

To: *Jonathan Brater*, MI Director of Elections; *Charles C. Nebels*, *Pamela Johnson*, *Joel VandeWelde*; Alger County Elections Commission; *Teri Grout*, *Cindy Kallio*, *Tom Schierkolk*, Rock River Township Elections Commission; individually, as [agent]

Cc: *Elizabeth T. Clement*, Chief Justice, MI Supreme Court, (ALL MEMBERS); c/o *Larry Royster*, Clerk of Court; *Jocelyn Benson*, Secretary of State; *Dana Nessel*, Attorney General;

Affidavit of the People's Grant of Sovereign Immunity for Official Acts

Affiant, _____, one of the People as seen in the Michigan Constitution, *Sui Juris*, in this Court of Record, makes the following claims that you and your agents may provide due care;

Affiant presents the following claims:

Affiant claims that the People *comprise* the State; their servants are simply trustee/agents and have no power to carry out their own will nor the will of any foreign interest. (See evidence below) (emphasis by highlight);

STATE. Black's Law Dictionary Fourth Edition [excerpt]

"A people permanently occupying a fixed territory bound together by common-law habits and custom into one body politic exercising, through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into international relations with other communities of the globe. *United States v. Kusche*, D.C.Cal., 56 F. Supp. 201, 207, 208. The organization of social life which exercises sovereign power in behalf of the people. *Delany v. Moraitis*, C.C.A.Md., 136 F. 2d 129, 130."

Affiant claims that *Rock River Township Elections Commission* [agent] received the following lawful notices regarding constitutional elections by the People between approximately March to June 2024:

- "Notice to Michigan Township Officers of the People's Right to Instruct"
- "People's Notice to Rock River Township Officers: Hold Town Hall Meeting and Set Election to Fill Vacant Officer Seats"
- "Point of Clarity: The People May Call a Township Special Election When No Quorum of Officers Exists"
- "Authority and Duty of Township Legislative Officers to Restore Constitutional 'republican form' of Governance"

and,

Affiant claims that *Alger County Elections Commission* [agent] received the following lawful notices regarding constitutional elections by the People between approximately March to June 2024:

- "Notice to Alger County Election Commission on Violation of the People's Fundamental Right to Vote"
- "Second Notice of Violation of the People's Fundamental Rights by Alger County Election Commission"

Affiant claims that the People of Michigan do hold all sovereign and political power over the workings of their constitutional, republican-form government. Trustee/servants voluntarily enter into association with the People; as was evidenced when [agent] became bound to the Michigan Public Trust by his/her consent and free will. (See evidence below) (emphasis by highlight);

Loper Bright Enterprises v. Raimondo :: 603U.S. ____ (2024) [Concurrence Gorsuch]

"Instead, the Constitution promises, the American people are sovereign and they alone may, through democratically responsive processes, amend our foundational charter or revise federal legislation."

Michigan Constitution Declaration of Rights, Section 1: Political Power

"All political power is inherent in the people. Government is instituted for their equal benefit, security and protection."

Affiant claims that [agent] is granted immunity by the People for administering official acts authorized by express text of the constitutions, to which he/she is bound. 'Official acts' include attending to the *People's lawful instruction* and the *redress of their grievances*. Separation of powers, as seen in *MC Article III, Section 2: Separation of Powers of Government*, ensures that agencies created by the state legislature have no authority to delegate powers; create

law; or adjudicate legal matters. Enforcement authority of Executive agencies is limited in strict conformance with the State and U.S. Constitutions. (See evidence below) (emphasis by highlight);

SOVEREIGN IMMUNITY OF STATE FROM LIABILITY. Black's Law Dictionary Fourth Edition

"Exists when the state is engaged in a governmental function. *Manion v. State*, 303 Mich. 1, 5 N.W.2d 527, 528."

Michigan Constitution Declaration of Rights Section 3: Assembly, Consultation, Instruction, Petition

"The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances."

Affiant claims that constitutional elections are those by the People of Michigan, freely choosing their servants as a result of their individual and collective will. Elections provisions must be followed by [agent] with 'exact due regard' in order for acts to be deemed official acts, with immunity granted by the People. *MC Article II Elections, Section 4*, strictly defines the various practices of civil power which are prohibited and in violation of the People's fundamental right to vote. Per *Article II, Section 4 (1) (A)*, an imposition by an agency of the state, county, or other political subdivision which interferes with the People's election rights cannot be considered an official act. (See evidence below) (emphasis by highlight);

Michigan Constitution Article II, Elections, Section 4 (1)

(A) The fundamental right to vote, including but not limited to the right, once registered, to vote a secret ballot in all elections. No person shall: (1) enact or use any law, rule, regulation, qualification, prerequisite, standard, practice, or procedure; (2) engage in any harassing, threatening, or intimidating conduct; or (3) use any means whatsoever, any of which has the intent or effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.

For purposes of this part (a) of subsection (4)(1), "person" means an individual, association, corporation, joint stock company, labor organization, legal representative, mutual company, partnership, unincorporated organization, the state or a political subdivision of the state or an agency of the state, or any other legal entity, and includes an agent of a person.

Affiant claims that a letter sent on August 6th 2024 by *Director of Elections* [agent], to *Rock River Township Elections Commission* [agent], [see enclosed document] clearly leverages agency rules; regulating within fine detail the Township's election activities, by authority of written requirements of state and county agencies. With *MI Director of Elections* [agent] demanding local conformance to agencies' derivative acts and rules, the inferior powers of the state have threatened township [agent]'s ability to administrate the orderly constitutional elections demanded by the People, as expressed in *MC Article II Elections, Section 4*. (See evidence below);

Maxim of Law: No guilt attaches to him who is compelled to obey. *Dig.* 50, 17, 169, pr.; *Bouv.* 124.

Affiant claims that *Rock River Township Elections Commission* [agent], has been instructed in notices listed above that the People expect rightful, constitutional township elections; secret ballot, public counting of marks, and determination of final tally, subject to in-process resolution of discrepancy via General Accounting Principles. Election administration in true constitutional form will be deemed to be 'official acts' and will provide *Rock River Elections Committee* [agent] the immunities granted under *MC Article VII, Section 17*. (See evidence below) (emphasis by highlight);

Michigan Constitution Article VII, Section 17: Townships; Corporate Character, Powers and Immunities

"Each organized township shall be a body corporate with powers and immunities provided by law."

Affiant claims that any attempt to prevent township election administrators from full visual inspection of voted ballots during counting, whether by *Director of Elections* [agent] or indirectly by contracted agent, is willfully acting in excess of granted authority, by using agency regulatory rules to supercede a constitutional mandate set forth in *MC Article II Elections, Section 4*. *Director of Elections* [agent] would be in breach of the Michigan Trust Indenture created by the People (which are both the Grantor and Beneficiary). Any grantee attempting to redefine the constitutional contract as 'subject to adjustment' would be deemed as committing a highest order violation of duty, and the private commission of an 'unofficial act'. Per U.S. Supreme Court opinion in *Trump v. United States :: 603 U.S. ___ (2024)*: "There is no immunity for unofficial acts." (See evidence below) (emphasis by highlight);

Maxim of Law: That which is granted or reserved in a certain specified form must be taken as it is granted, and will not be permitted to be made the subject of any adjustment or compensation on the part of the grantee. *Ex. parte Miller*, 2 Hill (NY) 423; Bacon, *Max.* 26, reg. 4.

Trump v. United States :: 603 U.S. ____ (2024)

“he is entitled to at least presumptive immunity from prosecution for all his official acts. There is no immunity for unofficial acts.”

If you believe that any of the above claims are untrue, then you must rebut them point by point by way of sworn affidavit within 7 (seven) days and send your affidavit by certified mail to the addresses listed below. If you fail to rebut these claims based on the terms above, you agree that all herein is truth and shall stand as law. Affiant reserves the right to bring this issue before an arbitrator of his/her choice. Furthermore, if you fail to rebut the matter, it shall not be reheard by any other court, and it will be considered adjudged and final. Any man or woman who suppresses this affidavit agrees to pay \$5,000.00 per infraction.

Rebuttal Affidavits must be sent to the following addresses:

Affiant: _____

Elizabeth T. Clement, MI Supreme Court c/o Larry Royster Clerk; P.O. Box 30052 Lansing, Michigan 48909

Jocelyn Benson, Secretary of State; 430 W. Allegan St., Richard H. Austin Building - 4th Floor Lansing, MI 48918

Dana Nessel, Attorney General; G. Mennen Williams Building, 525 W. Ottawa Street, P.O. Box 30212 Lansing, MI 48909

Verification

I hereby declare, certify, and state, pursuant to the penalties of perjury under the laws of the United States of America, and by the provisions of 28 USC § 1746 that all of the above and foregoing representations are true and correct to the best of my knowledge, information, and belief.

Executed in _____, Michigan on this _____ day of _____ (month) in the Year of Our Lord Two Thousand and Twenty-Four.

Autograph of Affiant

Notary as JURAT CERTIFICATE

_____ **State** }
_____ **County** }

On this _____ day of _____, 2024 (date) before me, _____, a Notary Public, personally appeared _____, (Name of Affiant) who proved to me on the basis of satisfactory evidence to be the woman whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her autograph(s) on the instrument the man executed, the instrument. I certify under PENALTY OF PERJURY under the lawful laws of Michigan State that the foregoing paragraph is true and correct. WITNESS my hand and official seal. Signature of Notary / Jurat _____ Seal

Signature of Notary / Jurat _____

Seal

ENCLOSURE:



STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

August 6, 2024

Tom Schierkolk, Rock River Township Clerk
Via email: rockrivertownshipclerk@gmail.com

Dear Clerk Schierkolk:

The Bureau of Elections has received reports that Rock River Township may be planning to conduct a "hand count" of ballots after ballots have been electronically tabulated, and after the close of the polls on Election Day. Although there are numerous procedures in which paper ballots can be reviewed after being tabulated, the Michigan Election Law, 1954 PA 116, as amended, MCL 168.1 *et seq.*, does not authorize a separate "hand count" during or prior to the election-night canvass. Instead, ballots must be secured in a sealed container to preserve the integrity and chain of custody of ballots for the canvass.

In Michigan, all voters cast their votes using paper ballots, which are read by optical scanners. Paper ballots are a critical element of the security of Michigan's election system and can be utilized to resolve post-election disputes. Any deviation from the practice of securely storing the ballots following the tabulation could interfere with the post-election processes that help ensure the integrity of the election.

Under the Michigan Election Law, the Bureau provides the necessary materials to precincts for securely storing election materials after tabulation. MCL 168.669.¹ Precinct board of election inspectors are directed to place ballots in ballot containers with numbered seals following the polls closing. MCL 168.805.² Storing the paper ballots in sealed containers ensures the chain of custody over the ballots and ensures they are in the same condition as on Election Day in the event that the Board of County Canvassers needs to retabulate ballots during the canvass.

Additionally, ensuring the security of the ballots preserves candidates' right to request a recount in the event that they believe ballots were not tabulated correctly. Under the Michigan Election Law, if the number of ballots does not match the number of names in the pollbook or the number of ballots tabulated, and there is not an explanation, the precinct may not be recountable. MCL 168.874.³ An improperly sealed ballot container may also prevent a recount. Removing the ballots from their secure containers for a hand count or handling ballots during a hand count between tabulations and secure storage creates the potential for human error that could jeopardize a candidates' right to request a recount.

¹ MCL - Section 168.669 - Michigan Legislature

² MCL - Section 168.805 - Michigan Legislature

³ MCL - Section 168.874 - Michigan Legislature

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To the extent that you or any Township residents have concerns that paper ballots are not tabulated correctly, notwithstanding the post-election canvass and availability of recounts, please note that the clerk *can* review paper ballots after the canvass and recount period is complete, and members of the public may observe this process (but cannot handle ballots.) Michigan Election Law, Section, 799a⁴ provides that ballots may be released 7 days after the Board of State Canvassers makes their final determination regarding the election, absent a recount.

When ballots and other records are removed from ballot containers following release of security, they should be stored in sealed ballot bags in a secure place during the 22-month retention period.⁵ Among other things, this is required because evidence for criminal investigation requires a verifiable chain of custody to ensure that the evidence has not been compromised. Securing ballots under seal and recording the seal numbers are both essential to the protection and maintenance of the chain of custody. For more information about protection and security of paper ballots during the 22-month retention period, please see the attached memorandum on access to records and equipment.

Under the Michigan Election Law, the Secretary of State is the Chief Election Officer of this State and "shall have supervisory control over local election officials in the performance of their duties under the provisions of this act." MCL 168.21.⁶ The Secretary of State is required by-law to "issue instructions" and "[a]dvise and direct local election officials as to the proper methods of conducting elections." MCL 168.31(1)(a), (b).⁷ Clerks and other election officials are required to comply with the instructions given by the Secretary of State. See, e.g., *Secretary of State v Berrien Co Bd of Election Comm'rs*, 373 Mich 526, 530-531 (1964). And the failure to perform a legal duty or to obey a lawful instruction given by the Secretary may result in a criminal misdemeanor. MCL 168.931(1)(g). The Director of Elections is authorized to act at the Secretary's behest "with respect to the supervision and administration of the election laws." MCL 168.32.⁸

⁴ MCL - Section 168.799a - Michigan Legislature

⁵ Bureau of Elections, *Release of Voting Equipment* (February 12, 2021), available to clerks in the eLearning Center.

⁶ MCL - Section 168.21 - Michigan Legislature

⁷ MCL - Section 168.31 - Michigan Legislature

⁸ MCL - Section 168.32 - Michigan Legislature

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The Township must follow Michigan Election Law by sealing the ballots following tabulation to protect the integrity of our elections and preserving candidates' ability to request a recount. Any deviation from these procedures risks legal violations and potentially compromises required post-election procedures.

Sincerely,

Jonathan Brater, Director of Elections
Michigan Bureau of Elections

C: Joel Vandevelde, Alger County Clerk
Teri Grout, Rock River Township Supervisor
Todd Brock, Alger County Sheriff
Robert Steinhoff, Alger County Prosecutor
Heather Meingast, Assistant Attorney General

[Attachment]