

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JONATHAN LINDSEY, Senator; JAMES RUNESTAD, Senator; JAMES DESANA, Representative; RACHELLE SMIT, Representative; STEVE CARRA, Representative; JOSEPH FOX, Representative; MATT MADDOCK, Representative; ANGELA RIGAS, Representative; JOSH SCHRIVER, Representative; NEIL FRISKE, Representative; and BRAD PAQUETTE, Representative,

Plaintiffs,

v.

GRETCHEN WHITMER, in her official capacity as Governor of Michigan; JOCELYN BENSON, in her official capacity as Michigan Secretary of State; and JONATHAN BRATER, in his official capacity as Director of Elections,

Defendants.

CIVIL ACTION

Case No. 1:23-cv-01025-JMB-PJG

Hon. Jane M. Beckering

**PROPOSED INTERVENOR-
DEFENDANTS' MOTION FOR
PROMPT RESOLUTION OF
MOTION TO INTERVENE**

Proposed Intervenor-Defendants Jim Pedersen, Andrea Hunter, the Michigan Alliance for Retired Americans, the Detroit Downriver Chapter of the A. Philip Randolph Institute, and Detroit Disability Power (together, "Proposed Intervenor-Defendants"), by and through their attorneys, move for prompt resolution of their Motion to Intervene in this case. In support of their motion, Proposed Intervenor-Defendants state as follows:

1. Proposed Intervenor-Defendants filed a Motion to Intervene and a Proposed Motion to Dismiss on October 11, 2023—less than two weeks after Plaintiffs filed their Complaint. ECF No. 5, PageID.31.

2. Proposed Intervenor-Defendants moved to intervene to defend the process by which Michigan's Voter-Approved Amendments were passed, and the Voter-Approved Amendments

themselves. *See id.*, PageID.31, 37. Proposed Intervenors' motion was fully briefed on November 8, 2023. ECF No. 8, PageID.115.¹

3. While Proposed Intervenors' Motion to Intervene remains pending, the litigation is progressing between the current parties. The Defendants filed a Motion to Dismiss on January 8, 2024, ECF No. 16, PageID.176, and Plaintiffs filed their opposition on February 5, 2024, ECF No. 19, PageID.215. Defendants' reply is due on February 19, 2024. *See* LCivR. 7.2(c).

4. Plaintiffs have yet to respond to Proposed Intervenors' Proposed Motion to Dismiss. It appears that is because the Court has not yet ruled on Proposed Intervenors' Motion to Intervene. Accordingly, any future briefing on Proposed Intervenors' Proposed Motion to Dismiss is now behind Defendants' schedule.

5. Proposed Intervenors seek prompt resolution of their Motion to Intervene so that they can participate in the ongoing proceedings, the resolution of which could threaten their unique rights and interests.

WHEREFORE, Proposed Intervenors respectfully request that the Court promptly resolve their Motion to Intervene. Additionally, if the Motion to Intervene is granted, Proposed Intervenors further request that the Court consolidate any hearings on Proposed Intervenors' and the Defendants' Motions to Dismiss in this case.

Pursuant to Local Rule 7.1(d)(ii) and § III(B) of this Court's Information and Guidelines for Civil Practice, counsel for Proposed Intervenors conferred with counsel for Plaintiffs and Defendants in a process aimed at reaching agreement on the matter. Plaintiffs represented—in

¹ Proposed Intervenors filed a Motion to Strike Plaintiffs' opposition to Proposed Intervenors' Motion to Intervene on November 13, 2023. ECF No. 10, PageID.138.

writing and during a conference call—that they would not support the claim for relief. Defendants, represented by the Attorney General, indicated they take no position on the motion.

Dated: February 14, 2024

Respectfully submitted,

/s/ Sarah Prescott

Sarah S. Prescott (P70510)
Salvatore Prescott Porter & Porter, LLC
105 East Main Street
Northville, Michigan 48167
248.679.8711
sprescott@spplawyers.com

Aria C. Branch
Jyoti Jasrasaria
Samuel T. Ward-Packard
Julie Zuckerbrod
Elias Law Group
250 Massachusetts Ave, NW, Ste 400
Washington, DC 20001
202.968.4490
abbranch@elias.law
jjasrasaria@elias.law
swardpackard@elias.law
jzuckerbrod@elias.law

Counsel for Proposed Intervenor-Defendants

CERTIFICATE OF SERVICE

Sarah Prescott certifies that on the 14th day of February 2024, she served a copy of the above document in this matter on all counsel of record and parties via the ECF system.

/s/ Sarah S. Prescott
Sarah S. Prescott
*Counsel for Proposed Intervenor-
Defendants*

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CIVIL ACTION

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Hon. Jane M. Beckering

**PROPOSED INTERVENOR-DEFENDANTS' MEMORANDUM IN SUPPORT OF
MOTION FOR PROMPT RESOLUTION OF MOTION TO INTERVENE**

CONCISE STATEMENT OF REASONS

- I. Proposed Intervenors filed their Motion to Intervene and Proposed Motion to Dismiss four months ago.
- II. While Proposed Intervenors' Motion to Intervene remains pending, this litigation is starting to progress without their participation.
- III. Proposed Intervenors seek prompt resolution of their Motion to Intervene so that if it is granted, they can promptly participate in this litigation and will have the ability to defend their unique rights and interests.

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INTRODUCTION

On October 11, 2023, Proposed Intervenor-Defendants Jim Pedersen, Andrea Hunter, the Michigan Alliance for Retired Americans, the Detroit Downriver Chapter of the A. Philip Randolph Institute, and Detroit Disability Power (together, “Proposed Intervenors”), moved to intervene in this action. ECF No. 5, PageID.31. Proposed Intervenors are entitled to intervention as of right under Federal Rule of Civil Procedure 24(a). In the alternative, they should be granted permissive intervention under Rule 24(b). That Motion to Intervene is fully briefed and ready for resolution. The litigation is now beginning to progress, including with briefing on Defendants’ Motion to Dismiss. To promote efficiency, and to ensure that their unique interests are represented as this matter proceeds, Proposed Intervenors respectfully request that the Court promptly grant their Motion to Intervene.

ARGUMENT

Proposed Intervenors timely filed their Motion to Intervene and Proposed Motion to Dismiss less than two weeks after Plaintiffs filed their Complaint. *See Priorities USA v. Benson*, 448 F. Supp. 3d 755, 763 (E.D. Mich. 2020) (finding it “difficult to imagine a more timely intervention” than one filed twenty business days after the complaint). As they explained in their Motion to Intervene, Plaintiffs’ requested relief threatens to erode Proposed Intervenors’ right to vote, eliminate their ability to amend the Michigan Constitution to protect voting rights or enforce the right to vote in court, frustrate their organizational missions, and force them to divert their limited organizational resources. *See* ECF No. 5, PageID.37. Proposed Intervenors’ significant interest in defending these rights is not adequately represented by Defendants. *See* ECF No. 5, PageID.44-49; *see also Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003) (explaining that courts have “often concluded that governmental entities do not adequately

represent the interests of aspiring intervenors”). However, Proposed Intervenors cannot participate in the litigation until the Court resolves their Motion to Intervene.

While Proposed Intervenors’ Motion to Intervene remains pending, the litigation is progressing between the current parties. Defendants filed a Motion to Dismiss on January 8, 2024. ECF No. 16, PageID.176. And although Plaintiffs responded to Defendants’ Motion to Dismiss on February 4, 2024, ECF No. 19, PageID.215, they have yet to respond to Proposed Intervenors’ Motion to Dismiss. Accordingly, any future briefing on Proposed Intervenors’ Motion to Dismiss is now behind Defendants’ schedule.

In light of the foregoing, Proposed Intervenors respectfully request that the Court promptly grant their Motion to Intervene. Additionally, if the Motion to Intervene is granted, Proposed Intervenors further request that the Court consolidate any hearings on Proposed Intervenors’ and the Defendants’ Motions to Dismiss.

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Dated: February 14, 2024

Respectfully submitted,

/s/ Sarah Prescott

Sarah S. Prescott (P70510)
Salvatore Prescott Porter & Porter, LLC
105 East Main Street
Northville, Michigan 48167
248.679.8711
sprescott@spplawyers.com

Aria C. Branch
Jyoti Jasrasaria
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Julie Zuckerbrod
Elias Law Group
250 Massachusetts Ave, NW, Ste 400
Washington, DC 20001
202.968.4490
abranh@elias.law
jjasrasaria@elias.law
swardpackard@elias.law
jzuckerbrod@elias.law

Counsel for Proposed Intervenor-Defendants

CERTIFICATE OF SERVICE

Sarah Prescott certifies that on the 14th day of February 2024, she served a copy of the above document in this matter on all counsel of record and parties via the ECF system.

/s/ Sarah S. Prescott
Sarah S. Prescott
*Counsel for Proposed Intervenor-
Defendants*

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