voters and their effect as putative amendments to the Constitution of the State of Michigan.

128. In addition to the individual issue declaratory judgments requested herein, the Petitioners request that this Court issue a general declaratory judgment declaring that Proposal 22-2 was not valid and did not validly amend the Michigan State Constitution because it combined nine (9) amendments into a single amendment.

129. This would appear to require this Court to over-turn its 2022 decision either as arising under a different legal regime there than here (the simple requirements for a ballot initiative to be placed on the ballot) and/or unfortunately mistaken. Or perhaps the question was not clearly before the Court or the litigants there “got the right answer to the wrong question” in terms of what this Court was asked in limited scope, in 2022.

130. But Proposal 22-2 is clearly invalid because it is nine (9) different voter proposals rolled into one, pretending to be a single voter-initiated constitutional amendment. (Petitioners do not lack sympathy for the difficulty of gathering signatures and filing a legal package for 9 different amendments as opposed to 1 inseverable proposal. But the confusion created is not permissible and in many ways trying to explain, manage, and defend a 9-in-1 amendment is also more work, that is avoidable work, in certain respects compared to handling each separately.)

131. The Petitioners request that this Court issue a declaratory judgment declaring that Proposal 22-2 was not valid and did not validly amend the Michigan State Constitution.

132. The Petitioners request that this Court issue a declaratory judgment declaring the meaning of the proposed revisions in Proposal 22-2 invalid because the descriptions and summaries of the proposed revisions were entirely inadequate.

133. The Petitioners request that this Court issue a declaratory judgment declaring what each of the nine (9) individual proposed revisions in Proposal 22-2 actually mean – if anything – and declare the rights and obligations of the parties, and the requirements of each Respondent for holding legitimate elections in Michigan.

134. The Petitioners request that this Court issue a declaratory judgment as to whether the nine different proposals in one single proposal and ballot initiative are severable.

135. The Petitioners request that this Court issue a declaratory judgment as to whether all nine proposals in Proposal 22-2 are invalid and void as being non-severable from any which are invalid and void as unworkably void or otherwise.

SECOND CAUSE OF ACTION
(Request for Preliminary Injunction)

136. Petitioners repeat and re-allege all of the previous allegations of the entirety of this Complaint, including in other causes of action, and incorporate them herein in support of this count with the same force and affect, as if fully set forth herein again at length.

137. Petitioners move the Court to issue a Preliminary Injunction to preserve the *status quo ante* prior to the purported amendments allegedly approved on November 8, 2022, by Proposal 22-2, while considering this and any similar disputes about the status and meaning of revised Michigan election law.

138. That law was the *status quo ante* of the election laws of Michigan and therefore there is no prejudice or harm possible to the Respondents, the Michigan government, Michigan voters, or society, if Michigan laws existing prior to Proposal 22-2 are simply reinstated.

139. The only possible grounds of prejudice were claims that a COVID-19 pandemic might affect in-person voting, but that epidemic no longer exists as of this writing.

140. The amendments proposed that were allegedly approved on November 8, 2022, by Proposal 22-2 could harm the voters of Michigan including by confusion, “bad” (confused) implementation among various election officials across the large State of Michigan, increased opportunities for electoral fraud and voter fraud, etc., if the interpretation is done wrong.

141. It is in the public interest to ensure accuracy and confidence of the State’s elections and to have correct interpretations of the amendments.

142. To go through an election with unclear new rules and then later change those rules would likely create chaos, permanent distrust, and further confusion. It is better to get the construction right before running an election under Proposal 22-2.

143. These changes have never been applied in any election in Michigan. The changes were placed on the November 8, 2022, ballot seeking voter approval. Therefore, the status quo is the prior state of the law.

144. Michigan voters were intentionally or unintentionally misled and told to believe that these revisions were needed to separate the election processes from the spread of COVID-19 in 2020 and 2022. The Michigan Supreme Court subsequently ruled 7-0 on October 3, 2020, that the Governor did not have any such “COVID emergency” authority after April 28, 2020, that her “COVID related orders” after that date were both “unlawful and unconstitutional,” which should

include any power to depart from then-existing elections law under a claim of emergency.¹¹ But now the COVID-19 pandemic is over.

145. The excuse of COVID-19 was pretextual and made in bad faith. A history of election fraud dating from Tammany Hall politics to the widespread incidents and allegations of voter fraud (including counting fake votes of dead persons) that rocked the 1960 presidential election between John F. Kennedy and Richard Nixon have not curbed the appetite of those who want to make it easier to cheat in U.S. elections. The public interest is best served by maintaining the *status quo ante* during this action.

146. Preserving the *status quo ante* by a preliminary injunction while the Court resolves these issues does not prejudice the Respondents, the Government, the Voters, or the public interest, because;

- (a) the pre-2022 election rules were not flawed and could be applied this November in 2024 again,
- (b) any desire to improve upon the election rules is based on illusory goals offered in bad faith as necessary during the COVID pandemic, but now private initiative organizations want those revisions regardless of their supposed justification and reason for existing.
- (c) Therefore, the desire to continue COVID rules in the absence of COVID (no

¹¹ Beth LeBlanc, Craig Mauger, Melissa Nann Burke, “High court strikes down Whitmer's emergency powers; gov vows to use other means,” October 2, 2020, <https://www.detroitnews.com/story/news/local/michigan/2020/10/02/michigan-supreme-court-strikes-down-gretchen-whitmers-emergency-powers/5863340002/> (“Lansing — In a landmark ruling with far-reaching implications, the Michigan Supreme Court decided Friday that Gov. Gretchen Whitmer violated her constitutional authority by continuing to issue orders to combat COVID-19 without the approval of state lawmakers. The state's high court ruled 4-3 that a state law allowing the governor to declare emergencies and keep them in place without legislative input — the 1945 Emergency Powers of the Governor Act — is unconstitutional.”)

longer epidemic nor original strength) is simply a wish of preferred partisan policy and not a necessity.

(d) All of the proposed revisions are united in one direction of removing safeguards for accurate elections and expanding the opportunities for election fraud.

(e) The result of these attempted revisions to the State Constitution and alterations to State election laws constitute a clear “deprivation of rights under color of law” impacting all legal Michigan voters.

THIRD CAUSE OF ACTION
(Request for Permanent Injunction)

147. Petitioners repeat and re-allege all of the previous allegations of the entirety of this Complaint, including in other causes of action, and incorporate them herein in support of this count with the same force and affect, as if fully set forth herein again at length.

148. For the same reasons set forth in the First and Second Causes of Action, the Petitioners request that the Court issue a permanent injunction ordering what the proper construction of the items in Proposal 22-2 is and restraining the application or implementation by election officials of anything not properly and constitutionally approved by the voters by that wholly inadequate ballot initiative.

FOURTH CAUSE OF ACTION
(Request for Writ of Mandamus)

149. Petitioners repeat and re-allege all of the previous allegations of the entirety of this Complaint, including in other causes of action, and incorporate them herein in support of this count with the same force and affect, as if fully set forth herein again at length.

150. Some limited aspects of this Proposal 22-2 to amend the Michigan constitution was previously considered in terms of a Writ of Mandamus that was issued by this Court in September

2022.

151. Therefore, Petitioners believe that the Court may need to consider further questions on this matter also through a continuation of that Writ of Mandamus.

152. Petitioners request an order or Writ of Mandamus to the Respondents to continue to apply the election laws, regulations, policies, practices, and rules for the lawful conduct of elections in Michigan as they existed prior to the 2022 election cycle.

153. Indeed, Petitioners are not aware of any problems with the pre-November 2022 Michigan election laws that required or requires any reform or revision, but rather instead, will require strict adherence and execution by all election officials.

154. Michigan elections were working just fine with the exception of a departure from legal election procedures in 2020 and 2022, allegedly due to an artificially-enhanced retrovirus COVID19 “pandemic.” The Court already ruled against the State in October of 2020, declaring Governor Whitmer’s COVID orders both “unlawful and unconstitutional” by a 7-0 decision, retroactive to April 28, 2020.

155. Unless we consider ulterior motives not apparent on its face, Proposal 22-2 appears to be a solution in search of a problem. The motivations appear to be entirely philosophical, political, partisan, and/or ideological, not practical difficulties with previous Michigan election laws.

156. Therefore, ordering that the election system in place prior to September 2022 continue would not imply any problem or difficulty.

157. On the contrary, the changes proposed by Proposal 22-2 – especially to the extent that their meaning is not clear – can cause considerable harm and/or confusion, as well as growing citizen distrust for the entire election process.

158. The Petitioners have no adequate remedy at law unless this Court can properly construe Proposal 22-2 well in advance of the 2024 election. An election for public officials, including for each presidential term, is a one-time event with dramatic and often tangible and often unintended real-world consequences of how the nation will be managed and defended. There is no compensation or remedy possible after the fact that can provide complete redress. The disruption of the 2024 election cannot be remedied after the fact.

159. Without an order to the Respondents to continue with the election system prior to September 2022, the election will be altered in unclear and irreparable ways.

XIII. PRAYER FOR RELIEF

In conclusion, we ask the court to declare that all or some of the issues raised in this case create a condition in which it is literally impossible for the State of Michigan to guarantee the lawful voters of Michigan, secure, free, fair, lawful, and transparent elections under the new terms of conditions they have granted themselves via an unconstitutional amendment to the State Constitution, and all subsequent new election laws rushed through the legislature under the new powers granted themselves via the 2022-2 Constitutional Amendment effort. In fact, not only has their actions made it impossible to make such a claim or guarantee to the lawful voters of Michigan, their revisions to the State Constitution and subsequent elections laws have made it absolutely certain that the 2024 elections and beyond, will not be secure, free, fair, lawful, or transparent.

Dated: July 9, 2024

Respectfully submitted,

EXHIBITS ATTACHED

- 1) DEPARTMENT OF STATE BUREAU OF ELECTIONS (Draft Rule Revisions)
- 2) CITIZENS PROTECTING MICHIGAN'S CONSTITUTION v SECRETARY OF STATE
- 3) REQUEST FOR RULEMAKING (RFR)
- 4) ELECTION BALLOT INITIATIVE FUNDING
- 5) PROMOTE THE VOTE ONE PAGE PROMO
- 6) SECRETARY BENSON PETITION FOR AMENDMENT PROPOSAL
- 7) RNC v MICHIGAN RULING 06/12/24
- 8) MICHIGAN ELECTION SECURITY COMMISSION REPORT
- 9) MICHIGAN SENATE REPORT ON COST OF IMPLEMENTATION

ELECTRONIC EXHIBITS

- 1) Michigan Secretary of State Jocelyn Benson interview discussing her unlawful election interference in Michigan, Arizona, Nevada, Wisconsin, Georgia, and Pennsylvania.
(VIDEO)
https://www.realclearpolitics.com/video/2024/03/06/michigan_secretary_of_state_coordinating_with_battleground_states_coordinating_against_common_adversary.html
- 2) Michigan Appeals Court rules that secretary of state improperly set limits for poll challengers. <https://www.votebeat.org/2023/10/25/jocelyn-benson-poll-challenger-rules-republicans-lawsuit/>
- 3) Michigan judge rejects Benson's guidance on absentee ballot signatures.
<https://michiganadvance.com/2024/06/14/michigan-judge-rejects-bensons-guidance-on-absentee-ballot-signatures/>