

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PRIORITIES USA, RISE INC., and
THE DETROIT/DOWNRIVER
CHAPTER OF THE A. PHILIP
RANDOLPH INSTITUTE,

Plaintiffs,

Case No. 19-13341

v.

HONORABLE STEPHANIE D. DAVIS
MAGISTRATE R. STEVEN WALLEN

DANA NESSEL, in her
official capacity as Attorney General
of the State of Michigan,

Defendants

and

THE MICHIGAN SENATE, THE
MICHIGAN HOUSE OF REPRESENTATIVES,
THE MICHIGAN REPUBLICAN PARTY and THE
REPUBLICAN NATIONAL COMMITTEE,

Intervening-Defendants.

**THE MICHIGAN SENATE AND MICHIGAN HOUSE OF
REPRESENTATIVES' ANSWER TO PLAINTIFFS' AMENDED
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Intervening Defendants the Michigan House of Representatives and the Michigan Senate (“the Legislature”), through their counsel, submit the following Answer to Plaintiffs’ Amended Complaint for Declaratory and Injunctive Relief. For avoidance of doubt, the Legislature generally denies all allegations except those

specifically admitted.

INTRODUCTION

1. The Legislature admits only that this paragraph contains quotes from court opinions but denies the inference of applicability to this case. The Legislature denies the remaining allegations of this paragraph.

2. The Legislature admits Proposal 3 passed in the November 6, 2018 general election. The Michigan Constitution speaks for itself. The Legislature denies the remaining allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

3. The Legislature denies that Michigan law bans efforts to encourage and assist voters. The Legislature further denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize MCL 168.931 and 168.759, which speak for themselves.

4. Denied.

5. Denied.

6. The Legislature admits the Michigan Primary Election is on March 10, 2020, and the 2020 General Election is on November 3, 2020. The Legislature further denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

PARTIES

7. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

8. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

9. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

10. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

11. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

12. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

13. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

14. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

15. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

16. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

17. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Michigan Constitution speaks for itself. The Legislature otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

18. The Legislature admits Dana Nessel is the Attorney General of the State of Michigan and the top law enforcement official responsible for prosecuting the laws of the State of Michigan. The Legislature otherwise denies the remaining allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

JURISDICTION AND VENUE

19. The Legislature admits only that Plaintiff invokes 42 U.S.C. § 1983 and 28 U.S.C. § 2201 as the basis for this action and denies that Plaintiff's claims have merit.

20. The Legislature admits this Court has subject-matter jurisdiction of the claims arising under 42 U.S.C. §1983 but denies that this Court has subject-matter jurisdiction over Plaintiff's statutory preemption claims.

21. Admitted.

22. The Legislature admits only that this Court has authority to enter judgment ordering declaratory and injunctive relief but denies that exercise of that

authority is proper here.

23. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

24. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

25. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

26. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

27. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

28. The Legislature lacks knowledge or information sufficient to form a

belief as to the truth of the allegations of this paragraph.

29. Admitted.

30. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

31. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

32. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

GENERAL ALLEGATIONS¹

33. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

34. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize MCL 168.931, which speaks for themselves .

35. The Legislature denies the allegations of this paragraph, including Footnote 1, to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

¹ The Legislature declines to restate Plaintiff's argumentative subheadings, which are not allegations to which a response is required.

36. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

37. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

38. Denied.

39. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature specifically denies that provisions of MCL 168.931 are arbitrary.

40. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

41. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

42. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

43. Denied.

44. Denied.

45. Denied.

46. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

47. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

48. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

49. The Legislature admits Proposal 3 passed in the November 6, 2018 general election. The Michigan Constitution speaks for itself. The Legislature denies the remaining allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

50. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

51. The Legislature denies the allegations of this paragraph, including Footnote 2, to the extent they are inconsistent with or attempt to characterize applicable law.

52. The Legislature lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

53. Denied

54. Denied.

55. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law. The Legislature specifically denies that other statutes “diminish the need” for MCL 168.759.

COUNT I

56. Denied.

57. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

58. Denied.

59. Denied.

60. Denied.

COUNT II

61. The Legislature hereby incorporates all other paragraphs as if fully set forth herein.

62. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

63. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

64. Denied.

COUNT III

- 65. The Court dismissed Count III. Thus, no response is required.
- 66. The Court dismissed Count III. Thus, no response is required.
- 67. The Court dismissed Count III. Thus, no response is required.
- 68. The Court dismissed Count III. Thus, no response is required.
- 69. The Court dismissed Count III. Thus, no response is required.
- 70. The Court dismissed Count III. Thus, no response is required.

COUNT IV

71. The Legislature hereby incorporates all other paragraphs as if fully set forth herein.

72. Denied.

73. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

74. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

75. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

76. Denied.

77. Denied.

78. Denied.

COUNT V

79. The Legislature hereby incorporates all other paragraphs as if fully set forth herein.

80. Denied.

81. Denied.

82. Denied.

COUNT VI

83. The Legislature hereby incorporates all other paragraphs as if fully set forth herein.

84. Denied.

85. Denied.

86. Denied.

87. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

88. Denied.

COUNT VII

89. The Court dismissed Count VII. Thus, no response is required.

90. The Court dismissed Count VII. Thus, no response is required.

91. The Court dismissed Count VII. Thus, no response is required.

92. The Court dismissed Count VII. Thus, no response is required.

COUNT VIII

93. The Legislature hereby incorporates all other paragraphs as if fully set forth herein.

94. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

95. The Legislature denies the allegations of this paragraph to the extent they are inconsistent with or attempt to characterize applicable law.

96. Denied.

97. Denied.

PRAYER FOR RELIEF

WHEREFORE, the Legislature respectfully requests that the Complaint be dismissed with prejudice and that they be awarded costs, reasonable attorney fees, and such further relief as the Court deems just and equitable.

AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to state a claim upon which relief can be granted.
2. Plaintiffs' claims are barred, in whole or in part, by the doctrine of laches.
3. Plaintiffs lack standing.
4. Plaintiffs are barred from raising others' rights and generalized grievances under the doctrine of prudential standing.

5. Plaintiff's claims are non-justiciable political questions.
6. Plaintiffs do not allege a cognizable case or controversy.
7. This Court lacks subject-matter jurisdiction over Plaintiffs' preemption claims.
8. Plaintiffs' claims are barred by federal abstention doctrine.
9. Plaintiffs' Associational and Speech claims are multiplicative of their Undue Burden claims.
10. Plaintiffs' claims are not ripe for adjudication.
11. Plaintiffs' claims are barred by the Eleventh Amendment to the United States Constitution.

The Legislature reserves the right to add additional affirmative defenses as the result of discovery or otherwise.

Respectfully submitted,

BUSH SEYFERTH PLLC

*Attorneys for the Michigan Senate and the
Michigan House of Representatives*

By: /s/ Patrick G. Seyferth

Patrick G. Seyferth (P47475)

Roger P. Meyers (P73255)

Michael K. Steinberger (P76702)

100 W. Big Beaver Rd., Ste. 400

Troy, MI 48084

(248) 822-7800

seyferth@bsplaw.com

meyers@bsplaw.com

steinberger@basplaw.com

Dated: June 1, 2020

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2020, I electronically filed the above document(s) with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

By: /s/ Patrick G. Seyferth
Patrick G. Seyferth (P47475)