

STATE OF MICHIGAN
17th CIRCUIT COURT FOR KENT COUNTY

JURY FEE PAID

Blake Mazurek,
Robin Smith, and
Timothy Smith,

Plaintiffs,

v.

Kathy Berden,
Mayra Rodriguez,
Meshawn Maddock,
John Haggard,
Kent Vanderwood,
Marian Sheridan,
James Renner,
Amy Facchinello,
Rose Rook,
Hank Choate,
Mari-Ann Henry,
Clifford Frost,
Stanley Grot,
Timothy King,
Michele Lundgren, and
Ken Thompson,

Defendants.

Case No.: 00306 -CZ

Hon.: CHRISTINA ELMORE
(P-68216)

REC'D & FILED
KENT COUNTY
CIRCUIT COURT
23 JAN 11 PM 12:57

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SCHOLTEN FANT
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Jury Demand

STATE OF MICHIGAN
Kent County 17th JUDICIAL DISTRICT
JUDICIAL CIRCUIT
COUNTY PROBATE

SUMMONS

23- CASE NO.
00306 -CZ

Court address
180 Ottawa Avenue, N.W., Suite 2400, Grand Rapids, MI 49503

Court telephone no.
(616) 632-5480

Plaintiff's name(s), address(es), and telephone no(s).
Blake Mazurek, Robin Smith, and Timothy Smith

Plaintiff's attorney, bar no., address, and telephone no.
Bradford W. Springer (P67201)
Scholten Fant, 100 North Third Street, P.O. Box 454
Grand Haven, MI 49417
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Defendant's name(s), address(es), and telephone no(s).
Kathy Berden, Hank Choate,
Mayra Rodriguez, Mari-Ann Henry,
Meshawn Maddock, Clifford Frost,
John Haggard, Stanley Grot,
Kent Vanderwood, Timothy King,
Marian Sheridan, Michelle Lundgren, and
James Renner, Ken Thompson
Amy Facchinello,
Rose Rook,

CHRISTINA ELMORE
(P-68216)

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 (form 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 (form 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.

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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 400.106(4).
- 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 this state).
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 special 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 JAN 11 2023	Expiration date* APR 12 2023	Court clerk LISA POSTHUMUS LYONS
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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.

Plaintiffs Blake Mazurek, Robin Smith, and Timothy Smith, for their complaint against defendants for election fraud in connection with the 2020 presidential election in Michigan, respectfully state as follows:

Parties

1. Plaintiff Blake Mazurek is a resident of Kent County.
2. Plaintiff Robin Smith is a resident of Ingham County.
3. Plaintiff Timothy Smith is a resident of Ottawa County.
4. Defendant Kathy Berden is a resident of Sanilac County, based on information and belief.
5. Defendant Mayra Rodriguez is a resident of Wayne County, based on information and belief.
6. Defendant Meshawn Maddock is a resident of Oakland County, based on information and belief.
7. Defendant John Haggard is a resident of Charlevoix County, based on information and belief.
8. Defendant Kent Vanderwood is a resident of Kent County, based on information and belief.
9. Defendant Marian Sheridan is a resident of Oakland County, based on information and belief.
10. Defendant James Renner is a resident of Clinton County, based on information and belief.
11. Defendant Amy Facchinello is a resident of Genesee County, based on information and belief.

- 12. Defendant Rose Rook is a resident of VanBuren County, based on information and belief.
- 13. Defendant Hank Choate is a resident of Jackson County, based on information and belief.
- 14. Defendant Mari-Ann Henry is a resident of Oakland County, based on information and belief.
- 15. Defendant Clifford Frost is a resident of Macomb County, based on information and belief.
- 16. Defendant Stanley Grot is a resident of Macomb County, based on information and belief.
- 17. Defendant Timothy King is a resident of Washtenaw County, based on information and belief.
- 18. Defendant Michele Lundgren is a resident of Wayne County, based on information and belief.
- 19. Defendant Ken Thompson is a resident of Ionia County, based on information and belief.

Jurisdiction and Venue

- 20. This Court has jurisdiction. See, e.g., MCL 600.601, 600.605.
- 21. Venue is proper. MCL 600.1629.

Facts Relevant to All Counts

22. Leading up to the 2020 presidential election in Michigan, plaintiffs Blake Mazurek, Robin Smith, and Timothy Smith were nominated by the Michigan Democratic Party to serve as three of the sixteen electors on the Democratic slate of presidential electors (i.e., the

EXHIBIT A
EXHIBIT B
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Biden/Harris electors), to vote in the Electoral College for President and Vice President of the United States, in the event that the Democratic presidential candidate, Joe Biden, were to win the election in Michigan.

23. Leading up to the 2020 presidential election in Michigan, each of the defendants, except for Mr. Thompson and Mr. Renner, were nominated by the Michigan Republican Party to serve as electors on the Republican slate of presidential electors (i.e., the Trump/Pence electors), to vote in the Electoral College for President and Vice President of the United States in the event that the Republican presidential candidate, Donald Trump, were to win the election in Michigan. Terri Lynn Land and Gerald Wall, neither of whom are parties to this suit, also had been nominated by the Michigan Republican Party to serve as electors on the Republican slate of presidential electors, but they were later replaced by Mr. Thompson and Mr. Renner, respectively.

24. As summarized in the December 22, 2022 *Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol* by the 117th Congress, Second Session (House Report 117-663) (hereafter referred to as the “Select Committee Report”)¹, Article II of the United States Constitution, as modified by the Twelfth Amendment, governs election of the President. Article II created the electoral college, providing that the States would select electors in the manner provided by State legislatures, and those electors would in turn vote for the President. Today, every State, including Michigan, selects Presidential electors by popular vote, and each State’s laws provide for procedures to resolve election disputes, including through lawsuits if necessary. After any election issues are resolved in State or Federal court,

each State's government transmits a certificate of ascertainment of the appointed electors to Congress and the National Archives. *Select Committee Report*, Executive Summary, p. 29.

25. Following the November election at which the office of President of the United States is on the ballot, the electoral college meets in mid-December to cast their votes, and all of the electoral votes are then ultimately counted by Congress on January 6th. The Vice President of the United States, as President of the United States Senate, presides over the joint session of Congress to count these votes. The Twelfth Amendment provides the following straight-forward instruction: "The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall be counted; The person having the greatest number of votes for President shall be the President" The Vice President has only a ministerial role, opening the envelopes and ensuring that the votes are counted. *Select Committee Report*, Executive Summary, p. 30.

26. The Presidential race in the State of Michigan was called on Wednesday November 4, 2020, after the general election held on Tuesday, November 3, 2020. Joe Biden won the election in Michigan by more than 154,000 votes.

27. Michigan Election Law is clear that the one and only slate of electors from Michigan for President and Vice President of the United States is the slate of electors nominated by the political party of the candidate receiving the greatest number of votes at the November Presidential election. MCL 168.42.

28. Following the procedure mandated by Michigan Election Law, MCL 168.46, after the State Board of Canvassers ascertained the result of the election as to the electors of President and Vice President of the United States, the Governor of the State of Michigan certified the results of the election in Michigan and the names of the electors in this State chosen as electors

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of President and Vice President of the United States. This is evidenced by the Amended Certificate of Ascertainment of the Electors of the President and Vice President of the United States of America signed and certified by Governor Gretchen Whitmer, under the Great Seal of the State of Michigan. A copy is attached as **Exhibit A**.

29. The Amended Certificate of Ascertainment certified that the slate of electors nominated by the Democratic Party were duly elected as Electors of the President and Vice President of the United States, having received 2,804,040 votes for the winning candidate (Joe Biden) compared to the slate of electors nominated by the Republican Party, which received 2,649,852 votes for the losing Republican candidate (Donald Trump). The Amended Certificate of Ascertainment ultimately was sent according to law to Congress and the National Archives.

30. Following the procedure mandated by Michigan Election Law, MCL 168.47, the slate of electors nominated by the Democratic Party and elected in the general election held in the State of Michigan (i.e., the Biden/Harris Electors, including plaintiffs) duly convened in the State Capitol in Lansing on December 14, 2020, at 2 p.m., and formally cast their 16 electoral votes for Joe Biden for President of the United States. This is reflected in the State of Michigan Certificate of Votes for President and Vice President attached here as **Exhibit B**.

31. Despite the results of a free and fair election in Michigan, canvassed and certified according to Michigan Election Law, the defendants participated in a fraudulent scheme to steal the election and install the losing candidate (Donald Trump) as President.

32. Specifically, the defendants conspired and agreed to submit fraudulent election certificates (1) falsely claiming their candidate had won the election in Michigan, when in fact he had lost by over 153,000 votes; (2) falsely claiming they were “the duly elected and qualified Electors for President and Vice President of the United States of America from the State of

Michigan,” when in fact the appropriate government officials in Michigan had already certified Michigan’s official election results for Joe Biden; and (3) falsely purporting to “certify” that they had “convened and organized in the State Capitol” on December 14, 2020 to cast Michigan’s 16 electoral votes for Donald Trump, when in fact none of this was true. A copy of their fake election “certificate” signed by the defendants and styled “Certificate of the Votes of the 2020 Electors from Michigan,” which they offered as an official public record, is attached here as

Exhibit C. Defendant Matthew Maddock, a co-chair of the Michigan Republican Party, later

33. The fraudulent election certificates were sent by the defendants to the President of the Senate of the United States and the Archivist of the United States with an accompanying “Memorandum” from defendant Kathy Berden. Defendant Berden falsely identified herself in the Memorandum as “Chairperson, Electoral College of Michigan” and she falsely claimed to enclose “duplicate originals of Michigan’s electoral votes for President and Vice President”

See Exhibit C. In participating in this fake elector scheme, defendants violated multiple laws and

34. Defendant Berden has represented the Michigan Republican Party in the Republican National Committee since 2015. elector in the exercise of his or her duties as an

35. The defendants’ fake elector scheme was closely coordinated with the Trump campaign and with others, including Republican National Committee Chair Ronna McDaniel, such that similar fraudulent election certificates from similar fake Trump slates of electors in other states that Biden won and Trump lost, were submitted to Executive Branch officials at the National Archives, and to the Legislative Branch, including to the Office of the President of the Senate, Vice President Mike Pence. *Select Committee Report*, Executive Summary, pp. 41-43, including fn. 231.

36. The purpose of the fake elector scheme was to give the President of the United States Senate (which, under the Constitution, is the Vice President) a purported justification to refuse to count the real electoral votes on January 6, stealing the election and installing the loser as President. However, the fake elector scheme failed when Vice President Pence and the Senate parliamentarian ultimately refused to recognize or count the unofficial fake electoral votes. *Select Committee Report*, Executive Summary, p. 43.

37. Defendant Meshawn Maddock, a co-chair of the Michigan Republican Party, later told an audience in January 2022 regarding the false Trump electors: "We fought to seat the electors. The Trump campaign asked us to do that." *Select Committee Report*, p. 351.

38. Defendants' scheme attempted to subvert the sacred right of qualified voters in Michigan, enshrined in the State Constitution, to have their votes counted. Michigan Constitution of 1963, Art. II, Sec. 4.

39. In participating in this fake elector scheme, defendants violated multiple state and federal criminal laws, including the following: MCL 168.932(d) (making it a felony to "in any manner obstruct or attempt to obstruct any elector in the exercise of his or her duties as an elector under this act"); MCL 168.933a(a) (making a person guilty of election forgery if he or she "Knowingly makes, files, or otherwise publishes a false document with intent to defraud"); MCL 750.248(1) ("A person who falsely makes, alters, forges, or counterfeits a public record . . . with intent to injure or defraud another person is guilty of a felony punishable by imprisonment for not more than 14 years"); 18 U.S.C. Section 371 ("If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five

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years, or both”); and 18 U.S.C. Section 1001 (which applies, in relevant part, to “whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.”)

40. Defendant Kathy Berden (described on the fake election certificates and accompanying memorandum as the “Chairperson” of the purported “Electoral College of Michigan”) and Defendant Mayra Rodriguez (described on the fake election certificates as the “Secretary” of the fake Trump electors) were subpoenaed for depositions by the Congressional Select Committee to Investigate the January 6th Attack on the United States Capitol. Each was asked simple questions about their signatures on the fake election certificates and why they signed the certificates purporting to cast electoral college votes for Donald Trump despite the fact that he had lost the State of Michigan. Instead of answering these questions, each repeatedly invoked their privilege under the Fifth Amendment against self-incrimination, on the basis that their truthful answers might tend to incriminate them in a later criminal proceeding. A copy of defendant Berden’s deposition transcript is attached here as **Exhibit D**. A copy of defendant Rodriguez’s deposition transcript is attached here as **Exhibit E**.

41. Defendants’ invocation of their Fifth Amendment privilege against incrimination, while protective in a criminal case, allows an adverse inference in a civil case like this one that their truthful answers would support the plaintiffs’ claims. *Phillips v. Deihm*, 213 Mich. App. 389, 399-400 (1995) (“The privilege against self-incrimination not only permits a person to refuse to testify against himself at a criminal trial in which he is a defendant, but also permits

him not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings. *Allen v. Illinois*, 478 U.S. 364, 368, 106 S.Ct. 2988, 2991, 92 L.Ed.2d 296 (1986); *In re Stricklin*, 148 Mich.App. 659, 663, 384 N.W.2d 833 (1986). However, the Fifth Amendment does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them: the amendment does not preclude the inference where the privilege is claimed by a party to a civil cause.”) (citing *Baxter v. Palmigiano*, 425 U.S. 308, 318 (1976) (“the Fifth Amendment does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them.”) (citation omitted). See also M Civ JI 6.01 (Michigan’s relevant civil jury instruction explicitly instructs the jury regarding the allowable adverse inference against a party for the failure to produce a witness or evidence under the party’s control).

42. Defendants’ fraudulent election certificates falsely portrayed themselves as the real electors, conversely implying that the Biden electors, including plaintiffs, were invalid and illegitimate, at best, or fraudulent and criminal, at worst.

43. Defendants’ fake elector scheme fueled widespread disinformation and confusion about the outcome of the election and falsely cast doubt on the legitimacy of the Biden Electors performing their civic and legal duty as the only true Electors of the State of Michigan for President and Vice President of the United States in the 2020 election. This is despite the fact that calling into question the legitimacy of the Biden Electors, including plaintiffs, was utterly lacking any good faith basis.

44. The defendants’ conduct is highly offensive to any reasonable citizen. Indeed, defendants’ fake elector scheme is contrary to and undermines the basic democratic principles

upon which our country is founded. Almost everyone in our society recognizes that lying, cheating, and stealing is wrong, and to do so in connection with a presidential election is traitorous, anti-democratic, and utterly outrageous.

45. Plaintiffs were highly offended by being cast in the false light created by defendants. Plaintiffs viewed themselves as performing a civil and lawful duty as presidential electors in support of a country they love, only to have their legitimacy questioned and their integrity falsely and publicly denigrated by defendants' lies in their fake election certificates that defendants were the real Electors of the State of Michigan for President and Vice President of the United States.

46. Plaintiffs suffered humiliation, mental anguish, and stress as a result of being cast in the false light created by defendants' election fraud and lies.

47. Defendants' election fraud and the resulting humiliation, mental anguish, and stress has made plaintiffs apprehensive about again seeking to be nominated as presidential electors in 2024.

48. Defendants' election fraud cynically perpetuated the "Big Lie" that the election was stolen, while in truth it was the defendants and their co-conspirators who were attempting to steal the election. Defendants' conduct has weakened our democracy by eroding public trust in our elections, including future elections in which plaintiffs might serve as electors.

Count I: Declaratory Judgment

49. Plaintiffs incorporate by reference the preceding paragraphs as if restated here.

50. Plaintiffs are entitled to a declaratory judgment, under MCR 2.605, declaring that they were legitimate Electors of the State of Michigan for President and Vice President of the

United States in the 2020 presidential election and that defendants' conduct violated Michigan law.

Count II: Invasion of Privacy – False Light

51. The Plaintiffs incorporate by reference the preceding paragraphs as if restated here.

52. Defendants' fake elector certificates were purportedly public documents and indeed were publicized to many people, including by submission to the United States National Archives and the President of the United States Senate.

53. Defendants' fake elector certificates placed plaintiffs in a false light, falsely portraying defendants as the only real electors and necessarily implying that plaintiffs were not legitimate or valid electors.

54. Defendants' fake elector certificates, falsely implying that defendants, not plaintiffs, were the real electors, were highly offensive to a reasonable person and also to plaintiffs.

55. Defendants acted with actual malice. They knew when they submitted their election certificates that the certificates were fraudulent, that they were fake electors, and that the real Biden electors would be placed in a false light as a result of defendants' scheme.

56. Defendants' conduct has harmed plaintiffs in multiple ways, including by causing reputational harm, humiliation, mental anguish, and stress, and defendants' conduct has made plaintiffs apprehensive about again seeking to be nominated to serve as presidential electors in 2024. In addition, defendants' conduct has undermined public trust and confidence in elections and the willingness to accept future election results, including future elections in which plaintiffs may serve as Electors of the State of Michigan for President and Vice President of the United States.

Count III: Statutory Conversion in Violation of MCL 600.2919a

57. Plaintiffs incorporate by reference the preceding paragraphs as if restated here.

58. Plaintiffs had an intangible personal property interest in their lawful office as true Electors of the State of Michigan for President and Vice President of the United States, having been duly and lawfully elected in the General Election held in the State of Michigan on November 3, 2020.

59. Plaintiffs' property interest and status as true Electors is officially memorialized in the State of Michigan Amended Certificate of Ascertainment of the Electors of the President and Vice President of the United States of America (Exhibit A), and in the State of Michigan Certificate of Votes for President and Vice President (Exhibit B).

60. Plaintiffs were vested with possession of their property interests as recognized and memorialized in (1) the State of Michigan Amended Certificate of Ascertainment of the Electors of the President and Vice President of the United States of America and (2) the State of Michigan Certificate of Votes for President and Vice President.

61. Defendants wrongfully exerted dominion over plaintiff's property interest as true Electors in a manner inconsistent with the plaintiff's rights. Specifically, by signing their fake election certificates described above (i.e., the "Certificate of the Votes of the 2020 Electors from Michigan" attached as Exhibit C); by falsely claiming therein that they were "the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Michigan"; by falsely purporting to "certify" that they had cast Michigan's 16 electoral votes for Donald Trump; and by mailing the fake election certificates to the President of the Senate of the United States and the Archivist of the United States to serve as an official public record purportedly from the true Electors of the State of Michigan, defendants purported to

perform a function that only the true Electors had the right and duty to perform. Defendants purported to vote for the losing candidate, entirely contradicting the right and the duty of the true Electors to vote for the winning candidate.

62. Defendants put plaintiffs' converted property to their own use as described above by fraudulently holding themselves out as the true Electors and purporting to cast their fake electoral votes for the losing candidate, basing their action on the fake election certificates that contradicted the true certificates in which plaintiffs had an interest – (1) the State of Michigan Amended Certificate of Ascertainment of the Electors of the President and Vice President of the United States of America and (2) the State of Michigan Certificate of Votes for President and Vice President.

63. As a result, defendants engaged in conversion in violation of MCL 600.2919a, entitling plaintiffs to treble damages and attorney fees as provided by statute.

64. Defendants' conduct has caused plaintiffs to suffer actual damages as described above, including reputational harm, humiliation, mental anguish, and stress. In addition, defendants' conduct has made plaintiffs apprehensive about again seeking to be nominated to serve as presidential electors in 2024. In addition, defendants' conduct has undermined public trust and confidence in elections and the willingness to accept future election results, including future elections in which plaintiffs may serve as Electors of the State of Michigan for President and Vice President of the United States.

Count IV: Civil Conspiracy

65. Plaintiffs incorporate by reference the preceding paragraphs as if restated here.

66. Defendants combined together with each other to engage in concerted action to accomplish the criminal violations alleged in paragraph 39 above by submitting their fake elector certificates.

67. Defendants also combined together with each other to engage in concerted action to accomplish an unlawful purpose in portraying the Biden electors, including plaintiffs, in a false light, by falsely portraying defendants as the real electors and necessarily implying that plaintiffs were invalid and illegitimate electors.

68. Defendants also combined together with each other to engage in concerted action to accomplish an unlawful purpose in falsely portraying themselves as the real electors from the State of Michigan, thereby converting plaintiff's intangible property interest in their lawfully acquired position as true electors.

69. Defendants' conduct has caused plaintiffs to suffer actual damages as described above, including reputational harm, humiliation, mental anguish, and stress. In addition, defendants' conduct has made plaintiffs apprehensive about again seeking to be nominated to serve as presidential electors in 2024. In addition, defendants' conduct has undermined public trust and confidence in elections and the willingness to accept future election results, including future elections in which plaintiffs may serve as Electors of the State of Michigan for President and Vice President of the United States.

Relief Requested

Plaintiffs respectfully request that this Court enter judgment in their favor, against defendants, including the following relief:

- (a) A declaration that plaintiffs, not defendants, were true Electors of the State of Michigan for President and Vice President of the United States, and that defendants' fake elector scheme was illegal under Michigan law;
- (b) Damages in an amount in excess of \$25,000 to be proven at trial;
- (c) Treble damages and reasonable attorney fees as provided by MCL 600.2919a;
- (d) Exemplary damages;
- (e) Costs of suit; and
- (f) Such further relief in plaintiffs' favor and against defendants as this Court deems equitable and just.

Respectfully Submitted,

BLAKE MAZUREK, ROBIN SMITH, and
TIMOTHY SMITH

Date: January 10, 2023

By: Bradford Springer
Bradford W. Springer (P67201)
SCHOLTEN FANT
Attorneys for Plaintiffs