

STATE OF MICHIGAN
SIXTH JUDICIAL CIRCUIT COURT
OAKLAND COUNTY

DEBORAH BABB, DETROIT DISABILITY
POWER, MICHIGAN ALLIANCE FOR
RETIRED AMERICANS, MICHIGAN
CLERGY CONNECTS and PRIORITIES
USA,

No. 2023-202028-CZ

HON. MARTHA D. ANDERSON

Plaintiffs,

v

DANA NESSEL, in her official capacity as
Michigan Attorney General; and KAREN
MCDONALD, in her official capacity as
Oakland County Prosecutor,

Defendants.

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NOTICE OF TRANSFER

To: Clerk of the Oakland County Circuit Court
Clerk of the Court of Claims

PLEASE TAKE NOTICE, pursuant to MCL 600.6404(3) and MCR 2.228, this action is transferred to the Court of Claims. This transfer is effective immediately.

The reasons for the appropriate transfer of this action include, but are not limited to the following:

1. MCL 600.6404(3) provides, in pertinent part, that “any matter within the jurisdiction of the court of claims described in section 6419(1) pending or later filed in any court must, upon notice of the state or a department or officer of the state, be transferred to the court of claims.”

2. The Court of Claims has exclusive jurisdiction “[t]o hear and determine any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ against the state or any of its departments or officers notwithstanding another law that confers jurisdiction of the case in the circuit court.” MCL 600.6419(1)(a).

3. The Court of Claims has exclusive jurisdiction over any claim against Defendant Attorney General Dana Nessel as she is covered under MCL 600.6419(1) and (7).

4. Defendant Nessel is “the state or any of its departments or officers” as that term is defined by MCL 600.6419(7).

5. Plaintiffs seek declaratory, injunctive, and monetary relief against Defendant Nessel, placing Plaintiffs’ claims within the exclusive jurisdiction of the Court of Claims. (Ex. A, Complaint.)

6. There are no related actions pending in the Court of Claims.

7. Defendant Nessel was served with the Oakland County Circuit Court Complaint by certified mail on August 18, 2023, making the first responsive pleading due on September 15, 2023.

8. This transfer disposes of all claims in the Circuit Court case involving Defendant Nessel, although similar claims remain pending against Defendant Oakland County Prosecutor Karen McDonald.

Respectfully submitted,

/s/Heather S. Meingast

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Dana Nessel

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Dated: September 13, 2023

PROOF OF SERVICE

Heather S. Meingast certifies that on September 13, 2023, she served a copy of the above document in this matter on all counsel of record and parties *in pro per* via MiFILE.

/s/Heather S. Meingast

Heather S. Meingast

EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM

STATE OF MICHIGAN SIXTH JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY	SUMMONS	CASE NO. 2023-202028-CZ Judge Martha D. Anderson
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Court address 1200 N. Telegraph, Pontiac, MI 48341	Court telephone no. 248-858-0344
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Plaintiff's name, address, and telephone no.
Deborah Babb; Detroit Disability Power; Michigan Alliance for Retired Americans; Michigan Clergy Connects; and Priorities USA

Defendant's name, address, and telephone no.
Dana Nessel, in her official capacity as Attorney General
Department of Attorney General
P.O. Box 30212
Lansing, MI 48909

v

This case has been designated as an eFiling case, for more information please visit www.oakgov.com/efiling.

Plaintiff's attorney, bar no., address, and telephone no.
Sarah S. Prescott (P70510)
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Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (MC 21) listing those cases.
- It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.1061a.
- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in this court, _____ Court, where

it was given case number _____ and assigned to Judge _____

The action remains is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside of Michigan).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date 8/15/2023	Expiration date* 11/14/2023	Court clerk Lisa Brown
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*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

FILED Received for Filing Oakland County Clerk 8/15/2023 1:11 PM

Document received by the MI Court of Claims
Document Submitted for Filing to MI Oakland County 6th Circuit Court.

PROOF OF SERVICE

TO PROCESS SERVER: You must serve the summons and complaint and file proof of service with the court clerk before the expiration date on the summons. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE OF SERVICE / NONSERVICE

I served personally by registered or certified mail, return receipt requested, and delivery restricted to the addressee (copy of return receipt attached) a copy of the summons and the complaint, together with the attachments listed below, on:

I have attempted to serve a copy of the summons and complaint, together with the attachments listed below, and have been unable to complete service on:

Name	Date and time of service
Place or address of service	
Attachments (if any)	

I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.

I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature

Name (type or print)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of a copy of the summons and complaint, together with

Attachments (if any) on _____
Date and time

Signature on behalf of _____

Name (type or print)

STATE OF MICHIGAN
IN THE SIXTH CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DEBORAH BABB; DETROIT DISABILITY
POWER; MICHIGAN ALLIANCE FOR
RETIRED AMERICANS; MICHIGAN
CLERGY CONNECTS; and PRIORITIES
USA,

Case No. 2023-202028-CZ

Plaintiffs,

JUDGE MARTHA D. ANDERSON

v.

DANA NESSEL, in her official capacity as
Michigan Attorney General; and KAREN
McDONALD, in her official capacity as
Oakland County Prosecutor,

Defendants.

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the Complaint.

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs DEBORAH BABB, DETROIT DISABILITY POWER, MICHIGAN ALLIANCE FOR RETIRED AMERICANS, MICHIGAN CLERGY CONNECTS, and PRIORITIES USA (collectively, "Plaintiffs"), file this Verified Complaint for Declaratory and Injunctive Relief against Defendants DANA NESSEL, in her official capacity as the Michigan Attorney General, and KAREN McDONALD, in her official capacity as Oakland County Prosecutor, and allege as follows:

NATURE OF THE CASE

1. Last November, by a landslide vote, the people of Michigan approved an amendment that, for the first time in the state's history, expressly enshrined the "fundamental right to vote" in the Michigan Constitution. In order to put the right to vote on equal footing with other fundamental rights, the amendment prohibits any law, rule, regulation, or other practice or

procedure that “has the intent or effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.” Const 1963, art 2, § 4(1)(a).

2. Plaintiffs in this case aim to vindicate the Michigan Constitution’s guarantee of the fundamental right to vote by challenging a law that not only unreasonably burdens the right to vote of many, but outright denies access to the franchise to some of Michigan’s most vulnerable citizens.

3. The challenged law makes it a misdemeanor to “hire a motor vehicle” to transport voters to the polls unless those voters are “physically unable to walk.” MCL 168.931(1)(f) (the “Voter Transportation Ban”).

4. The Voter Transportation Ban is an extreme outlier—no other state has an equivalent prohibition.

5. The Voter Transportation Ban makes voting even more difficult for people for whom voting is already challenging—among them, Plaintiff Deborah Babb, who was unable to vote in the 2022 general election because she cannot drive herself to the polls and was otherwise unable to find a ride. Other burdened voters include seniors, voters with disabilities, young voters, and low-income voters, all of whom lack access to private transportation at greater rates than the average Michigander.

6. The Voter Transportation Ban also interferes with critical community-based mutual aid and civic efforts across Michigan. Black churches, in particular, have long relied on souls-to-the-polls initiatives, which began with churches organizing caravans after church service on the Sunday prior to election day to transport Black congregants to early voting locations. Souls-to-the-polls programs have made it possible for many Black voters to make their voices heard at the ballot box. Free rides to the polls for those who need them, along with the show of solidarity and strength

that comes with collective transportation, are key elements of souls-to-the-polls campaigns. But Michigan's Voter Transportation Ban substantially impedes such programs, both by entirely preventing churches from hiring transportation and by casting doubt on the legality of indirect financial support for such programs.

7. The Voter Transportation Ban has also deprived Michigan voters of the benefits of a recent positive development in voting-access technology. In almost every state, rideshare companies such as Uber and Lyft offer free or reduced-cost rides to the polls on election day. But because of the Voter Transportation Ban, those companies have not offered such rides in Michigan. Indeed, Uber has made explicit in prior court filings that it was not offering its rides-to-the-polls program in Michigan because of the Ban.

8. Plaintiff Priorities USA and other voter-mobilization organizations challenged the Voter Transportation Ban four years ago in federal court. Among other claims, the plaintiffs in that case alleged that the Ban was an unconstitutional burden on Plaintiffs' core political speech. Although the case was ultimately dismissed on the pleadings, *Priorities USA v Nessel*, 628 F Supp 3d 716, 737 (ED Mich, 2022), the evidence elicited in discovery made clear that the Voter Transportation Ban does not serve any compelling state interest.¹

9. Michigan law separately bans vote-buying and coercion in voting, and there has not been any widespread voter fraud or coercion in the history of the state.

10. The *only* purpose served by the Voter Transportation Ban is voter suppression. Indeed, the first version of the Voter Transportation Ban was modeled off a 19th-century British law designed to make it more difficult for the poor to vote.

¹ The present Complaint challenges the Voter Transportation Ban under a state constitutional provision that did not exist when *Priorities USA v Nessel* was litigated.

11. The Voter Transportation Ban is an unreasonable and unnecessary obstacle to voting that violates Article II, Section 4 of the state constitution.

JURISDICTION AND VENUE

12. Plaintiffs bring this action under Article II, Section 4(1)(a) of the Michigan Constitution, which provides that any action to enforce the rights it establishes “shall be brought in the circuit court for the county in which a plaintiff resides.”

13. Plaintiff Deborah Babb resides in Oakland County.

14. This Court has personal jurisdiction over Defendants, the Attorney General and the Oakland County Prosecutor, who are sued in their official capacities only.

15. This Court has the authority to enter a declaratory judgment under Article II, Section 4(1)(a); Michigan Compiled Laws Section 600.601; and Michigan Court Rule 2.605. It has authority to enter an injunction under Article II, Section 4(1)(a); Michigan Compiled Laws Section 600.601; and Michigan Court Rule 3.310.

16. All conditions precedent to the maintenance of this case and Plaintiffs’ claims have occurred, been performed, or otherwise been waived.

PARTIES

17. Plaintiff DEBORAH BABB is a 69-year-old resident of Southfield, Oakland County, Michigan. She has been registered to vote in Michigan since approximately 1971. Due to her age and limited mobility, Ms. Babb does not drive. She uses a cane to walk. Voting has always been very important to her, especially since she grew up in Detroit during the civil rights movement. And for as long as Ms. Babb can remember, she has voted in person. For decades, her usual practice was to go the polls with her whole family as soon as she got off work on election day. Although Ms. Babb voted by absentee ballot during the COVID-19 pandemic, she found the process more confusing and less personal, and she was looking forward to voting in person again

in 2022. But Ms. Babb was unable to cast her ballot in the November 2022 general election because she lacked transportation to the polls. She was relying on her daughter, who lives with her, to provide a ride, but her daughter was unable to assist her due to last-minute work obligations. Nor was there sufficient time for Ms. Babb to request an absentee ballot when she learned she did not have transportation. In future elections, Ms. Babb would prefer to vote in person. She is confident that she would have been able to vote in 2022 if community organizations like her church, unions, and political campaigns were able to fund and offer transportation to the polls for those otherwise unable to vote. The Voter Transportation Ban infringes on and unreasonably burdens Ms. Babb's fundamental right to vote by preventing her from accessing such transportation.

18. Plaintiff DETROIT DISABILITY POWER ("DDP") is a 501(c)(3) membership organization whose mission is to build the political power of the disabled community in the Detroit region. DDP organizes efforts to end disparities for people with disabilities in housing, employment, education, transportation, voting, and more. DDP's policy platform calls on the City of Detroit, Wayne County, and the State of Michigan to ensure that people with disabilities are able to access all polling locations and voting machines; to provide curbside voting and plentiful, ADA-compliant ballot drop boxes; to train poll workers in effective, disability-conscious voter engagement; and to designate voting accessibility officers. DDP is particularly focused on ensuring equal access to polling places for all. For instance, during the 2022 election, in partnership with The Carter Center, DDP conducted the largest-ever accessibility audit of polling places in metropolitan Detroit, assessing 98% of polling facilities and ultimately determining that only 16% met state and federal standards for accessibility. DDP has also received poll-ride requests from members in the past, and it has often struggled to find accessible transportation to its own events for its members.

19. DDP has around 300 members and regularly reaches another 2,000 to 3,000 supporters and constituents through its email list and events. It also provides anti-ableism training to approximately 2,000 workshop participants per year. DDP's membership includes both people with disabilities and their allies. Many DDP members have mobility disabilities or other conditions, such as blindness, that make driving difficult or impossible. Most of DDP's members and supporters reside in the metropolitan Detroit area, including in Oakland County. DDP also has members outstate in cities including Lansing, Flint, and Kalamazoo, and outside Michigan.

20. DDP brings this lawsuit both directly and on behalf of its members.

21. The Voter Transportation Ban frustrates DDP's mission. The Voter Transportation Ban interferes with individual members' right to vote and makes it more difficult for DDP and its members to associate in support of their shared policy objectives. The Voter Transportation Ban also interferes with DDP's long-term goal of achieving equal access to physical polling places for voters with disabilities by making it more difficult for voters to reach polling locations in the first place.

22. The Voter Transportation Ban also infringes upon and unreasonably burdens DDP members' fundamental right to vote. Many DDP members have disabilities that make it impossible for them to drive, but they do not fit within the law's narrow exemption for people who are "physically unable to walk." The Voter Transportation Ban prevents DDP from hiring transportation to ensure that those members are able to get to the polls.

23. The Voter Transportation Ban is a particularly serious impediment to the voting rights of DDP's blind and low-vision members. Under the Help America Vote Act ("HAVA"), at least one voting machine that is "accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired," *must* be provided at each polling place used for

a federal election. See 52 USC § 21081(a)(3)(A). Such machines allow voters, including blind and low-vision voters, to mark, cast, and verify their ballots privately and independently. *Id.* Accessible voting machines thus afford blind and low-vision voters the opportunity to vote by secret ballot, which is difficult or impossible to achieve by paper absentee ballot. As a consequence, many of DDP’s blind and low-vision members prefer to vote in person at polling places, where HAVA guarantees they will be able to do so by secret ballot using an accessible voting machine. And because many blind and low-vision voters—including DDP’s members—face substantial barriers to driving themselves to the polls but are not “physically unable to walk,” the provision of transportation is particularly important to such voters’ access to the ballot. Yet the Voter Transportation Ban prevents civic organizations like DDP or its partners, rideshare companies like Uber or Lyft, and even family members from hiring paid transportation for such voters.

24. Plaintiff MICHIGAN ALLIANCE FOR RETIRED AMERICANS (“the Alliance”), is a 501(c)(4) nonprofit social welfare organization incorporated in Michigan. It is a chartered state affiliate of the Alliance for Retired Americans, a nationwide grassroots organization with more than 4.3 million members. The Alliance’s mission is to ensure social and economic justice and full civil rights that retirees have earned after a lifetime of work, with particular emphasis on safeguarding their right to vote.

25. The Alliance has more than 200,000 members in Michigan, including retirees from 23 public and private sector unions, community organizations, and individual activists. Its membership includes many older, retired voters who often face greater barriers than others when attempting to participate in the voting process. While in-person voting can pose challenges for all voters, such obstacles are more likely to negatively impact older voters, particularly those who have disabilities.

26. The Alliance brings this lawsuit both directly and on behalf of its members.

27. The Voter Transportation Ban frustrates the Alliance's mission. The Ban interferes with individual members' right to vote, threatens the electoral prospects of Alliance-endorsed candidates whose supporters it burdens, and makes it more difficult for the Alliance and its members to associate to effectively further their shared political purposes. But for the Voter Transportation Ban, the Alliance would use its financial resources to pay drivers to provide transportation to the polls, including in Oakland County.

28. The Voter Transportation Ban infringes upon and unreasonably burdens Alliance members' fundamental right to vote. Many of the Alliance's members are elderly and either lack access to private transportation entirely or face physical or health barriers to using it. Moreover, many Alliance members have relocated within Michigan after retiring, such that they do not have strong networks of friends or family who can provide them with free rides to the polls. The Voter Transportation Ban prevents the Alliance, other community or political organizations, members' unions, and even other concerned voters from hiring transportation for such Alliance members.

29. Plaintiff MICHIGAN CLERGY CONNECTS ("MCC"), a 501(c)(3) nonprofit organization, is a predominantly Black membership organization comprising organizers, faith leaders, and community leaders around Michigan. MCC is building a statewide network of members who are working to reimagine public safety and preserve democracy. MCC organizes on behalf of communities directly impacted by gun violence, mass incarceration, and the disenfranchisement of Black and brown people. Voter registration and engagement are key components of MCC's political and organizing strategy.

30. MCC's faith leader members have direct experience organizing souls-to-the-polls efforts for their church communities, and they have historically done so without being able to offer

any compensation to their volunteer drivers or to hire buses that would allow for church members to travel to the polls in large groups. MCC's members have long strived to lower the barriers that their community members face, and the Voter Transportation Ban is an example of such a barrier because many Black and minority Michiganders do not have access to reliable transportation and need assistance getting to the polls. But for the Voter Transportation Ban, MCC's members would hire paid voter transportation to help their members travel to the polls to vote.

31. Plaintiff PRIORITIES USA is a 501(c)(4) nonprofit, voter-centric progressive advocacy and service organization. Priorities USA's mission is to build a permanent infrastructure to engage Americans by persuading and mobilizing citizens around issues and elections that affect their lives.

32. In furtherance of its mission, Priorities USA works to help educate, mobilize, and turn out voters across the country, including in Michigan. Priorities USA has made and will continue to make contributions and expenditures in the millions of dollars to educate, mobilize, and turn out voters in upcoming state and federal elections around the country. In particular, Priorities USA has committed to spending \$75 million on voter engagement efforts in six battleground states—Michigan, Arizona, Georgia, Nevada, Pennsylvania, and Wisconsin—in advance of the 2024 election. Priorities USA also gives grants to local organizations in Michigan to support projects designed to engage activists and voters in the political process.

33. The Voter Transportation Ban frustrates Priorities USA's mission. But for the Voter Transportation Ban, Priorities USA would fund transportation to take voters to the polls in Michigan. Priorities USA has not previously funded voter transportation in Michigan because of the Voter Transportation Ban, but it will do so if this litigation is successful.

34. Defendant DANA NESSEL is sued in her official capacity as the Michigan Attorney General. She is Michigan’s chief law enforcement official and is responsible, along with other prosecuting attorneys, for prosecuting violations of the laws of the State of Michigan, including the Voter Transportation Ban. MCL 14.30; MCL 168.940. The Attorney General, personally and through the conduct of her employees, officers, agents, and servants, acted under color of state law at all times relevant to this action.

35. Defendant KAREN McDONALD is sued in her official capacity as the Oakland County Prosecutor. She is Oakland County’s chief law enforcement official and is responsible for prosecuting violations of the laws of the State of Michigan, including the Voter Transportation Ban, in Oakland County, MCL 168.940—where Plaintiff Deborah Babb lives and where several other Plaintiffs operate or have members. The Oakland County Prosecutor, personally and through the conduct of her employees, officers, agents, and servants, acted under color of state law at all times relevant to this action.

GENERAL ALLEGATIONS

36. The Voter Transportation Ban provides, in its entirety, that “[a] person shall not hire a motor vehicle or other conveyance or cause the same to be done, for conveying voters, other than voters physically unable to walk, to an election.” MCL 168.931(1)(f). Anyone found guilty of violating the Voter Transportation Ban commits a misdemeanor, MCL 168.931(1), and faces the prospect of 90 days of imprisonment and a \$500 fine, MCL 750.504. The statute does not define what it means to “hire a motor vehicle or other conveyance.”

37. The Voter Transportation Ban burdens get-out-the-vote efforts, specifically rides-to-the-polls and souls-to-the-polls campaigns. Rides-to-the-polls campaigns are a keystone organizing tactic for political and advocacy organizations’ efforts to encourage voters to

participate in the political process. Often these efforts are part of a core strategy to build political power in targeted communities.²

38. Rides-to-the-polls efforts have historically been common in Black church communities and are now ubiquitous in other communities as well. For example, during recent general elections, nonprofit organizations across the country, like the League of Women Voters, National Federation of the Blind, Warrior Scholar Project, National Council on Aging, Voto Latino Foundation, Asian and Pacific Islander American Vote, and the NAACP, have partnered with Lyft to provide free or heavily discounted rides to the polls to voters.

39. But rides-to-the-polls efforts often involve hiring a vehicle, either by hiring taxi services for voters or renting cars to transport voters. Even local community-based efforts tend to rely on both volunteer and paid drivers.

40. The Ban also prevents rideshare companies like Uber from directly offering free and discounted rides to the polls in Michigan on election day, unlike in almost every other state.

41. By eliminating the use of hired transportation, the Voter Transportation Ban necessarily reduces the number of drivers and vehicles able to transport Michigan citizens to the polls during early voting and on election day.

42. By criminalizing a large category of otherwise commonplace election-day transportation options, the Voter Transportation Ban adds to existing transportation-related

² Many courts have recognized the importance of rides-to-the-polls or souls-to-the-polls efforts to voting, especially in minority communities. *Fair Fight Action, Inc v Raffensperger*, 413 F Supp 3d 1251, 1263–66 (ND Ga, 2019) (finding standing because church that funds rides to the polls will have to divert that funding to otherwise combat voter suppression); *NC State Conf of NAACP v McCrory*, 182 F Supp 3d 320, 392 & n 90 (MDNC, 2016) (discussing the importance of souls-to-the-polls campaigns in evaluating changes to early voting schedule), *rev'd on other grounds*, 831 F3d 204 (CA4, 2016); *Florida v United States*, 885 F Supp 2d 299, 372 (DDC, 2012) (same); *One Wis Inst, Inc v Thomsen*, 198 F Supp 3d 896, 924 (WD Wis, 2016) (same).

burdens in Michigan, where private transportation is expensive and public transportation is nonexistent or unreliable, even in the Detroit area.

43. The impact of the Voter Transportation Ban—which limits the availability of rides-to-the-polls programs—falls directly on those individuals who lack reliable transportation or suffer physical or other impairments that make travel to the polls difficult.

44. And although the Voter Transportation Ban makes an exception for voters who “are physically unable to walk,” it does not account for the countless other Michiganders, including blind and low-vision voters, who need rides to the polls even though they *are* able to walk (even if with assistance, like Plaintiff Babb).

45. In this way, the Voter Transportation Ban is arbitrary. It makes it a misdemeanor to hire a taxi to take a neighbor to the polls if they suffer from blindness, epilepsy, or motor control impairments that do not limit the ability to walk, but not to hire a taxi to take a neighbor who physically cannot walk to the polls.

46. There is no compelling justification for the Voter Transportation Ban, and it is sharply at odds with the newest constitutional protections for voting, which Michiganders overwhelmingly approved just last year.

47. To the extent that the Voter Transportation Ban is meant to discourage or criminalize vote buying, that is already accomplished through Michigan Compiled Laws Section 168.931(1)(b)(i), which makes it a misdemeanor to “receive, agree, or contract for valuable consideration” for “[v]oting or agreeing to vote, or inducing or attempting to induce another to vote, at an election.” Michigan law also makes it a felony to bribe a voter. MCL 168.932(a).

48. Nor does a distinction between “hir[ing] a motor vehicle” and relying on volunteer drivers make any sense. When deposed in the federal case in December 2021, neither the Attorney General’s representative nor the Secretary of State’s representative was able to identify any evidence to suggest that paying drivers, renting cars, or otherwise paying money to convey voters to the polls would contribute to corruption any more or less than using employee or volunteer drivers. Cf. *Meyer v Grant*, 486 US 414, 426 (1988) (refusing to accept unsupported allegation that paid petition circulators are more likely to engage in corrupt behavior than volunteers motivated entirely by an interest in the outcome).

49. In any event, widespread voter fraud or coercion has never existed in Michigan. And with respect to voter transportation specifically, there is no evidence that the paid transportation of voters to the polls was ever a problem, a source of corruption, or a threat to the purity of the electoral process in Michigan.

50. Indeed, in the 130 years since the Legislature first enacted a statute regulating voter transportation, no one has ever been charged with violating a voter-transportation restriction.

51. Rather than a necessary corrective to vote-buying, the historical record establishes beyond credible dispute that the Voter Transportation Ban is first and foremost a voter-suppression measure.

52. Michigan’s legislature first enacted a voter-transportation regulation statute well over a century ago, in 1891. The law was modeled directly off a British law that aimed to limit campaign expenditures and to suppress the vote, particularly the votes of the poor to whom the franchise had recently been extended.

53. The legislature has enacted, amended, or repealed state statutes regulating voter transportation several times since 1891. The cumulative effect of those changes has been to ensure

that the modern Voter Transportation Ban’s scope extends to transportation methods—chiefly, automobiles—that did not exist in 1891. But no attempt has ever been made to tailor the law to any substantiated problem in Michigan’s elections. Thus, the modern Voter Transportation Ban remains what its antecedents were always intended to be: a suppressive measure that unreasonably burdens the right to vote.

CLAIM FOR RELIEF

COUNT I

ARTICLE II, SECTION 4(1)(a) OF THE MICHIGAN CONSTITUTION

54. Plaintiffs restate and incorporate by reference all prior paragraphs as though set forth in this paragraph.

55. The Voter Transportation Ban violates Article II, Section 4(1)(a) of the Michigan Constitution. The Voter Transportation Ban is a “law” that has the “effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.” The Voter Transportation Ban increases the costs of voting by requiring voters to pay the full cost of finding private transportation to the polls, and by necessarily reducing the transportation available to voters. For those voters who cannot secure private transportation and must rely on foot or public transportation, the Voter Transportation Ban significantly increases the amount of time it takes to vote and may even make it impossible for them to participate in the franchise. The Voter Transportation Ban was also enacted with the intent of “denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.” It was modeled on a British voter-suppression law when first enacted and has not since been revised in a manner that corrects that original, repugnant purpose.

56. Laws that are intended to or that have the effect of “denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote” are subject to strict scrutiny,

consistent with Section (4)(1)(a)'s explicit designation of the right to vote as "fundamental." See *Shepherd Montessori Center Milan v Ann Arbor Charter Twp*, 486 Mich 311, 319; 783 NW2d 695 (2010) ("[W]hen legislation . . . infringes on a fundamental right protected by the Constitution, . . . the legislation will only be sustained if it passes the rigorous strict scrutiny standard of review: that is, the government bears the burden of establishing that the classification drawn is narrowly tailored to serve a compelling governmental interest.").

57. Although Michigan courts have previously applied a less demanding balancing test to laws that burden the right to vote, see *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich 1, 16, 35; 740 NW2d 444 (2007) (adopting federal *Anderson-Burdick* test in part because right to vote was only an "implicit fundamental political right" (emphasis added)), that was *before* the passage of the 2022 Amendment—*i.e.*, when the right to vote was not expressly a fundamental right under the Michigan Constitution.

58. By making the right to vote an *explicit* "fundamental right," the 2022 Amendment necessarily requires that the right to vote be put on equal footing with other fundamental rights. Strict scrutiny is thus the only standard that will give full and proper effect to the will of the people as expressed in the 2022 Amendment. See Const 1963, art 2, § 4(1)(m) ("This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes.").

59. In the alternative, Section (4)(1)(a) at a minimum requires exacting scrutiny. The intent of the people in adding Section (4)(1)(a) to the Michigan Constitution was to subject laws that burden the right to vote to increased scrutiny; applying any tier of scrutiny lower than exacting scrutiny would nullify that intent.

60. The Voter Transportation Ban cannot survive strict or exacting scrutiny. And even if a lower tier of scrutiny applies, the Voter Transportation Ban cannot survive it.

61. The Voter Transportation Ban does not further a compelling, or even legitimate, government interest because hiring drivers to transport voters to the polls is not now, and has never been, a mechanism of quid pro quo corruption in Michigan. The fact that the State has never enforced the Ban confirms this. See *Ams for Prosperity Found v Bonta*, 141 S Ct 2373, 2387 (2021) (“The need for [the law] is particularly dubious given that California . . . did not rigorously enforce the disclosure obligation until 2010.”).

62. The Voter Transportation Ban is not narrowly tailored because it criminalizes *all* paid voter transportation, not just paid voter transportation constituting part of a corrupt vote-buying scheme.

63. The Voter Transportation Ban is not the least restrictive means available because other, more targeted laws—chief among them Michigan Compiled Laws Section 168.931(1)(b)(i), which criminalizes vote-buying—already sufficiently protect the same purported state interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court order a speedy hearing pursuant to Michigan Court Rule 2.605(D) and enter judgment:

- A. Declaring that Michigan’s Voter Transportation Ban, MCL 168.931(1)(f), facially violates Article II, Section 4 of the Michigan Constitution;
- B. Permanently enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with them, from enforcing the Voter Transportation Ban, MCL 168.931(1)(f);
- C. Awarding Plaintiffs reasonable attorneys’ fees, costs, and disbursements incurred in bringing this action pursuant to Article II, Section 4(1)(a) of the Michigan Constitution; and
- D. Granting such other and further relief as the Court deems just and proper.

Dated: August 11, 2023

By: */s/ Sarah S. Prescott*
Sarah S. Prescott (P70510)
SALVATORE PRESCOTT
PORTER & PORTER, PLLC
105 E. Main St.
Northville, MI 48167
(248) 679-8711
sprescott@spplawyers.com

Respectfully submitted,

Aria C. Branch*
Jyoti Jasrasaria*
Samuel T. Ward-Packard*
ELIAS LAW GROUP LLP
250 Massachusetts Ave. NW, Suite 400
Washington, D.C. 20001
Phone: (202) 968-4490
Facsimile: (202) 968-4498
abranh@elias.law
jjasrasaria@elias.law
swardpackard@elias.law

*Attorneys for Plaintiffs Deborah Babb,
Detroit Disability Power, Michigan
Alliance for Retired Americans, Michigan
Clergy Connects, and Priorities USA*

*Motions for admission *pro hac vice*
forthcoming.

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VERIFICATION

STATE OF MICHIGAN

§

COUNTY OF OAKLAND

§

§

I declare that the foregoing statements set forth in this Verified Complaint are true to the best of my information, knowledge, and belief.

Deborah Babb
Deborah Babb

08/10/2023
Date

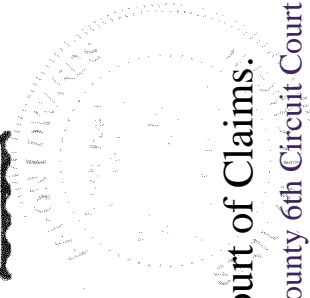
Subscribed and sworn to before me this 10th day of August, 2023.

Aaron Edwards
Notary Public

AARON EDWARDS
Notary Public - State of Michigan
County of Wayne
My Commission Expires Sep 18, 2028
Acting in the County of Oakland

My commission expires 09/18/2028

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Document received by the MI Court of Claims.
Document Submitted for Filing to MI Oakland County 6th Circuit Court.

VERIFICATION

I declare that the foregoing statements set forth in this Verified Complaint are true to the best of my information, knowledge, and belief.

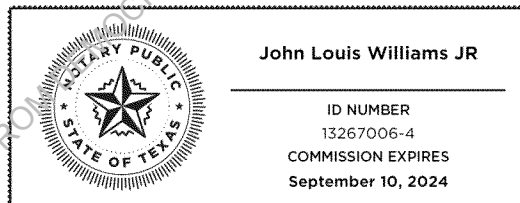
De
Dessa Cosma
Executive Director, Detroit Disability Power

08/10/2023
Date

State of Texas County of Harris

Subscribed and sworn to before me this 10th day of August, 2023.

John Louis Williams Jr.
Notary Public



My commission expires 09/10/2024
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How to Verify This Transaction

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VERIFICATION

I declare that the foregoing statements set forth in this Verified Complaint are true to the best of my information, knowledge, and belief.

James Andrew Williams

Bishop James Williams
Michigan Clergy Connects

08/10/2023

Date

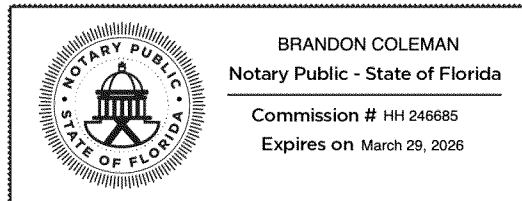
Subscribed and sworn to before me this 10th day of August, 2023.

Brandon

Notary Public

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My commission expires 03/29/2026



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VERIFICATION

I declare that the foregoing statements set forth in this Verified Complaint are true to the best of my information, knowledge, and belief.

James Raymond Pedersen

08/10/2023

Jim Pedersen
President, Michigan Alliance for Retired Americans

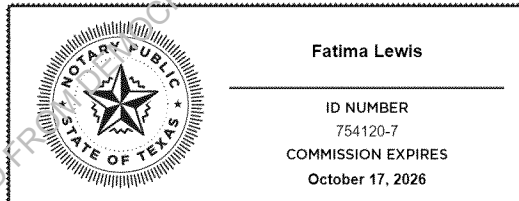
Date

State of Texas, County of Harris

Subscribed and sworn to before me this 10th day of August, 2023.

By James Raymond Pedersen.

Fatima Lewis
Notary Public, State of Texas



Notarized online using audio-video communication

My commission expires 10/17/2026

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VERIFICATION

I declare that the foregoing statements set forth in this Verified Complaint are true to the best of my information, knowledge, and belief.

Aneesa McMillan

Aneesa McMillan
Deputy Executive Director, Priorities USA

08/10/2023

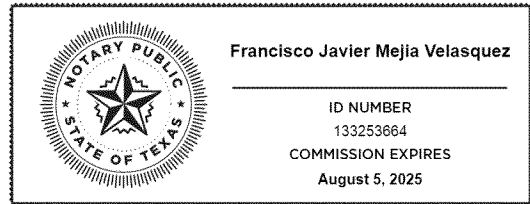
Date

Subscribed and sworn to before me this 10th day of August, 2023.

Francisco Javier Mejia Velasquez

Notary Public

Texas
Harris



My commission expires 08/05/2025

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PROOF OF SERVICE

Sarah Prescott certifies that on the 11th day of August, 2023, she served a copy of the above document in this matter on all counsel of record and parties *in pro per* via MiFILE.

/s/ Sarah S. Prescott
Sarah S. Prescott

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SALVATORE
PRESCOTT
PORTER
& PORTER

Employment | Civil Rights | Business Litigation
Criminal Defense | Investigations

Detroit

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Northville, MI 48167

P: 248.679.8711
F: 248.773.7280

Chicago

1010 Davis Street
Evanston, IL 60201

P: 312.283.5711
F: 312.724.8353
W: sppplaw.com

August 11, 2023

Sent via MiFile

Michigan Court of Claims
c/o Clerk's Office
Hall of Justice
925 W. Ottawa St.
P.O. Box 30185
Lansing, MI 48909

Re: Notice of Intent to File Claim

Dear Clerk:

Enclosed herewith for filing, please find a Notice of Intent to File a Claim, which is being filed by me as local counsel for the listed Plaintiffs.

Best,
SALVATORE PRESCOTT
PORTER & PORTER, PLLC

/s/ 

Sarah Prescott (P70510)

Local Counsel for Plaintiffs

SP/tl

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250 Massachusetts Ave NW, Suite 400 | Washington, DC 20001

August 10, 2023

VIA EMAIL

Michigan Court of Claims
c/o Clerk's Office
Hall of Justice
925 W. Ottawa St.
P.O. Box 30185
Lansing, MI 48909
cclerksoffice@courts.mi.gov

Re: Notice of Intent to File Claim

Dear Clerk:

This letter serves as notice of intent to file a claim against Michigan Attorney General Dana Nessel and Oakland County Prosecutor Karen McDonald.

Along with Sarah Prescott of Salvatore, Prescott, Porter & Porter, I represent Deborah Babb, Detroit Disability Power, the Michigan Alliance for Retired Americans, Michigan Clergy Connects, and Priorities USA (collectively, "Plaintiffs"). Plaintiff Deborah Babb resides in Oakland County.

Plaintiffs intend to file a claim against Attorney General Nessel and Prosecutor McDonald, alleging that MCL 168.931(1)(f)—which makes it a misdemeanor to "hire a motor vehicle or other conveyance or cause the same to be done, for conveying voters, other than voters physically unable to walk, to an election" (the "Voter Transportation Ban")—violates Article II, Section 4 of the Michigan Constitution. The Voter Transportation Ban violates Article II, Section 4 both because it has the "effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote," and because it was enacted with the intent of "denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote."

Attorney General Nessel and Prosecutor McDonald are the appropriate defendants to this claim because they are the officials responsible for prosecuting violations of the Voter Transportation Ban in Oakland County and, in Attorney General Nessel's case, in Michigan generally.

Document received by the MI Court of Claims.

Document Submitted for Filing to MI Oakland County 6th Circuit Court.

RECEIVED by MCCOC 8/11/2023 9:36:55 AM

Article II, Section 4 provides that actions arising under that Section “shall be brought in the circuit court for the county in which a plaintiff resides.” Accordingly, Plaintiffs intend to bring their claim in Oakland County Circuit Court. Plaintiffs nonetheless submit this notice to the Court of Claims pursuant to the Court of Claims Act, MCL 600.6431(1), as construed by the Supreme Court of Michigan in *Christie v Wayne State University*, 511 Mich 39, 2023 WL 3213922 (May 2, 2023).

Plaintiffs do not, by this notice, waive any argument that claims arising under Article II, Section 4 are exempt from the requirements created by MCL 600.6431(1).

Statement of “the time when and the place where the claim arose”

Plaintiffs’ claim is accruing on an ongoing basis, because the Voter Transportation Ban facially violates the Michigan Constitution. Alternatively, Plaintiffs’ claim accrued no earlier than December 24, 2022, when the constitutional amendment authorizing the claim took effect. Plaintiffs’ claim arises in Oakland County, where Plaintiff Deborah Babb, the only individual Plaintiff, resides and is registered to vote.

Statement of “the nature of the claim and the items of damage alleged or claimed to have been sustained”

The claim is that the Voter Transportation Ban facially violates Article II, Section 4 of the Michigan Constitution by (1) “denying, abridging, interfering with, or unreasonably burdening” Plaintiffs’ and other Michigan voters’ “fundamental right to vote,” and (2) because it was enacted with the intent of “denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.”

Plaintiffs intend to seek declaratory and injunctive relief; fees, costs, and disbursements; and any other relief deemed just and proper. Plaintiffs do not claim to have sustained monetary damages.

Designation of “any department, commission, board, institution, arm, or agency of the state involved in connection with the claim”

1. Michigan Attorney General Dana Nessel, in her official capacity; and
2. Oakland County Prosecutor Karen McDonald, in her official capacity.

Signature and Verification by the Claimants

Plaintiffs’ notarized signatures verifying this notice are affixed on the following signature pages.

Clerk's Office, Michigan Court of Claims
August 10, 2023
Page 3

Regards,



Aria C. Branch

Counsel to Plaintiffs

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VERIFICATION

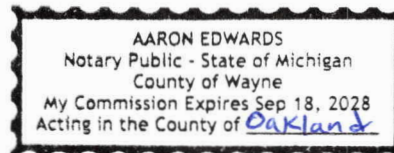
I declare that the foregoing statements are true to the best of my information, knowledge,
and belief.

Deborah Babb
Deborah Babb

08/10/2023
Date

Subscribed and sworn to before me this 10th day of August, 2023.

Aaron Edwards
Notary Public



My commission expires 09/18/2028



Document received by the MI Court of Claims.
Document Submitted for Filing to MI Oakland County 6th Circuit Court.

VERIFICATION

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Dessa Cosma
Detroit Disability Power

08/10/2023

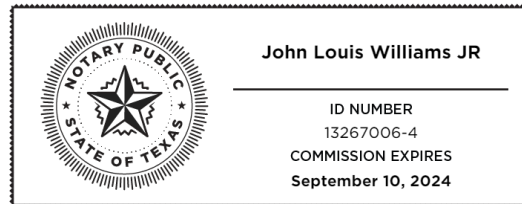
Date

State of Texas County of Harris

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Notary Public



My commission expires 09/10/2024

Notarized online using audio-video communication

VERIFICATION

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and belief.

James Raymond Pedersen
Jim Pedersen
Michigan Alliance for Retired Americans

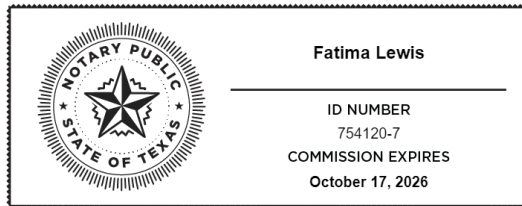
08/10/2023
Date

State of Texas, County of Harris

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By James Raymond Pedersen.

Fatima Lewis
Notary Public, State of Texas



Notarized online using audio-video communication

My commission expires 10/17/2026

VERIFICATION

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and belief.

James Williams

James Andrew Williams

08/10/2023

Bishop James Williams
Michigan Clergy Connects

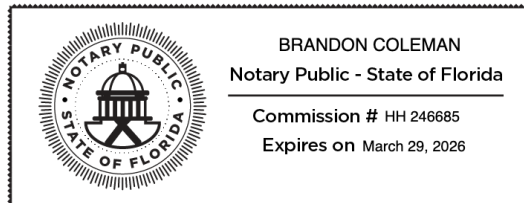
Date

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Notarized online using audio-video communication

Brandon

Notary Public



My commission expires 03/29/2026

VERIFICATION

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and belief.

Aneesa McMillan

Aneesa McMillan
Priorities USA

08/10/2023

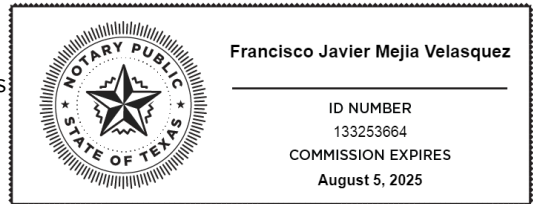
Date

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Francisco Javier Mejia Velasquez

Notary Public

Texas
Harris



Notarized online using audio-video communication

My commission expires 08/05/2025