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November 6, 2023

Via Email and Fax

David S. Leyton
Prosecuting Attorney & Corporation Counsel
Genesee County Board of Commissioners
100 Courthouse
900 S. Saginaw
Flint, MI 48502
E-Mail: dleyton@geneseecountymi.gov
Fax: 810-257-3219

Brian D. MacMillan
Senior Assistant Prosecuting Attorney-Civil
Division
Genesee County Board of Commissioners
E-Mail: bmacmillan@geneseecountymi.gov

Re: 67th District Court - Proposed Consolidation Plan and Notice of Forthcoming Litigation

Dear Messrs. Leyton and MacMillan:

Please be advised that this office represents the 67th District Court (“the Court”) with respect to its forthcoming claims against the Genesee County Board of Commissioners (“Board”) for the Board’s unlawful and unconstitutional attempts to usurp the inherent authority of the judiciary by way of the Board’s Capital Improvement Plan (the “Plan”), which purports to eliminate all locations of the 67th District Court outside of the City of Flint. Importantly, this Plan was crafted without any input from the Court or any of its judges. It is the Court’s understanding that the Plan was adopted at the Board’s September 13, 2023 meeting, but the Court’s efforts to obtain a copy of the Board’s resolution purportedly adopting the Plan have been unsuccessful as of the date of this correspondence.

Nevertheless, it has become apparent to the Court that the Board intends to move forward with the implementation of the Plan and the closure of courthouses, as evidenced by, among other things, the Board’s Director of Administration’s action to notify the City of Davison of the termination of the County’s lease for the Davison courthouse. (Exhibit A – September 14, 2023 Lease Termination Letter from Mr. Freeman). Putting aside the issue of whether the Board properly granted the authority to take such action, it is apparent the Board is determined to pursue unconstitutional and unlawful efforts to usurp the inherent authority of the Court as a co-equal branch of government, including the Court’s inherent authority to determine the locations where the Court sits.

As a district of the first class, the Revised Judicature Act requires the Court to sit at the County Seat and at each city having a population of 6,500 or more. MCL 600.8251(1). Further, the Revised Judicature Act clearly vests the authority with the **Court** to “sit at other places as the

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judges of the district determine.” *Id.* (emphasis added). Accordingly, the Board lacks the unilateral authority to shutter 6 courthouses. In addition, Michigan law mandates that the Court sit in several of the cities in which the Board seeks to close court operations—Flushing, Fenton, Burton, and Grand Blanc. Moreover, the judges of the 67th District Court have unanimously rejected the Plan and have determined that the Court shall sit and shall continue to sit at its current locations to best further the efficient administration of justice within the 67th District. Accordingly, the Board lacks any legal authority to close any 67th District Court locations.

Further, constitutional principles of separation of powers prohibit the Board from infringing on the Court’s inherent authority to manage its affairs and discharge its statutorily and constitutionally-imposed functions. The Michigan Constitution prohibits the Board from exercising powers properly belonging to the Court. Const 1963, Art III, § 2. Further, the Michigan Supreme Court has repeatedly re-affirmed the judiciary’s inherent authority to take action to confirm its constitutional autonomy, and such autonomy cannot be subverted through the guise of appropriations. See, e.g., *46th Circuit Trial Court v Cnty of Crawford*, 476 Mich 131, 145 (2006) (“The essence of the ‘inherent power’ doctrine is that the constitutionally-assigned duty of a court such as ours automatically carries with it the power and responsibility of making continually sure that this ‘one court of justice’ (Const 1963, art 6, § 1) functions serviceably as a co-equal branch of Michigan’s government.”) (cleaned up).

Accordingly, the Court demands that the Board immediately: (1) cease any and all further actions or attempts to disrupt the business operations of the Court; (2) cease any and all further actions to interfere with any 67th District Court location; (3) send correspondence to the City of Davison advising that Mr. Freeman’s attempts to terminate the Court’s lease were *ultra vires* and consequently null and void; and (4) amend the Plan following consultation with the Court.

The Chief Judge has authorized the Court to commence civil litigation against the Board and the County to ensure that the Court’s autonomy and authority as a separate branch of government are preserved. Please note that this is not an action that the Court takes lightly, but the Court is constitutionally obligated to preserve its status as a co-equal branch of government.

If the Board is willing to immediately cease implementation of the Plan and agree to preserve the status quo with respect to the Court’s existing locations and operations pending a final resolution of this dispute, the Court is willing to pursue facilitative mediation to resolve this matter. If the Board is unwilling to commit to take such action by 5:00 p.m. on Wednesday, November 8, 2023, the Court intends to commence civil litigation and pursue such emergency injunctive and declaratory relief as may be appropriate and necessary to preserve its constitutional autonomy as a co-equal branch of government.

I am available to discuss this matter at your convenience.



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Sincerely,

Dykema Gossett PLLC

A handwritten signature in blue ink, appearing to read "John W. Fraser", written over a light gray rectangular background.

John W. Fraser

cc: Hon. Christopher R. Odette, Chief Judge of the 67th District Court
Christal Jones, 67th District Court Administrator
Thomas P. Boyd, State Court Administrator
Genesee County Small Cities and Villages Association
Genesee County Association of Chiefs of Police

EXHIBIT A



GENESEE COUNTY
BOARD OF COMMISSIONERS

(810) 257-3020

(810) 257-3008

COMMISSIONERS September 14, 2023

Delrico J. Loyd

District 1

City of Davison

Charles H. Winfrey

c/o Tim Bishop, Mayor

District 2

200 E Flint Street # 2

Ellen Ellenburg

Davison, MI 48423

Chair

District 3

Dear Mr. Bishop:

Beverly Brown, PhD

District 4

James Avery

Genesee County is writing, pursuant to Paragraph 11 of the enclosed Lease Agreement between the City of Davison and Genesee County, that pursuant to action of the Board of Commissioners taken on September 13, 2023, Genesee County is terminating the enclosed lease effective November 30, 2023.

District 5

Shaun Shumaker

District 6

Martin L. Cousineau

Sincerely,

District 7

Dale K. Weighill

Vice-Chair

Joshua Freeman

District 8

Director of Administration

Michelle Davis

District 9

EXHIBIT #4