

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

STEPHANIE SCOTT, in her individual and official capacity as ADAMS TOWNSHIP CLERK,

Plaintiff,

Court of Claims Docket No.

v.

SECRETARY OF STATE JOCELYN BENSON, in her official and individual capacity, JONATHAN BRATER, in his official and individual capacity, THE MICHIGAN STATE POLICE, STATE POLICE TROOPER JAY BARKLEY, in his official and individual capacity, ABE DANE, in his official and individual capacity; MARNEY KAST, in his official and individual capacity,

Defendants.

**COMPLAINT FOR DECLARATORY,
INJUNCTIVE AND MANDAMUS
RELIEF**

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COMPLAINT FOR DECLARATORY, MANDAMUS AND INJUNCTIVE RELIEF; AND
DAMAGES, INCLUDING ATTORNEYS' FEES

Plaintiff, Stephanie Scott, the Adams Township Clerk and a duly elected constitutional officer, by and through her counsel, brings this Complaint seeking declaratory, mandamus, and injunctive relief, and for such other relief, including, but not limited to, damages and attorneys' fees, as more fully described herein. In support of her Complaint, Plaintiff provides the following:

PARTIES

1. Plaintiff / Petitioner Stephanie Scott is the duly elected Adams Township Clerk for Hillsdale County, Michigan.
2. The Adams Township Clerk's Office is located in Adams Township, Hillsdale County, Michigan with physical offices located at the Township Hall and Community Building 5675 Knowles Road, North Adams, MI 49262-0336.
3. Plaintiff Scott was elected to her office on November 3, 2020, to serve a term of four years.
4. At all times relevant to the circumstances and facts laid out in this Complaint, Plaintiff Scott was acting in her official capacity as an elected constitutional officer, i.e., in accordance with the duties and responsibilities imposed upon her by common law and statutory law for and on behalf of the citizenry who elected her. Const 1963, art 7, § 18; MCL 41.65 to MCL 41.69.
5. Township clerks are elected officials subject to duties imposed by law. "In each organized township there shall be elected . . . a clerk . . . whose legislative and administrative powers and duties shall be provided by law." Const 1963, art 7, § 18. The township clerk has duties prescribed by statute, which include filing and safely keeping papers required by law to

be filed in his or her office. MCL 41.65. *Grabow v Macomb Twp*, 270 Mich App 222, 231; 714 NW2d 674 (2006).

6. MCL 41.65 “authorize[s] *only* the township clerk to have control of the township's papers.” *McKim v Green Oak Twp Bd*, 158 Mich App 200, 201; 404 NW2d 658 (1987). In *McKim*, the court pointed out that the township clerk is even required to file a bond to ensure the safekeeping of the township’s records. The court further noted that the law did not prohibit the township clerk from taking the records home temporarily in the performance of her duties as township clerk. A township clerk that has to defend herself from encroachment upon her powers, or indeed, restrictions or limitations attempted to be placed on those powers is entitled to an award of attorney fees because such assertions concern performance of her legal duties. *Id.*

7. Defendant / Respondent Jocelyn Benson SOS (SOS Benson), is the Secretary of State for the State of Michigan and a member of the executive branch of state government.

8. In her official capacity, SOS Benson is charged with, inter alia, administering election laws, training election workers throughout the state, and maintaining the qualified voter registration list (“QVR”). See, e.g., MCL 168.21 (“The secretary of state shall be the chief election officer of the state and shall have supervisory control over local election officials in the performance of their duties under the provisions of this act.”); 168.31(1)(a) (the “Secretary of State shall . . . issue instructions and promulgate rules . . . for the conduct of elections and registrations *in accordance with the laws of this state*”) (emphasis added).

9. Michigan law provides that Secretary Benson “[a]dvice and direct local election officials as to the proper methods of conducting elections.” MCL 168.31(1)(b). *See also Hare v. Berrien*

Co Bd. of Election, 129 N.W.2d 864 (Mich. 1964); *Davis v. Secretary of State*, 2020 Mich. App. LEXIS 6128, at *9 (Mich. Ct. App. Sep. 16, 2020).

10. Secretary Benson is responsible for assuring Michigan’s local election officials conduct elections in a fair, just, and lawful manner. See MCL 168.21; 168.31; 168.32. See also *League of Women Voters of Michigan v Secretary of State*, 2020 Mich. App. LEXIS 709, *3 (Mich. Ct. App. Jan. 27, 2020); *Citizens Protecting Michigan’s Constitution v Secretary of State*, 922 N.W.2d 404 (Mich. Ct. App. 2018), *aff’d* 921 N.W.2d 247 (Mich. 2018); *Fitzpatrick v Secretary of State*, 440 NW2d 45 (1989).

11. Defendant / Respondent Jonathan Brater is Michigan’s Director of Elections, a member of the executive branch of state government, and employee of the state, and in his capacity as such, at all times relevant to the facts and circumstances described in this complaint, acted at the direction of or in collaboration with any and all of the other Defendants, named or unnamed, and who were and remain an arm of the executive branch of state government.

12. As director of elections, Mr. Brater is “vested with the powers and shall perform the duties of the secretary of state under his or her supervision, with respect to the supervision and administration of the election laws.” See MCL 168.32.

13. Defendant / Respondent, Michigan State Police (MSP), is an arm of the state, acts as a law enforcement branch for and on behalf of the executive branch of the state government, including Defendants SOS Benson, Director Brater, and at all times relevant to the facts and circumstances described in this complaint, acted at the direction of or in collaboration with any and all of the other Defendants, named or unnamed, and who were and remain an arm of the executive branch of state government.

14. Defendant / Respondent Sergeant Jay Barkley (Trooper Barkley) is an officer and employee of Defendant, Michigan State Police, an arm of the state, and acts as a law enforcement officer for and on behalf of the executive and administrative branch of the state government, including Defendants Benson and Brater, and at all times relevant to the facts and circumstances described in this complaint, acted at the direction of or in collaboration with any and all of the other Defendants, named or unnamed, and who were and remain an arm of the state government defendants.

15. Defendant / Respondent, Unnamed State Troopers, are officers, directors, and commanders who are in the direct chain of command of Trooper Barkley, acted as law enforcement officers for and on behalf of the executive and administrative branch of the state government, including Defendants Benson and Brater, and at all times relevant to the facts and circumstances described in this complaint, acted at the direction of or in collaboration with any and all of the other Defendants, named or unnamed, and who were and remains an arm of the state government defendants.

16. Defendant, Marney Kast, is the Clerk for Hillsdale County, Michigan.

17. At all relevant times pertinent to this Complaint, Defendant Kast acted individually, and/or at the direction of or as agent of, or in concert with, Defendants Benson, Brater, and Dane to encroach upon, usurp, or otherwise assume the duties of Plaintiff, a constitutional officer with duties and responsibilities as provided by law, and to violate her individual constitutional rights.

18. Defendant Kast acted individually, and/or at the direction of or as agent of, or in concert with, Defendants Benson, Brater, and Dane to usurp Plaintiff's duties and responsibilities by physically taking and commandeering all ballots, election equipment, VAT touch screens,

tabulators, etc., and their internal data from Plaintiff. (Exhibit 1, Kast Letter of October 25, 2021; Exhibit 2, Letter from Adams Township Requesting Return of Voting Equipment and Information).

19. Defendant Abe Dane is the Chief Deputy Clerk for Hillsdale County, Michigan.

20. At all relevant times pertinent to this Complaint, Defendant Dane acted individually, and/or at the direction of or as agent of, or in concert with, Defendants Benson, Brater, and Kast to encroach upon, usurp, or otherwise assume the duties of Plaintiff, a constitutional officer with duties and responsibilities as provided by law, and to violate her individual constitutional rights.

21. Defendant Dane acted individually, and/or at the direction of or as agent of, or in concert with, Defendants Benson, Brater, and Kast to usurp Plaintiff's duties and responsibilities by physically taking and commandeering all ballots, election equipment, VAT touch screens, tabulators, etc., and their internal data from Plaintiff. (Exhibit 3, Various Correspondence)

22. Any and all other entities or individuals to be named as Defendants upon discovery, who either instructed and advised any and all of the other Defendants, and/or who acted at the direction of or in collaboration with any and all of the other Defendants, named or unnamed, and who were and remain an arm of the state government defendants..

JURISDICTION

23. The Court of Claims has exclusive jurisdiction over “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) (emphasis added). See also, *Rusha v Dep't of Corrections*, 307 Mich App 300, 305; 859 NW2d 735 (2014).

24. This exclusive-jurisdiction provision clearly encompasses claims by a government official against state government defendants, including Defendants named and unnamed in this Complaint, according to the constitution and statutes, including claims for declaratory, injunctive, and other relief as may be pleaded herein. See MCL 600.6419(1)(a).

25. Under MCL 600.6419(7), the exclusive jurisdiction of the Court of Claims described above extends to suits against officers and employees of a body that constitutes an “arm” of the state. See *Boler v Governor*, 324 Mich App 614, 620-621; 923 NW2d 287 (2018).

DECLARATORY RELIEF

26. An action for declaratory relief is authorized by Michigan Court Rules and law and lies as a remedy that may be sought by government officials as against other government officials and individuals in litigation concerning disputes over the proper role or roles of the respective parties, and allegations of interference with legal duties and powers of the one seeking a declaration of such respective rights and obligations. *Demorest v Di Pentima*, 118 Mich App 299, 303; 324 NW2d 634 (1982). See also *Gyarmati v Bielfield*, 245 Mich App 602, 605; 629 NW2d 93 (2001); see also MCR 2.605(A).

27. MCR 2.605(A)(1) provides: “In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted.”

28. A complaint for declaratory relief requests that a court declare the rights and duties, and/or status, of the parties vis-à-vis one another.

29. An action for declaratory judgment is the appropriate remedy for the determination of a justiciable controversy where a plaintiff is in doubt as to his or her legal rights and wishes to avoid the hazard of taking action in advance of the determination of such rights.

30. While it is true that a declaratory judgment is usually obtained before there has been an interference with the rights of a party, such interference is not necessarily a bar to such an action. “The distinctive characteristic of a declaratory judgment is that the declaration stands by itself, that is, no executory process follows as of course. In other words, such a judgment does not involve executory or coercive relief. The essential distinction between an action for declaratory judgment and the usual action is that no actual wrong need have been committed or loss have occurred in order to sustain the declaratory judgment action, but there must be no uncertainty *that the loss will occur or that the asserted right has been or will be invaded*. The purpose of the declaratory judgment is to permit adjudication of the rights or status of the parties without the necessity of a previous crime or breach.” *Demorest, supra* (cleaned up) (emphasis added).

31. Generally, an actual controversy exists where a declaratory judgment is necessary to guide a plaintiff’s future conduct in order to preserve the plaintiff’s legal rights and responsibilities.

32. What is essential to an “actual controversy” under the declaratory judgment rule is that plaintiff plead and prove facts which indicate an adverse interest necessitating a sharpening of the issues raised. *Citizens for Common Sense in Gov’t v Attorney General*, 243 Mich App 43, 55; 620 NW2d 546 (2000) (cleaned up).

33. The Michigan Supreme Court has stated that “[t]he declaratory judgment rule was intended and has been liberally construed to provide a broad, flexible remedy with a view to making the courts more accessible to the people.” *Shavers v Attorney General*, 402 Mich 554, 588; 267 NW2d 72 (1978).

34. The Supreme Court has also consistently recognized that the declaratory judgment avenue is available to guide and inform litigants before a legal insult occurs. “One great purpose is to enable parties to have their differences authoritatively settled in advance of any claimed invasion of rights, that they may guide their actions accordingly and often may be able to keep them within lawful bounds” *Merkel v Long*, 368 Mich 1, 13; 117 NW2d 130 (1962) (cleaned up).

35. ““Courts continually declare rights which have not become fixed under an existing state of facts, but are prospective only; they may not, however, be so remote and speculative as to be hypothetical and abstract.”” *Id.*, quoting Borchard, *Declaratory Judgments* (2d ed), pp 422-424.

INJUNCTIVE RELIEF

36. An action for injunctive relief is available in whole or in part when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury. See *Kernen v Homestead Dev Co*, 232 Mich App 503, 509-510; 591 NW2d 369 (1998).

37. The following factors be taken into account in determining the propriety of issuing an injunction:

- a. the nature of the interest to be protected,
- b. the relative adequacy to the plaintiff of injunction and of other remedies,
- c. any unreasonable delay by the plaintiff in bringing suit,
- d. any related misconduct on the part of the plaintiff,
- e. the relative hardship likely to result to defendant if an injunction is granted and to plaintiff if it is denied,
- f. the interests of third persons and of the public, and
- g. the practicability of framing and enforcing the order or judgment. *Id.*

MANDAMUS RELIEF

38. A writ of mandamus is an “extraordinary” remedy, MCR 3.301(A)(1)(c), to which a plaintiff is entitled only if he satisfies a four-part test: the plaintiff must show that (1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result.

39. In relation to a request for mandamus, a clear, legal right is one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided. *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016).

40. Mandamus relief is also appropriate to compel a legal duty to be performed or to force, or otherwise direct that the defendant refrain from interfering with the performance and duties of the one seeking relief.

41. This Complaint states causes of action and claims under several alternate theories, including, but not limited to declaratory, injunctive, and mandamus relief.

GENERAL ALLEGATIONS

42. This lawsuit represents a flagrant violation of constitutional and statutory law on the part of Defendants, both named and unnamed, who took it upon themselves to bully, harass, intimidate, and ultimately to unconstitutionally usurp, and/or cause to be usurped and replaced, and/or to invade the powers and duties of Plaintiff Scott in her capacity as the Adams Township Clerk, a constitutional office, for standing her ground and refusing to violate her oath of office and to choose instead to uphold state and federal laws concerning the retention, custody, and security of certain property, documents, information (including electronic and digital, i.e., software and images), records, and equipment for which Plaintiff Scott is responsible by law,

including sensitive and election data and information (the Tabulator / Scan Units (TSU's) and election data contained within the TSU) which Plaintiff Scott is required to preserve by federal law.

43. Defendants, without authority, removed Plaintiff Scott, an elected constitutional officer from her position and usurped or otherwise prevented her from performing her duties as a Township Clerk in accordance with the Michigan Constitution, and state and federal laws. (Exhibits 4 and 5)

44. Defendants, without legitimate authority, also unconstitutionally and unlawfully confiscated property, documents, and information (including the TSU with its attendant software, programs, and data), all of which was required to be sealed, preserved, and retained by federal law, and which is the property of the Township Clerk, and, according to Plaintiff Scott's constitutional, statutory and common-law duties, were supposed to be retained by her and to remain in her custody and control. See, e.g., MCL 41.65; 52 USC § 20701.

45. Township clerks are elected officials subject to duties imposed by law. "In each organized township there shall be elected . . . a clerk . . . whose legislative and administrative powers and duties shall be provided by law." Const 1963, art 7, § 18. The township clerk has duties prescribed by statute, which include filing and safely keeping papers required by law to be filed in his or her office. MCL 41.65. *Grabow v Macomb Twp*, 270 Mich App 222, 231; 714 NW2d 674 (2006).

46. MCL 41.65 "authorize[s] *only* the township clerk to have control of the township's papers." *McKim v Green Oak Twp Bd*, 158 Mich App 200, 201; 404 NW2d 658 (1987). In *McKim*, the court pointed out that the township clerk is even required to file a bond to ensure the safekeeping of the township's records. The court further noted that the law did not prohibit

the township clerk from taking the records home temporarily in the performance of her duties as township clerk. A township clerk that has to defend herself from encroachment upon her powers, or indeed, restrictions or limitations attempted to be placed on those powers is entitled to an award of attorney fees because such assertions concern performance of her legal duties. *Id.*

47. Moreover, Defendants Benson, Brater, Kast and Dane acted in concert or individually to transfer and reallocate the duties and powers of the Plaintiff by removing or otherwise preventing her ability to perform her constitutional and statutory duties, including but not limited to taking from her the sole manner to conduct elections, unconstitutionally and unlawfully (and without the proper procedure) removing her from her duties as township clerk to run elections, including but not limited to the November 2021 elections, and the upcoming elections on May 4, 2022. (Exhibit 5, Correspondence Threatening Plaintiff and Ultimately Ostensibly Removing Her from Performing Election Duties).

48. MCL 41.65 “authorize[s] *only* the township clerk to have control of the township's papers.” *McKim v Green Oak Twp Bd*, 158 Mich App 200, 201; 404 NW2d 658 (1987). In *McKim*, the court pointed out that the township clerk is even required to file a bond to ensure the safekeeping of the township’s records. The court further noted that the law did not prohibit the township clerk from taking the records home temporarily in the performance of her duties as township clerk. A township clerk that has to defend herself from encroachment upon her powers, or indeed, restrictions or limitations attempted to be placed on those powers is entitled to an award of attorney fees because such assertions concern performance of her legal duties. *Id.*

49. Defendants also unconstitutionally usurped and invaded the province of Plaintiff's office by effectively transferring the power Plaintiff is supposed to exercise (and indeed her duties to do so) in keeping and maintaining records and information in accordance with state and federal law. See, e.g., MCL 41.65. See also *McKim, supra*.

50. Defendants also interfered with and destroyed the contractual and other duties and obligations Plaintiff had with third parties, including but not limited to Hart Intercivic, the manufacturer of the voting machine (tabulator) equipment. (Exhibit 4, Correspondence Regarding Hart Contract; Exhibit 6, Hart Intercivic Contract)

51. Hart Intercivic is a foreign corporation owned by Cogency Global based in New York that has apparently taken complete control over the election equipment, software, and associated equipment and data in Hillsdale County, Michigan, so much so that it has requested (apparently with the consent of the Hillsdale County officials) to take the voting equipment (including tabulators and all the data therein) and destroy same as soon as it is returned to Hart by the State Police. (Exhibit 4, "End of Service" Letter and Signed Agreement by and between Hart Intercivic and Hillsdale County Officials, Patricia Williams, County Treasurer and Randy Johnson, Trustee; Exhibit 6, Hart Intercivic Contract; Exhibit 11, Hart Corporate Filing).

52. This Complaint demonstrates that while these Defendants broke the law and forcefully and intentionally usurped Plaintiff's constitutional and statutory duties and obligations, Defendants also violated Plaintiff's constitutional rights as a citizen by invading her privacy in violation of the state and federal constitutions.

BACKGROUND

53. In 2017 each township in Hillsdale County, along with the County itself, signed a contractual agreement with Hart InterCivic to purchase election equipment (Tabulator / Scan Units (TSU's)), software, and maintenance services. (Exhibit 5).

54. The contract was to begin on January 1, 2018 and continue for a period of 10 years, to include the November 2020 general election. *Id.*

55. The TSU's, their attendant equipment, including, inter alia, flash drives, electronic pollbooks, laptops, modems, and software, are designed to record votes cast for elections in the State of Michigan.

56. Adams Township and Plaintiff Scott as the Township Clerk was entrusted with a TSU for use in elections.

57. On February 12, 2021, Defendant Director Brater and the State of Michigan Bureau of Elections (BOE) issued a memo the subject of which was "Release of Voting Equipment" to all county clerks concerning the retention of all ballots, software, "E-pollbooks laptops," flash drives, ballots, etc., used in or regarding the November 3, 2020 election. (Exhibit 5). The memorandum further explained:

[F]ederal law requires that all documents relating to the [November 3, 2020] election – including optical scan ballots and the programs used to tabulate optical scan ballots – be retained for 22 months from the date of the certification of the election. *Id.*

58. The memorandum further explained:

To comply with the requirement, the Bureau of Elections recommends that optical scan ballots and the programs relating to the federal elections be stored in sealed ballot bags in a secure place during the 22-month retention period. The documents subject to the federal retention requirement must not be transferred to ballot bags for extended retention until after they are released under Michigan election law as detailed in this memo. *Id.*

59. The federal law referred to in this memorandum is 52 USC § 20701. It is expansive in its coverage of what is required to be retained, stating as follows:

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

60. Section 20702 of Title 52 further provides:

Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 301 [52 USCS § 20701] to be retained and preserved shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

61. These provisions clearly provide that the custodian designated by law is to retain custody and is the party responsible to comply.

62. Plaintiff as Township Clerk with custody of the TSU and all appurtenant information and data, including ballots, is charged by state law with the responsibility to maintain custody and control over the TSU at all times as required by law. MCL 41.65. Moreover, in accordance with the federal laws cited above, Plaintiff Scott is also obligated and required to retain all such information pertaining to a federal election for the office of President for 22 months.

63. Neither Defendant Benson or Defendant Brater explained in their instructions whether or how through these processes of release and maintenance, all equipment, software, data and information from the November 3, 2020 election was to be segregated, sequestered, stored, and/or retained in compliance with 52 USC § 20701.

64. However, in a series of correspondence, Defendant Brater clearly admitted that township clerks are the custodians and keepers of all equipment and data, including all paper and scanned ballot images, etc. (Exhibit 5).

65. Subsequent to the release of this memorandum the Chief Deputy County Clerk for Hillsdale County sent an email dated February 24, 2021 to township clerks, including Plaintiff Scott, which stated:

We received word from the state's Bureau of Elections that the security of ballots and election equipment is released. So you are free to remove seals and store your ballots somewhere more convenient if you want to free up your nice ballot storage contains for the next election.... These presidential election ballots should still remain in your possession until September of 2022 (22 month retention period). ***The state also wants you to UNINSTALL the EPN software from your laptops (NOT just delete the icon from the desktop) and remove the election folder from your EPB flash drive.*** [Exhibit 7 (boldface and italics added)].

66. Despite the fact that the BOE Memorandum seems to have indicated that both “optical scan ballots and the programs relating to federal elections be stored in sealed ballot bags in a secure place during the 22-month retention period” as required by federal law, at 4:08 p.m. on March 2, 2021, Abe Dane, Chief Deputy Clerk for Hillsdale County instructed Ms Scott to “delete the November 3, 2020 election folder within the drive” referring to the EPB Flash Drive.

67. Further action taken by Defendant Benson and Defendant Brater included the recall (or request) that all drives (thumb / flash) be sent back to the Secretary of State's office (Exhibit 8).

68. The instructions and directions to destroy and/or delete the electronic and digital data, including the drives upon which the election data and scanned images were stored was and remains in direct violation of 52 USC § 20701 and 52 USC § 20702.

69. On September 8, 2021, Defendant Brater sent a letter to Plaintiff Scott to address the concerns raised by Plaintiff Scott about the maintenance of the TSU's and her alleged refusal to "allow a technician" from Hart Intercivic, Inc. (Hart) to perform preventative maintenance on the township voting machines. (Exhibit 9).

70. Referencing the July 14, 2021 letter to clerks [Exhibit 10], Defendant Brater states that a contract between the State of Michigan and Hart requires that Hart perform service and preventative maintenance every two years. (Exhibit 6).

71. The letter acknowledges that township clerks are obligated to maintain custody of the voting equipment and be responsible for their maintenance, repair, and preparations in future elections. *Id.*, p. 2.

72. The letter further claims that the required maintenance does not destroy data or violate federal law. *Id.*, p. 2.

73. This is contrary to the abilities admitted by Hart in the Contract itself (Exhibit 6, pp. 46 to 55).

74. Each of these TSU's contained a modem, which the township clerks, including Plaintiff, were instructed to provide information on in July 2021. (Exhibit 6, p. 55). This email requested the clerks to provide the modem's IMEI (a unique identification or serial number

that all mobile phones and smartphones have which allows service providers and government authorities to identify the location and connectivity of all devices with such numbers).

75. On October 29, 2021, Trooper Barkley presented a signed search warrant and sought to conduct a search for and obtain custody and possession over the TSU being kept secure by Plaintiff Scott in her office at the Adams Township Town Hall.

76. Only page three (3) of this “search warrant” was presented to Plaintiff Scott and her undersigned counsel. Trooper Barkley refused to present the first two pages, even though counsel for Plaintiff requested it.

77. Despite failing to properly inform Plaintiff Scott or her counsel of the underlying reasons as evidenced by the refusal to provide the actual written reasoning behind the issuance of the search warrant (ostensibly pages 1 and 2), Trooper Barkley went into Plaintiff’s office and with the County Treasurer and opened a locked cabinet containing sensitive and federally protected election data and information (the TSU), and removed the property, documents, and information (including the TSU with its attendant software, programs, and data), all of which was required to be sealed, preserved, and retained by federal law). See MCL 41.65 to 41.69; 52 USC § 20701; 52 USC § 20702.

78. The reality is that Ms. Scott was simply performing her constitutional and statutory duties to uphold federal and state law pertaining to the retention and protection of township property, records, and information, including such as is related to the November 3, 2020 election, and in fact is supposed to be retained and preserved under federal law for 22 months following certification of the election. MCL 41.65; 52 USC § 20701; 52 USC § 20702.

79. This was apparently a threat to Defendants, who took the unusually heavy-handed measures to have a criminal search warrant issued against Plaintiff and have Trooper Barkley

storm Plaintiff's office and remove property, documents, and information (including the TSU with its attendant software, programs, and data), all of which was required to be sealed, preserved, and retained by federal law by Plaintiff Scott in the performance of her constitutional and statutory duties. MCL 41.65; 52 USC § 20701; 52 USC § 20702.

80. As a result of Defendants' dastardly conduct in sending Defendant State Police and Trooper Barkley to Plaintiff's place of work with a defective and, in any event, totally illegitimate search warrant, accusing her of committing a crime, abusing their powers of authority to remove items from Plaintiff Scott's custody property (including potentially personal property), she is seeking, *inter alia*, a declaration of her legal rights and responsibilities as she is not now able to guarantee or otherwise ensure that her duties can be fulfilled regarding her required statutory custody and control of the property, records, information and data (including the TSU with its attendant software, programs, and data), and all associated general election information that is supposed to be kept in her custody and preserved by her for 22 months under federal law.

81. Plaintiff Scott can also no longer guarantee or prove that this this property was *not* tampered with or otherwise adulterated because it is not now in her custody and control, even though an expert has confirmed that the TSU and all attendant property, records, information and data, and other election materials, were sealed and untampered with prior to it being taken from her office by Defendant State Police and Trooper Barkley.

82. Defendant Benson has coordinated an effort to remove Plaintiff from the ability to perform her constitutional and statutory duties in violation of long-standing Michigan jurisprudence that provides that a constitutional officer has certain duties, obligations and responsibilities by law, and any such attempt on the part of a third party (whether a

governmental entity, quasi-governmental entity, or private entity) to remove, invade, usurp, or otherwise perform the duties and responsibilities of a constitutional officer is in violation of the Michigan Constitution and laws.

83. Among the steps taken by Defendants to unconstitutionally usurp Plaintiff's Scott's functions and duties was the attempt by the SOS to claim that she or anyone else had the authority to shut down Plaintiff and remove her from the conducting of elections.

84. Defendants also forced Plaintiff to take measures to protect the voting machines and all other equipment in her possession as Plaintiff has a state and federal duty to maintain and preserve records. See, e.g., MCL 41.65; 52 USC § 20701; 52 USC § 20702.

85. Defendants are aware that updating the voting machines, changing the batteries, erasing files and data can change, delete, modify, or otherwise obscure the data and information within the machines, where such data and information is *required* by both state and federal law to be preserved for a period of 22 months after a national election.

86. In their correspondence to Plaintiff, Defendants cited and relied on case law enacted in 1957 that was applicable when Michigan allowed the counting of ballots by hand. This authority has no bearing on the current situation with respect to the care, custody, control of and ultimate protection of the machines that Plaintiff and Adams Township contracted for with the manufacturer.

87. Due to multiple other lawsuits against Defendants, and voluminous discovery conducted therein, Defendant Benson knows that the service and maintenance of the voting machines threatens the integrity of the data pertaining to past elections.

88. Plaintiff's expert, Benjamin R. Cotton, also confirms that such service and maintenance not only threaten the integrity of past elections, but would result in overwriting of the data and information that is required to be kept by state and federal law will be erased. (Exhibit 12).

89. Plaintiff's expert, Benjamin R. Cotton, specifically states that updates to the voting software or firmware of the TSU would result in the overwriting of the data on the CFast card, which contains election data Plaintiff is required to preserve pursuant to federal law. (Exhibit 12).

90. Even Hart admits that the information it has on the machines can be manipulated, changed, erased, or modified before, during and after an election without anyone knowing what changes were truly made. Moreover, Hart admits that their voting machines transmit election results over the internet to a centralized location – meaning that they admit that voting machines *can* and *do* connect with an outside network before, during and after an election. (Exhibit 6, pp. 45-55).

91. **Despite this, and her knowledge of these threats, Defendants Benson and/or Brater has ordered that all tabulators and USB's be wiped or deleted of data and information, to include images of ballots and/or write-in votes. (Exhibit 8).**

92. The fact that Defendants Benson, Brater, Kast and Dane knew or should have known that updating, maintenance, and service erases data from prior elections, and that they also have a duty under federal law to maintain such records, demonstrates that they were in bad faith in commandeering the election equipment held by Plaintiff (a clear violation of the case law interpreting MCL 41.65).

93. MCL 41.65 “authorize[s] *only* the township clerk to have control of the township's papers.” *McKim v Green Oak Twp Bd*, 158 Mich App 200, 201; 404 NW2d 658 (1987). In

McKim, the court pointed out that the township clerk is even required to file a bond to ensure the safekeeping of the township's records. The court further noted that the law did not prohibit the township clerk from taking the records home temporarily in the performance of her duties as township clerk. A township clerk that has to defend herself from encroachment upon her powers, or indeed, restrictions or limitations attempted to be placed on those powers is entitled to an award of attorney fees because such assertions concern performance of her legal duties. *Id.*

94. As a result of multiple lawsuits against her and at least 20 expert reports, not including her own, Defendants Benson and/or Brater are well aware of these claims and the hotly contested nature of the November 2020 election.

95. Instead, Defendants actively seek to compromise and/or otherwise destroy data and information necessary to determine whether the November 2020 election was indeed conducted properly.

96. Defendants Benson and/or Brater is forcing Plaintiff, a constitutional officer to commit misfeasance in office by ostensibly preventing her from running any future elections, despite the fact that Plaintiff's responsibilities and duties include administering the election in her township.

97. Defendant Benson's and/or Brater's orders to Plaintiff Scott direct Plaintiff to not only violate election data preservation laws, but give all control over the election data and machines to a third party vendor in violation of Michigan, federal law, and Plaintiff's constitutional authority/duty to be carried out in accordance with her oath of office.

98. Defendant Benson has previously admitted that she has not maintained or kept computer software information, ballot format specifications, device-specific event logs for installed

software on election equipment, and other necessary election information related to the November 3, 2020, election.

99. Instead, Defendant Benson has consistently said that this information is kept and maintained at the local level.

100. Additionally, Defendant Benson has admitted that with regard to the November 3, 2020, election that she has not maintained information regarding how a TSU functions beyond a general level and Defendant Benson states that information at a specific level could only be obtained from the manufacturer of the TSU.

101. Moreover, Defendant Benson has failed to test the vendor source code as required in Michigan at least annually, failed to do so for the November 3, 2020 election, and further admits that only the vendors have access to the source code. [cite statute regarding the xsource code]

102. Defendant Benson and/or Brater effectively wash their hands of obligation under state and federal law requiring the maintenance and keeping of election information, refer to the local county officials for the information, refer to the manufacturer as to any questions regarding the information and testing, maintenance and security and source code, absolved themselves of culpability even though they know that the manufacturers doing security, maintenance and testing can erase the election data. See Exhibit 12, Cotton Affidavit.

103. Defendant Benson's orders to Plaintiff Scott not only prevent her from carrying out her constitutional duties, prevent her from following the law, and would give all control and access of the TSU and election data and files exclusively to vendors should Plaintiff Scott follow Defendant's Benson's order as dictated to her.

104. Defendants, Dane and Kast, individually, at the direction of or acting in concert with Defendants Benson and/or Brater commandeered and adulterated voting equipment, and information, including ballots and ballot bags, thoo the ballots being kept by palintgftthat was being kept by Plaintiff. (Exhibits 1, 3, and 4).

105. Defendants have unilaterally declared that while Plaintiff was duly elected to perform her constitutional and statutory duties, someone else that is not elected or accountable to Plaintiff's constituency will take over and effectively terminate Plaintiff's ability to perform her function.

106. Defendant Benson's attempts to strip Plaintiff of her constitutional position and statutory duties is contrary to Michigan jurisprudence that holds that while the character of the office might change, the powers and duties prescribed by both common law and statute cannot be altered or transferred to another.

107. Constitutional officers whose duties and responsibilities and rights are prescribed by jurisprudence and positive enactment (statute) cannot have these duties, rights, and responsibilities infringed upon or taken over by any other entity or individual. See also *Allor v Bd of Auditors of Wayne County*, 43 Mich 76, 101-103; 4 NW 492 (1880) (no one in whom constitutional powers and duties has been entrusted can be deprived of them by any other official or entity and elected constitutional officers have responsibilities prescribed by law which cannot be interfered with by those who are not elected by the citizens). It may be competent for the legislative or executive branch to expand the powers and duties of a constitutional officer, but they can no more invade them and shift them to another, as remove them. *Id.* The township clerk has duties prescribed by common law and statute, which include filing and safely keeping all official government papers and information as required

by law to be filed and kept in his or her office. MCL 41.65. See also, *Grabow v Macomb Twp* , 270 Mich App 222, 231; 714 NW2d 674 (2006).

108. MCL 41.65 provides, in pertinent part, as follows: “The township clerk of each township shall have custody of all the records, books, and papers of the township, when no other provision for custody is made by law. The township clerk shall file and safely keep all certificates of oaths and other papers required by law to be filed in his or her office, and shall record those items required by law to be recorded. These records, books, and papers shall not be kept where they will be exposed to an unusual hazard of fire or theft....”

109. Election equipment, ballots, and information were removed from Plaintiff’s Office, at the direction of the Defendants Benson and Brater, by Defendants Dane and Kast.

110. With respect to records, documents, property, and information that are for the township and in the custody and control of the township clerk, there is no other entity or authority that may assert or take control of these items. *Id.* See also *McKim v Green Oak Twp Bd*, 158 Mich App 200, 205; 404 NW2d 658 (1987) (action on behalf of another governmental agency to transfer control and custody of a township clerk’s records and information was in contravention of MCL 41.65 and constituted an impermissible restraint on the township clerk’s authority).

111. The township clerk is also required to file a bond for the safekeeping of property, records, books, and papers of the township in the manner required by law and thus is the guarantor and custodian with liability and responsibility for these items. See MCL 41.69. This is further assurance by the township clerk that he or she will “faithful[ly] discharge...the duties of the office according to law, including the safekeeping of the records, books, and papers of the township in the manner required by law....” *Id.* See also *McKim, supra* at 205-206.

112. A township clerk who is obligated by law to maintain custody and control over all township records and information “can hardly fulfill her duty of safekeeping” if another entity is allowed to unilaterally and without notice take control and/or possession of such items. *McKim, supra* at 205.

COUNT I – DECLARATORY RELIEF

113. Plaintiff restates and incorporates as if fully set forth herein all preceding allegations contained in this Complaint.

114. In addition to violating Ms. Scott’s constitutional rights, and usurping her power and authority as a constitutional officer under Michigan’s Constitution with her duties and powers provided by jurisprudence and statutory law, Defendants had the audacity to send a letter to Ms. Scott purporting to have the authority to relieve her of her duties as a constitutional officer. See Exhibits 5

115. In Michigan, Township Clerks are constitutional officers, i.e., elected officials subject to duties imposed by law and with responsibilities to the citizenry that voted for them. See Const 1963, art 7, § 18.

116. Mich Const 1963, art 7, § 18 provides that "In each organized **township** there shall be elected . . . a **clerk** . . . whose legislative and administrative powers and **duties** shall be provided by law."

117. The functions of township officers who are continued by constitutional enactment are within the contemplation and protection of the constitution, and neither the legislature nor any inferior officer or one from another branch of government can deprive such officers of their authority and confer it upon officers not of local selection. *Davies v. Board of Sup'rs*, 89 Mich. 295, 50 N.W. 862, 1891 Mich. LEXIS 619 (Mich. 1891).

118. Constitutional officers whose duties and responsibilities and rights are prescribed by jurisprudence and positive enactment (statute) cannot have these duties, rights, and responsibilities infringed upon or taken over by any other entity or individual. *Davies, supra*. See also *Allor v Bd of Auditors of Wayne County*, 43 Mich 76, 101-103; 4 NW 492 (1880) (no one in whom constitutional powers and duties has been entrusted can be deprived of them by any other official or entity and elected constitutional officers have responsibilities prescribed by law which cannot be interfered with by those who are not elected by the citizens).

119. It may be competent for the legislative or executive branch to expand the powers and duties of a constitutional officer, but they can no more invade them and shift them to another, as remove them. *Id.*

120. The township clerk has duties prescribed by common law and statute, which include filing and safely keeping all official government papers and information as required by law to be filed and kept in his or her office. MCL 41.65. See also, *Grabow v Macomb Twp*, 270 Mich App 222, 231; 714 NW2d 674 (2006).

121. MCL 41.65 provides, in pertinent part, as follows:

The township clerk of each township shall have custody of all the records, books, and papers of the township, when no other provision for custody is made by law. The township clerk shall file and safely keep all certificates of oaths and other papers required by law to be filed in his or her office, and shall record those items required by law to be recorded. These records, books, and papers shall not be kept where they will be exposed to an unusual hazard of fire or theft....

122. With respect to records, documents, property, and information that are for the township and in the custody and control of the township clerk, there is no other entity or authority that may assert or take control of these items. *Id.* See also *McKim v Green Oak Twp Bd*, 158 Mich App 200, 205; 404 NW2d 658 (1987) (action on behalf of another governmental agency to

transfer control and custody of a township clerk's records and information was in contravention of MCL 41.65 and constituted an impermissible restraint on the township clerk's authority).

123. The township clerk is also required to file a bond for the safekeeping of property, records, books, and papers of the township in the manner required by law and thus is the guarantor and custodian with liability and responsibility for these items. See MCL 41.69. This is further assurance by the township clerk that he or she will "faithful[ly] discharge...the duties of the office according to law, including the safekeeping of the records, books, and papers of the township in the manner required by law...." *Id.* See also *McKim, supra* at 205-206.

124. A township clerk who is obligated by law to maintain custody and control over all township records and information "can hardly fulfill her duty of safekeeping" if another entity is allowed to unilaterally and without notice take control and/or possession of such items. *McKim, supra* at 205.

125. In seizing control of and taking the sensitive and federally preserved election data and information (the TSU), and removed the property, documents, and information (including the TSU with its attendant software, programs, and data), all of which was required to be sealed, preserved, and retained by federal law), and kept and retained by Plaintiff Scott See MCL 41.65; 52 USC § 20701; 52 USC § 20702, the Defendants infringed upon her duties and obligations as provided by the aforementioned statutory law and jurisprudence.

126. The real effect of this usurpation of authority was to completely prevent Plaintiff Scott from ensuring that the federal records (including sensitive and federally protected election data and information, and other property, documents, and information (including the TSU with its attendant software, programs, and data), were sealed, kept secure and retained as required by federal law). See MCL 41.65; 52 USC § 20701; 52 USC § 20702.

127. In its brazen attempt to thwart justice and the judicial, legislative, and constitutional processes established to respect the Township Clerk’s legal duties and responsibilities, and most importantly to ensure that federal law is not violated, Defendants instead made an effort to neutralize Plaintiff Scott’s ability to perform her constitutionally and statutorily imposed duties as an elected constitutional officer.

128. In further retaliation for the above-detailed conduct, Defendants have commenced a “media” campaign to smear Plaintiff Scott, and they have engaged in a continuous and ever-increasing effort to usurp and infringe upon her common-law and statutory duties and thereby reduce the constitutional and elected office of Township Clerk to little more than that of a bureaucratic functionary, by unilaterally and without legal authority, doing, inter alia, the following:

- a. Purporting to remove the property and information over which Plaintiff Scott is supposed to retain and keep secure as required by her state and federal law duties;
- b. Purporting to remove Plaintiff Scott from her position as a constitutionally elected Township Clerk; and
- c. Purporting to have the authority to order that she not attend to her constitutional and statutory duties to oversee any elections, including the local election taking place on November 2, 2021.

129. By way of this complaint, Plaintiff Scott seeks a declaration from the Court that she has the above-mentioned constitutional and statutory duties; that Defendants have unconstitutionally and unlawfully usurped and taken over those duties; that Defendants in doing so have made it impossible for Plaintiff Scott to perform her constitutional and statutory duties as a constitutionally elected officer on behalf of her electorate; declare that Defendants must return the aforementioned property and information to her; declare that Defendants must

prove to the Court that they have not tampered with or otherwise adulterated the property and information in violation of federal law, and that all such information required to be retained by 52 USC § 20701 has been preserved in accordance with that statute.

COUNT II – INJUNCTIVE RELIEF

130. Plaintiff restates and incorporates as if fully set forth herein all preceding allegations contained in this Complaint.

131. In addition to violating Ms. Scott’s constitutional rights, and usurping her power and authority as a constitutional officer under Michigan’s Constitution with her duties and powers provided by jurisprudence and statutory law, Defendants had the audacity to send a letter to Ms. Scott purporting to have the authority to relieve her of her duties as a constitutional officer (Exhibit 5).

132. In Michigan, Township Clerks are constitutional officers, i.e., elected officials subject to duties imposed by law and with responsibilities to the citizenry that voted for them. See Const 1963, art 7, § 18.

133. Mich Const 1963, art 7, § 18 provides that "In each organized **township** there shall be elected . . . a **clerk** . . . whose legislative and administrative powers and **duties** shall be provided by law."

134. The functions of township officers who are continued by constitutional enactment are within the contemplation and protection of the constitution, and neither the legislature nor any inferior officer or one from another branch of government can deprive such officers of their authority and confer it upon officers not of local selection. *Davies v. Board of Sup'rs*, 89 Mich. 295, 50 N.W. 862, 1891 Mich. LEXIS 619 (Mich. 1891).

135. Constitutional officers whose duties and responsibilities and rights are prescribed by jurisprudence and positive enactment (statute) cannot have these duties, rights, and responsibilities infringed upon or taken over by any other entity or individual. *Davies, supra*. See also *Allor v Bd of Auditors of Wayne County*, 43 Mich 76, 101-103; 4 NW 492 (1880) (no one in whom constitutional powers and duties has been entrusted can be deprived of them by any other official or entity and elected constitutional officers have responsibilities prescribed by law which cannot be interfered with by those who are not elected by the citizens).

136. It may be competent for the legislative or executive branch to expand the powers and duties of a constitutional officer, but they can no more invade them and shift them to another, as remove them. *Id.*

137. The township clerk has duties prescribed by common law and statute, which include filing and safely keeping all official government papers and information as required by law to be filed and kept in his or her office. MCL 41.65. See also, *Grabow v Macomb Twp*, 270 Mich App 222, 231; 714 NW2d 674 (2006).

138. MCL 41.65 provides, in pertinent part, as follows:

The township clerk of each township shall have custody of all the records, books, and papers of the township, when no other provision for custody is made by law. The township clerk shall file and safely keep all certificates of oaths and other papers required by law to be filed in his or her office, and shall record those items required by law to be recorded. These records, books, and papers shall not be kept where they will be exposed to an unusual hazard of fire or theft....

139. With respect to records, documents, property, and information that are for the township and in the custody and control of the township clerk, there is no other entity or authority that may assert or take control of these items. *Id.* See also *McKim v Green Oak Twp Bd*, 158 Mich App 200, 205; 404 NW2d 658 (1987) (action on behalf of another governmental agency to

transfer control and custody of a township clerk's records and information was in contravention of MCL 41.65 and constituted an impermissible restraint on the township clerk's authority).

140. The township clerk is also required to file a bond for the safekeeping of property, records, books, and papers of the township in the manner required by law and thus is the guarantor and custodian with liability and responsibility for these items. See MCL 41.69.

141. A township clerk who is obligated by law to maintain custody and control over all township records and information "can hardly fulfill her duty of safekeeping" if another entity is allowed to unilaterally and without notice take control and/or possession of such items. *McKim, supra* at 205.

142. In seizing control of and taking the sensitive and federally protected election data and information (the TSU), and removed the property, documents, and information (including the TSU with its attendant software, programs, and data), all of which was required to be sealed, preserved, and retained by federal law), and kept and retained by Plaintiff Scott See MCL 41.65; 52 USC § 20701; 52 USC § 20702, the Defendants infringed upon her duties and obligations as provided by the aforementioned statutory law and jurisprudence.

143. The real effect of this usurpation of authority was to completely prevent Plaintiff Scott from ensuring that the federal records (including sensitive and federally protected election data and information, and other property, documents, and information (including the TSU with its attendant software, programs, and data), were sealed, kept secure and retained as required by federal law). See MCL 41.65; 52 USC § 20701; 52 USC § 20702.

144. In its brazen attempt to thwart justice and the judicial, legislative, and constitutional processes established to respect the Township Clerk's legal duties and responsibilities, and most importantly to ensure that federal law is not violated, Defendants instead made an effort

to neutralize Plaintiff Scott's ability to perform her constitutionally and statutorily imposed duties as an elected constitutional officer.

145. In further retaliation for the above-detailed conduct, Defendants have commenced a "media" campaign to smear Plaintiff Scott, and they have engaged in a continuous and ever-increasing effort to usurp and infringe upon her common-law and statutory duties and thereby reduce the constitutional and elected office of Township Clerk to little more than that of a bureaucratic functionary, by unilaterally and without legal authority, doing, inter alia, the following:

- a. Purporting to remove the property and information over which Plaintiff Scott is supposed to retain and keep secure as required by her state and federal law duties;
- b. Purporting to remove Plaintiff Scott from her position as a constitutionally elected Township Clerk; and
- c. Purporting to have the authority to order that she not attend to her constitutional and statutory duties to oversee any elections, including the local election taking place on November 2, 2021.

146. By way of this complaint, Plaintiff Scott seeks to enjoin Defendants from continuing to interfere with her constitutional and statutory duties, that Defendants be enjoined from unconstitutionally and unlawfully usurping and taking over those duties; that Defendants be enjoined from preventing Plaintiff Scott from performing her constitutional and statutory duties as a constitutionally elected officer on behalf of her electorate; enjoin Defendants from keeping and/or tampering with the aforementioned property and information in violation of federal law as all such information is required to be retained by 52 USC § 20701 has been preserved in accordance with that statute.

COUNT III – ATTORNEYS' FEES

147. Plaintiff restates and incorporates as if fully set forth herein all preceding allegations contained in this Complaint.

148. Michigan courts recognize a right to attorneys' fees when a public official incurs such fees in connection with asserting or defending the performance of his or her legal duties. See, e.g., *Smedley v City of Grand Haven*, 125 Mich 424; 84 NW 626 (1900), *Exeter Twp Clerk v Exeter Twp Bd*, 108 Mich App 262; 310 NW2d 357 (1981), and *City of Warren v Dannis*, 136 Mich App 651; 357 NW2d 731 (1984), lv den 422 Mich 932 (1985). See also *McKim v Green Oak Twp Bd*, 158 Mich App 200, 207-08; 404 NW2d 658 (1987).

149. In the instant case, Plaintiff Scott has asserted her constitutional and statutory duties to maintain, retain and keep secure property, documents, information (including electronic and digital, i.e., software and images), records, and equipment for which Plaintiff is responsible by law, to include sensitive and federally protected election data and information (the Tabulator / Scan Units (TSU's)), and removed the property, documents, and information (including the TSU with its attendant software, programs, and data), all of which was required to be sealed, preserved, and retained by federal law).

150. Plaintiff Scott has demonstrated that Defendants have usurped and infringed upon and in fact made it impossible for her to perform her constitutional and statutory duties, and she is obligated and to incur legal fees in defending and protecting her constitutional office.

151. Plaintiff Scott is therefore entitled to attorneys' fees as described in the aforementioned jurisprudence in her litigation to protect her office and its functions from usurpation and infringement.

RELIEF REQUESTED

WHEREFORE, due to the urgency and the severity of imminent potential harm to the integrity of elections and the information and data required to be retained in accordance with federal law, and good cause having been demonstrated, and legal argument and authority having been presented in this Complaint, Plaintiff seeks Temporary Injunctive Relief to prevent Defendants from tampering with or otherwise adulterating the property that it unlawfully confiscated from Plaintiff Scott's locked cabinet, and to return such information in the same state it was in when such taking occurred.

WHEREFORE, Plaintiff Scott also respectfully requests this Honorable Court to:

Enter an order pursuant to MCR 3.310, enjoining Defendants from carrying out or otherwise causing to be carried out any and all tampering, deletion, erasing, or adulteration of the data related to the general election of November 2020 as required by federal law, and order that the TSU be returned to Plaintiff Scott to keep and maintain as required by law.

Order Defendants to show cause as to why its proposed actions are authorized by law and are not ultra vires of their constitutional and statutory authority, and thereby in contravention of and directly violative of Plaintiff Scott's exercise of her constitutional and statutory duties as a constitutional, elected official of a known legal character with certain duties and powers provided by law, and beholden to her electorate;

Order that a hearing be held on the merits of this Complaint wherein it shall be determined whether the Defendants must honor their respective constitutional, statutory and legal obligations vis-à-vis Plaintiff Scott in her official capacity as a constitutional officer and perform those actions and procedures deemed necessary to bring about compliance by Defendants with federal law and restore to Plaintiff Scott her ability to perform her independent

duties and functions; whether Defendants must further refrain from unconstitutionally encroaching upon the Plaintiff Scott's constitutional office in violation of the doctrine of separation of powers and the exercise of her exclusive powers, and such other relief as this Honorable Court deems just and equitable under the law.

Respectfully submitted,

/s/ Stefanie Lambert

Dated: February 24, 2022