

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DEBRA RHODES, GLORIA MOUNGER,  
THOMAS WILLIAMS, LAURA DENNIS,  
VIVIAN WORDLAW, and for all similarly  
situated voters of the Thirteenth Congressional  
District in the State of Michigan,  
*Plaintiffs,*

Case No.:  
Judge:

v.  
RICHARD D. SNYDER, in his official capacity as  
Governor of the State of Michigan,  
*Defendant.*

**COMPLAINT – REQUEST FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF AND FOR IMMEDIATE  
CONSIDERATION**

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**COMPLAINT**

NOW COME Plaintiffs, Debra Rhodes, Gloria Mounger, Thomas Williams, Laura  
Dennis, and Vivian Wordlaw, who are electors and citizens of the Thirteenth  
Congressional District, and as their Complaint for Declaratory And Injunctive Relief  
And For Immediate Consideration state as follows:

## INTRODUCTION

1. This action, brought pursuant to 42 U.S.C. §1983, seeks temporary and permanent mandatory injunctive and declaratory relief based upon the violation, by Defendant Governor Richard D. Snyder, of the United States Constitution and the Michigan Constitution.
2. This action, in the interest of the public, seeks to protect civil rights and liberties of the highest order, specifically, the constitutional right to legislative representation and the fundamental right to vote, both secured by the Constitution of the United States.
3. Plaintiffs, who are electors in the Thirteenth Congressional District, seek an order requiring the Governor of the State of Michigan to cease deprivation, upon the people of the Thirteenth Congressional District, of the constitutional right to congressional representation and the fundamental right to vote for said representative.
4. The Congressional seat in question was vacated on December 5, 2017 and, at the Defendant's discretion, will remain vacant until a general election scheduled on the date as the normally-scheduled election date for that seat on November 6, 2018.
5. As a result, Plaintiffs seek injunctive relief from the latest action of systemic discrimination, by the Governor of the State of Michigan toward regions of the state containing primarily people of color, where the Governor has created a substantial delay in filling the congressional vacancy, based on the race or color of the residents,

contrary to the United States Constitution and the Michigan Constitution.

6. Plaintiffs seek declaration that Michigan Compiled Law §168.633, which provides direction to the Governor on whether to fill a vacancy, is impermissibly overboard and grants discretion to the Governor so wide that it is contrary to the requirement of the United States Constitution.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over federal claims under 28 U.S.C. §1331, in that it arises under the Constitution of the United States; 28 U.S.C. §1343(a)(3) and under 42 U.S.C. §1983 in that it is brought to redress deprivations, under the color of state authority, of rights, privileges and immunities secured by the United States Constitution; under 28 U.S.C. §1343(a)(4), in that it seeks to secure equitable relief under an act of Congress, specifically 42 U.S.C. §1343(a)(4) which provides a cause of action for the protection of civil rights; under 42 U.S.C. §2201(a), in that one purpose of this action is to secure declaratory relief; under 42 U.S.C. §2202, in that one purpose of this action is to secure preliminary and permanent injunctive relief.

8. This Court has supplemental jurisdiction over state claims under 28 U.S.C. §1367, in that this Courts jurisdiction over said federal claims grants supplemental jurisdiction over the deprivations under state law regarding the same controversy.

9. Venue is proper in this Court under 28 U.S.C. §1391(b)(2).

10. Plaintiffs seek equitable relief and seek to protect, vindicate and enforce civil

and constitutional rights under the United States Constitution and the Michigan Constitution, and these causes are within the original and supplemental jurisdiction of this honorable Court.

### **PARTIES**

11. These Plaintiffs, and others similarly situated, are being denied of their constitutional right to be represented in Congress and their fundamental right to vote for a Representative in the vacant Thirteenth Congressional District of Michigan as a result of the 11-month delay in scheduled election, amounting to a violation of the mandatory provisions of Article I, Section II, Clause IV and Amendments 1, 14 and 15 of the United States Constitution as well as §2 and §17 of Article I of the Michigan Constitution.

12. Plaintiff Debra Rhodes is a citizen of the United States and resident of the State of Michigan, having her residence on Longacre Street in Detroit, MI and is a duly-registered voter of the 13<sup>th</sup> Congressional District of the State of Michigan.

13. Plaintiff Gloria Mounger is a citizen of the United States and resident of the State of Michigan, having her residence on Fargo Street in Detroit, MI and is a duly-registered voter of the 13<sup>th</sup> Congressional District of the State of Michigan.

14. Plaintiff Thomas Williams is a citizen of the United States and resident of the State of Michigan, having his residence on Pierson Street in Detroit, MI and is a duly-registered voter of the 13<sup>th</sup> Congressional District of the State of Michigan.

15. Plaintiff Laura Dennis is a citizen of the United States and resident of the State of Michigan, having her residence on Rutherford Street in Detroit, MI and is a duly-registered voter of the 13<sup>th</sup> Congressional District of the State of Michigan.

16. Plaintiff Vivian Wordlaw is a citizen of the United States and resident of the State of Michigan, having her residence on Seminole in Redford, MI and is a duly-registered voter of the 13<sup>th</sup> Congressional District of the State of Michigan.

17. Defendant Richard D. Snyder, is a citizen of the United States and a resident of the State of Michigan, serving in an official capacity as Governor of the State of Michigan.

18. This is public interest litigation in which each of the named Plaintiffs, all of whom are experiencing irreparable harm, are being denied the constitutional right to congressional representation, denied the fundamental right to vote, and denied other constitutional and civil rights.

#### **FACTS COMMON TO ALL CLAIMS**

19. Michigan's Thirteenth Congressional District (“the District”), as presently constituted, includes parts of Detroit and Dearborn Heights and all of Ecorse, Garden City, Highland Park, Inkster, Melvindale, Redford Township, River Rouge, Romulus, Wayne, Westland and is fully contained within Wayne County, MI.

20. According to the 2016 U.S. Census data, the District is composed of over 62% minority residents.

21. From January 3, 2017 until his retirement, which became effective on December 5, 2017, the District was represented in the United States House of Representatives (“the House”) by John Conyers, Jr.

22. Subsequent to his retirement, the District, its citizens and electors have remained without representation in the House.

23. On December 8, 2017, Defendant announced that a primary and general election will be held to fill the vacancy but that they will be held on the same dates as the regularly-scheduled election for that House seat, on August 7, 2018 and November 6, 2018, respectively.

24. Subsequently, the Defendant and his representatives have stated publicly, on different occasions, that Defendant was concerned with the cost of instituting a timely, real, and actual special election.

25. No state or federal law prohibits Defendant from calling a timely, real, and actual special election.

26. Unless a timely, real, and actual special election is called at once, approximately 658,383 citizens in the District, including electors, who are Plaintiffs herein, will remain without representation in the House until after November 6, 2018, a period spanning nearly 11 months, at minimum.

27. As a result of the standing vacancy, the District did not have a vote on the \$1.5trillion tax reform law recently passed by Congress and will continue to be

voiceless on important issues that effect its citizens and the country as a whole, until the next regularly-scheduled election date.

**COUNT ONE**  
**VIOLATION OF**  
**ARTICLE ONE, SECTION TWO**  
**U.S. CONSTITUTION**

28. Plaintiffs incorporate by reference paragraphs 1 through 27 as if fully restated here and further state the following.

29. The United States Constitution provides, at Article I, Section 2, Clause 4:

“When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.”

30. The provisions of this clause are mandatory, and require Defendant to take the steps necessary to fill such Congressional vacancies by calling a timely, real, and actual special election, opposed to Defendant's second-class, pseudo-special election held on the same regular election dates, had no vacancy occurred at all, with an 11-month delay and vacancy.

31. While Michigan Compiled Law §168.633 vests discretion in the Governor to call a special election, such discretion must yield to the command of the United States Constitution, and it has not.

32. In refusing to call a timely, real, and actual special election in the House, Defendant's unconstitutionally delay in filling the vacancy is violating the mandate of Article I, Section 2, Clause 4 of the United States Constitution.

33. Furthermore, to the extent that Defendant may seek to rely on the discretionary nature of Michigan Compiled Law §168.633, regarding the broad authority given to the executive whether and when to call a special election, it should be noted that this provision of law directly conflicts with the mandatory nature of Article I, Section 2, Clause 4 of the United States Constitution.

34. Thus, Plaintiffs seek to have this Court find that Defendant's acts and/or omissions, as well as MCL §168.633, are deemed unconstitutional.

**COUNT TWO**  
**VIOLATION OF FOURTEENTH AMENDMENT**  
**RIGHT TO DUE PROCESS**  
**U.S. CONSTITUTION**

35. Plaintiffs incorporate by reference paragraphs 1 through 34 as if fully restated here and further state the following.

36. The Due Process clause of the 14<sup>th</sup> Amendment of the United States Constitution protects against the disenfranchisement of a state elector.

37. In refusing to call a timely, real, and actual special election to fill the vacancy in the House, without the consent or public hearing of those whom have had the fundamental right to vote and the constitutional right to be represented in Congress denied, Defendant is denying the people of the District, including the Plaintiffs herein, of the right of due process guaranteed by the Fourteenth Amendment of the United States Constitution.



**COUNT THREE**  
**VIOLATION OF FOURTEENTH AMENDMENT**  
**RIGHT TO EQUAL PROTECTION**  
**U.S. CONSTITUTION**

38. Plaintiffs incorporate by reference paragraphs 1 through 37 as if fully restated here and further state the following.

39. In refusing to call a timely, real, and actual special election to fill the vacancy in the House, Defendant is denying the people of the District the fundamental right to vote and the constitutional right to have representation in the House, a right not denied to other citizens of the State of Michigan, in violation of the right to equal protection of the Fourteenth Amendment of the United States Constitution.

**COUNT FOUR**  
**VIOLATION OF THE FIFTEENTH AMENDMENT**  
**RIGHT TO VOTE**  
**US CONSTITUTION**

40. Plaintiffs incorporate by reference paragraphs 1 through 39 as if fully restated here and further state the following.

41. Section I of the Fifteenth Amendment of the United States Constitution provides:

“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.”

42. Defendant has historically failed to act equally toward communities of color on such occurrences as, but not limited to, the installation of emergency managers in

municipalities and school districts in minority communities to circumvent democratically-elected officials and the failure to prevent death, substantial personal and economic damage as a result of the use and consumption of toxic water meant for drinking in the minority city of Flint, MI.

43. Plaintiffs and the District, which consists mostly of African-American citizens, are suffering the latest acts and/or omissions of separate and unequal treatment by Defendant that are based, at least in part, on the race or color of people who live in the District.

44. Defendant's denial of Plaintiffs' fundamental right to vote on the basis of color or race is in violation of the Fifteenth Amendment of the United States Constitution.

**COUNT FIVE**  
**VIOLATION OF FIRST AMENDMENT**  
**RIGHT TO POLITICAL EXPRESSION**  
**U.S. CONSTITUTION**

45. Plaintiffs incorporate by reference paragraphs 1 through 44 as if fully restated here and further state the following.

46. First Amendment freedoms extend to political activities such as running for elective office.

47. State election practices must serve legitimate state interests, narrowly and fairly to avoid obstructing and diluting fundamental liberties such as freedom to run for office. See Briscoe v. Kusper, 435 F.2d 1046 (7<sup>th</sup> Cir. 1970)

48. Delaying the election, until the normally-scheduled dates, deny the freedoms

of all residents of the State of Michigan who would otherwise qualify to run for said seat in a timely, real, and actual special election in violation of the First Amendment of the United States Constitution.

**COUNT SIX**  
**VIOLATION OF ARTICLE ONE RIGHT OF DUE PROCESS**  
**MICHIGAN CONSTITUTION**

49. Plaintiffs incorporate by reference paragraphs 1 through 48 as if fully restated here and further state the following.

50. Article I §17 of the Michigan Constitution provides:

“No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.”

51. Defendant did not hold a public hearing before denying Plaintiffs' fundamental right to vote or constitutional right to be represented.

52. In refusing to call a timely, real, and actual special election to fill the vacancy in the House, without the consent or public hearing of those whom have had the fundamental right to vote and the constitutional right to be represented in Congress denied, Defendant is denying protections afforded to the people of the District, including the Plaintiffs herein, to due process guaranteed by Article I §17 of the Michigan Constitution.

**COUNT SEVEN**  
**VIOLATION OF ARTICLE ONE RIGHT TO EQUAL PROTECTION**  
**MICHIGAN CONSTITUTION**

53. Plaintiffs incorporate by reference paragraphs 1 through 52 as if fully restated here and further state the following.

54. Article I §2 of the Michigan Constitution provides:

“No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.”

55. Plaintiffs and the District, which consists mostly of African-American citizens, are suffering the latest acts and/or omissions, of separate and unequal treatment by Defendant that are based, at least in part, on the race or color of the people who live in the District.

56. Defendant's denial of Plaintiffs' fundamental right to vote on the basis of color or race is in violation of Article I §2 of Michigan Constitution.

**RELIEF SOUGHT**

WHEREFORE, Plaintiffs respectfully request that this honorable Court enter an Order to:

1. Assert jurisdiction over this action;
2. Declare that Defendant's acts and/or omissions violate the Constitution of the United States;
3. Declare that Defendant's acts and/or omissions violate the Constitution of the

State of Michigan;

4. Declare that Michigan Compiled Law §168.633 violates the Constitution of the Unites States;
5. Enter judgment against the Defendant and in favor of the Plaintiff;
6. Enter an injunction ordering the Defendant to schedule a timely, real, and actual special election as required by the United States Constitution;
7. Award Plaintiffs all costs incurred in the prosecution of this action, including reasonable attorney's fees under 42 U.S.C. §1988 and other statutes; and
8. Enter such other and further relief as the Court deems just and proper.

December 27, 2017

Respectfully Submitted,

*/s/ Michael Gilmore*

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