

STATE OF MICHIGAN
IN THE COURT OF APPEALS

67TH DISTRICT COURT,

Plaintiff,

v.

Case No.:

COUNTY OF GENESEE & GENESEE
COUNTY BOARD OF COMMISSIONERS,

Defendants.

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PLAINTIFF'S INITIAL BRIEF PURSUANT TO MCR 7.206(D)

AND

**BRIEF IN SUPPORT OF ITS *EX PARTE* MOTION FOR TEMPORARY RESTRAINING
ORDER AND *EX PARTE* MOTION FOR ORDER TO SHOW CAUSE**

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- Exhibit 12 November 6, 2023 Letter from Plaintiff’s Counsel to Defendants

STATEMENT OF JURISDICTION

Exclusive jurisdiction is conferred in the Court of Appeals pursuant to MCR 7.203(c)(5), MCL 141.436(9), and MCL 141.438(6), (7) because this matter is related to the enforcement of that annual Genesee County appropriations act for Fiscal Year 2024. This action has been filed within 60 days of Defendant Genesee County Board of Commissioners' September 13, 2023 Meeting where the Board adopted a Capital Improvement Plan proposing to close 6 of the 7 district courthouses of the 67th District Court. Under MCL 141.438(10), this court's jurisdiction is exclusive and shall not be transferred to any other court.

STATEMENT OF QUESTIONS PRESENTED

I. Does the Adoption of a Capital Improvement Plan that Purports to Close 6 of the 7 District Courthouses in Genesee County Violate the Revised Judicature Act, Which Mandates that the Court Sit in 3 of the Locations that the County Seeks to Close and Expressly Grants Discretion to the Judges of the District Court to Determine Such Other Locations Where the District Court Shall Sit and Further Mandates the County to Provide Court Facilities at All Locations Where the District Court Sits?

The 67th District Court Answers: Yes.

Defendants Presumably Answer: No.

II. Does the District Court’s Inherent Authority to Preserve Its Constitutional Authority Guaranteed by the Michigan Constitution Permit the Court to Commence Action to Enjoin Genesee County’s Actions to Unilaterally Dictate the Operations, Affairs, and Administration of the District Court?

The 67th District Court Answers: Yes.

Defendants Presumably Answer: No.

III. Did Genesee County Act Unlawfully By (i) Implementing a Capital Improvement Plan Despite the Absence of Any Express Grant of Authority By Its Board of Commissioners to Do So and (ii) Implementing the Plan Without Corresponding Action by the Board of Commissioners Violates the Uniform Budgeting and Accounting Act and MCL 46.11(a)?

The 67th District Court Answers: Yes.

Defendants Presumably Answer: No.

IV. Have Defendants Unlawfully Deviated from Genesee County’s Adopted Fiscal Year 2024 Budget By Implementing a Capital Improvement Plan Without a Corresponding Budget Amendment?

The 67th District Court Answers: Yes.

Defendants Presumably Answers: No.

V. Is the 67th District Court Entitled To Immediate *Ex Parte* Injunctive Relief to Enjoin Defendants From Closing Its Courthouses in Light of the Immediate Threat to Existing Court Operations and the District Court’s Inherent Constitutional Authority Caused by Defendants’ Unlawful and Unconstitutional Actions?

The 67th District Court Answers: Yes.

Defendants Presumably Answer: No.

VI. Is the 67th District Court Entitled to a Writ of Mandamus Compelling Defendants to Provide Court Facilities at the Locations That the Judges of the District Have Determined that the 67th District Court Will Sit When MCL 600.8261 Mandates the County to Do So?

The 67th District Court Answers: Yes.

Defendants Presumably Answer: No.

STATEMENT OF FACTS

The material facts are undisputed. Plaintiff 67th District Court (“District Court” or “Plaintiff”) brings this action in response to the actions of Defendants Genesee County Board of Commissioners (“Board”) and the County of Genesee (“County”) (collectively, “Defendants”) to close 6 of the 7 existing courthouses of the 67th District Court in Genesee County. Since 1974, the 67th District Court has operated courthouses in the Cities of Flushing, Davison, Burton, Mount Morris, Fenton, Grand Blanc, and Flint.¹ The 67th District Court is divided into 5 divisions pursuant to the Revised Judicature Act:

- (i) The first division consists of the cities of Flushing and Clio and the townships of Flushing, Flint, Montrose, Thetford, and Vienna and has 1 judge.
- (ii) The second division consists of the cities of Davison and Burton and the townships of Davison, Forest, Richfield, and Atlas and has 2 judges.
- (iii) The third division consists of the city of Mt. Morris and the townships of Mt. Morris and Genesee and has 1 judge.
- (iv) The fourth division consists of the cities of Grand Blanc and Swartz Creek and the townships of Fenton, Argentine, Grand Blanc, Mundy, Gaines, and Clayton and has 2 judges. The fourth division also includes the city of Fenton, which is located in both the counties of Genesee and Oakland.
- (v) The fifth division consists of the city of Flint.

MCL 600.8134(4)(a). Shortly after the creation of the 67th District Court in 1969, the District Court has adopted local administrative orders regarding case management and case assignments within the 67th District to ensure geographic and administrative convenience and efficient administration of justice within Genesee County. The current local administrative order—LAO 2022-05—was issued and adopted by Chief Judge Christopher R. Odette effective July 1, 2022 pursuant to MCR 8.111 and MCR 8.112.² LAO 2022-05 generally establishes local venue provisions for the various district court locations within the 67th District in accordance with MCL

¹ The City of Flint was previously the 68th District but was consolidated into the 67th District in accordance with MCL 600.8134(4). *See also* LAO 2022-05, attached as Exhibit 10.

² Ex. 10.

600.8312 and MCL 600.8313—the general district court venue provisions of the Revised Judicature Act. LAO 2022-05 ensures that most cases are handled and administered by the 67th District Court location that is in the closest geographic proximity to the transaction or occurrence that forms the basis for the dispute or criminal offense.

The State Court Administrative Office (“SCAO”) tracks and reports caseloads and operational data from all Michigan courts. SCAO’s comprehensive 2021 Court Caseload Report for the 67th District Court illustrates that approximately 73% of the District Court’s caseload originates and is adjudicated outside the City of Flint.³ In other words, 73% of the cases adjudicated by the 67th District Court are handled by the existing District Court locations in the Cities of Burton, Davison, Fenton, Flushing, Grand Blanc, and Mount Morris.⁴

On August 23, 2023, the Board adopted its Fiscal Year 2024 Budget (“2024 Budget”).⁵ The County’s adopted 2024 Budget contains adequate funding consistent with historical levels to maintain and operate all 7 District Courthouses of the 67th District Court. A summary of the District Court’s 2024 Budget with comparisons to funding from the 3 previous fiscal years is excerpted below:

³ Exhibit 7 – 2021 67th District Court SCAO Report.

⁴ Ex. 7.

⁵ Exhibit 2 – August 23, 2023 Meeting Minutes.

67th District Court

The 67th District Court is a limited jurisdiction court, authorized under state statute, with the jurisdiction over Genesee County, including the City of Flint, effective January 2, 2016. The Court is responsible for parking citations, traffic violations, criminal misdemeanors, preliminary examinations in felony cases, landlord-tenant, small claims and general civil cases. The District Court has jurisdiction in civil matters where the amount in controversy does not exceed \$25,000. The District Court is often referred to as “The People’s Court” because the public has more contact with the district court than any other court in the state.

DESCRIPTION	2020-21 ACTIVITY	2021-22 ACTIVITY	2022-23 AMENDED BUDGET	2023-24 ADOPTED BUDGET
ESTIMATED REVENUES				
Dept 286.00 - 67TH DISTRICT COURT				
CHARGES FOR SERVICES	1,524,841.93	1,426,028.75	1,617,000.00	1,552,000.00
OTHER INTERGOVERNMENTAL	4,261.00	3,820.00	5,000.00	5,000.00
FINES AND FORFEITURES	1,010,054.85	929,280.11	1,160,000.00	966,000.00
OTHER REVENUE	35,060.00	38,364.50	48,751.70	48,700.00
Totals for dept 286.00 - 67TH DISTRICT COURT	2,574,217.78	2,397,493.36	2,830,751.70	2,571,700.00
TOTAL ESTIMATED REVENUES	2,574,217.78	2,397,493.36	2,830,751.70	2,571,700.00
APPROPRIATIONS				
Dept 286.00 - 67TH DISTRICT COURT				
SALARIES AND WAGES	2,834,268.96	2,715,572.61	2,979,437.90	3,120,962.00
FRINGE BENEFITS	1,332,894.29	1,390,573.39	1,512,017.13	1,469,017.00
SUPPLIES AND OPERATING EXP	558,757.26	581,311.73	558,054.00	670,122.00
CAPITAL OUTLAY	5,910.00	1,260.00	5,000.00	30,000.00
Totals for dept 286.00 - 67TH DISTRICT COURT	4,731,830.51	4,688,717.73	5,054,509.03	5,290,101.00
TOTAL APPROPRIATIONS	4,731,830.51	4,688,717.73	5,054,509.03	5,290,101.00
NET OF REVENUES/APPROPRIATIONS	(2,157,612.73)	(2,291,224.37)	(2,223,757.33)	(2,718,401.00)

DESCRIPTION	2020-21 ACTIVITY	2021-22 ACTIVITY	2022-23 AMENDED BUDGET	2023-24 ADOPTED BUDGET
ESTIMATED REVENUES				
Dept 287.00 - 5TH DIVISION DISTRICT COURT				
CHARGES FOR SERVICES	563,535.53	504,444.14	574,500.00	529,535.00
OTHER INTERGOVERNMENTAL	100.00	2,098,820.00	1,106,695.00	1,118,784.00
FINES AND FORFEITURES	170,387.15	127,529.12	233,000.00	181,800.00
OTHER REVENUE	1,670.00	11,167.42	2,520.82	6,900.00
Totals for dept 287.00 - 5TH DIVISION DISTRICT COURT	735,692.68	2,741,960.68	1,916,715.82	1,837,019.00
TOTAL ESTIMATED REVENUES	735,692.68	2,741,960.68	1,916,715.82	1,837,019.00
APPROPRIATIONS				
Dept 287.00 - 5TH DIVISION DISTRICT COURT				
SALARIES AND WAGES	1,217,136.71	1,180,857.76	1,319,341.00	1,353,001.00
FRINGE BENEFITS	459,074.16	451,828.60	534,459.00	512,820.00
SUPPLIES AND OPERATING EXP	1,197,173.19	1,270,344.65	1,329,993.00	1,332,862.00
CAPITAL OUTLAY	629.54		5,000.00	30,000.00
Totals for dept 287.00 - 5TH DIVISION DISTRICT COURT	2,874,013.60	2,903,031.01	3,188,793.00	3,228,683.00
TOTAL APPROPRIATIONS	2,874,013.60	2,903,031.01	3,188,793.00	3,228,683.00
NET OF REVENUES/APPROPRIATIONS	(2,138,320.92)	(161,070.33)	(1,272,077.18)	(1,391,664.00)

On September 13, 2023, the Board met again and considered the adoption of a Capital Improvement Plan (the “Plan”) pursuant to MCL 125.3865.⁶ The Plan proposes closing all 67th District Courthouses outside of the City of Flint and consolidating all District Court judges and cases into the existing District Courthouse in the McCree Building in downtown Flint. Importantly, the Plan proposes an extremely ambitious and aggressive timing for the closing of District Courthouses—as it claims “at least four out-county court buildings will be relocated to the McCree Human Services Building **by the first quarter of 2024.**”⁷ The Plan is unequivocally an aspirational document and does not provide concrete authorization for any specific action nor was the Plan accompanied by any proposed amendments to the 2024 Budget to account for increased spending that would be associated with the relocation of court operations.⁸ Indeed, the Plan acknowledges as much in numerous instances. For example, the Plan does not state which courthouses will be closed and when and does not provide any grant of authority to take any specific action to implement the Plan. Moreover, the Plan acknowledges that there are items that necessarily require further study, consideration, and stakeholder feedback before the plan could be implemented.⁹

Importantly, Defendants never consulted with the District Court or any of its judges regarding the proposed closure of 6 of the 7 District Courthouses. Instead, Defendants publicly unveiled the proposed court closures for the first time on September 13, 2023 and adopted the Plan

⁶ Exhibit 3 – Genesee County Capital Improvement Plan.

⁷ Ex. 3 at 1 (emphasis added).

⁸ As of the date of the filing of this Brief, the Board’s meeting minutes do not reflect any amendment to the adopted 2024 Budget related to the implementation of the closure of 6 District Courthouses. *See* Exhibit 5 – Subsequent Genesee County Board of Commissioners Meeting Minutes.

⁹ *Id.* (“Staff will work with Genesee County’s District Court to determine phasing.”).

at the same meeting. The judges of the 67th District Court are unanimously opposed to the closure of any District Courthouse. Similarly, local law enforcement and local elected officials have voiced near unanimous opposition to the proposed closure of the District Courthouses.¹⁰

Despite the fact that the Board has never authorized any concrete action to begin implementation of the plan, the County's Director of Administration has proceeded forward with implementation nonetheless. Indeed, the very next day after the Board voted only to adopt the Plan, the County's Director of Administration sent a letter to the Mayor of the City of Davison notifying the City that the County was terminating its lease for the space used to operate the District Courthouse in the City of Davison **effective November 30, 2023**.¹¹ At no point in time prior to sending this letter did Defendants consult with the District Court to determine whether closure of the Davison Courthouse and relocation of those court services to the City of Flint by November 30, 2023 was even feasible. Obviously, closure of a courthouse and relocation of its caseload to another location is a process that is incredibly complex.¹² Moreover, despite the apparent lack of Board approval for any concrete action, the County's Director of Administration has also proceeded forward with demolition and construction activities to the McCree Building that are causing further disruption to existing District Court operations at that building.¹³

¹⁰ Ex. 11.

¹¹ Ex. 6.

¹² While not an exhaustive list, it is apparent that notice must be given to each and every party and their counsel whose case is presently assigned to that courthouse. It is also apparent that the McCree building lacks the capacity for another full-time sitting jurist and their caseload. Accordingly, there are countless docketing and scheduling issues that will need complex attention and sorting to ensure that cases are rescheduled so that they may be timely heard. These docketing issues might also impact serious constitutional rights, such as a criminal defendant's right to a speedy trial. US Const, Am VI and Const 1963, Art 1, § 20.

¹³ Ex. 8.

The District Court demanded that Defendants reconsider the proposed closure of the courthouses and exhausted efforts to find a solution short of litigation. As a result, on November 10, 2023, the District Court sent Defendants notice of their intention to commence this instant action and seek *ex parte* relief to enjoin Defendants from taking any further action to close courthouses.

As a co-equal branch of Michigan’s state government, the District Court has the inherent authority to take such legal actions necessary to preserve its existence and constitutional autonomy. Moreover, for the reasons more fully described herein, Defendants’ actions to close District Courthouses are unlawful and must be immediately enjoined. Defendants’ actions show that they intend to proceed forward with the immediate closure of several District Courthouses and immediate *ex parte* injunctive relief is needed to preserve the status quo and avoid disruption of the District Court’s constitutional and statutorily mandated duties.

ARGUMENT

“Each branch of government has inherent power to preserve its constitutional authority.” *Employees & Judge of the Second Judicial Dist v Hillsdale Co*, 423 Mich 705, 717 (1985). Plaintiff 67th District Court brings this action in response to the actions of Defendants County of Genesee and the Genesee County Board of Commissioners, which have unlawfully and unconstitutionally intruded into the authority of the judicial branch of government to administer its own affairs. Defendants’ unilateral Plan to close 6 of the 7 District Courthouses in the 67th District constitutes nothing more than a usurpation of the Judiciary’s inherent authority to manage its administration and affairs. *Judicial Attys Assn v State*, 459 Mich 291, 299 (1998) (holding that “all aspects of court administration, including operations and personnel matters within the trial courts, resides within the inherent authority of the judicial branch”). Accordingly, the District Court brings this action seeking declaratory and injunctive relief, an *ex parte* temporary restraining order, and an *ex parte* motion to show cause why a writ of mandamus should not issue to preserve its inherent constitutional authority.

The District Court must be granted the relief it seeks because: (1) the Revised Judicature Act plainly and unequivocally grants the judges of the District Court the authority to determine the locations where the District Court sits and imposes a mandatory obligation on the County to provide court facilities at such locations; (2) Defendants’ actions amount to an unconstitutional violation of separation of powers by unlawfully intruding into and upon the District Court’s inherent authority; (3) Defendants have acted unlawfully by relying on a capital improvement plan to impermissibly delegate carte blanche authority to the County Administrator to implement the Plan in violation of Michigan law; and (4) Defendants have violated the Uniform Budgeting and Accounting Act by unlawfully deviating from the 2024 Budget that has been appropriated to the

67th District Court and provides sufficient funding to maintain all 7 District Courthouses in fiscal year 2024.

I. AS A CO-EQUAL BRANCH OF STATE GOVERNMENT, THE 67TH DISTRICT COURT HAS THE INHERENT CONSTITUTIONAL AUTHORITY OVER ITS OWN ADMINISTRATION AND OPERATION, AND THE MICHIGAN LEGISLATURE HAS UNEQUIVOCALLY RECOGNIZED THAT THE DISTRICT COURT’S INHERENT AUTHORITY INCLUDES THE AUTHORITY TO DETERMINE THE LOCATIONS OF THE DISTRICT COURT.

The Michigan Constitution organizes the judicial branch into “one court of justice.” Const 1963, Art 6, § 1. Accordingly, the 67th District Court exists as one of the three principal branches of state government. In contrast, Michigan counties are inferior divisions of state government and have no inherent authority—instead, they only have the powers provided to them by the Legislature. Const 1963, Art 7, § 1. District Courts in Michigan were established by the Michigan Legislature as courts of limited jurisdiction by way of an amendment to the Revised Judicature Act (“RJA”). The RJA reflects the Legislature’s acknowledgement of separation of powers while also imposing funding obligations on local municipal communities.

Defendants’ Plan unlawfully violates the RJA by intruding into the province of the district court and ignores the statutory mandates placed upon it as the funding unit. Further, Defendants’ Plan violates the Michigan Constitution and further threatens the serviceability of the District Court.

A. The Revised Judicature Act Unequivocally Grants the Judges of the 67th District Court the Authority to Determine the Locations Where the Court Shall Sit and Correspondingly Mandates that the County Provide Court Facilities to the District Court at Such Locations.

Defendants’ actions to close all 67th District Court locations outside of the City of Flint infringes upon the powers granted to the District Court by the Michigan Legislature and the Michigan Constitution. The Michigan Constitution is clear that “[t]he powers of government are divided into three branches: legislative, executive and judicial.” Const 1963, Art 3, §2. Notably,

“[n]o person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.” *Id.* After the 2016 consolidation of the 67th and 68th District courts, the Legislature expressly set out a plan for the 67th District to follow. See MCL 600.8134(4)(a). Specifically, the Legislature made Plaintiff’s district “a district of the first class” and divided the court into carefully considered election divisions. *Id.*

The RJA provides for three classes of district courts, and each class requires a specific number of district courts within the district with the district court to sit at certain municipalities within the district. See MCL 600.8251(1). As a district of the first class, the RJA specifies that “the court shall sit at each county seat” and “the court shall also sit at each city having a population of 6,500 or more, except that the court is not required to sit at any city that is contiguous to the county seat or is contiguous to a city having a greater population.” MCL 600.8251(1). For Genesee County, the county seat is the City of Flint, and the following cities in Genesee County have a population greater than 6,500: the City of Burton, the City of Fenton, the City of Grand Blanc, and the City of Flushing.¹⁴ Accordingly, MCL 600.8251(1) mandates that the District Court sit in each of these cities; however, the District Court is not legislatively mandated to sit in the City of Burton since it is contiguous to the City of Flint.

In addition to these legislatively mandated locations where the District Court must sit, the RJA provides that “[t]he court shall also sit at other places **as the judges of the district determine.**” MCL 600.8251(1) (emphasis added). “The primary goal of statutory interpretation is to give effect to the intent of the Legislature.” *Atchison v Atchison*, 256 Mich App 531, 535 (2003).

¹⁴ The United States Census Bureau’s latest population estimates from July 1, 2022 for each city: City of Burton, 29,449; City of Fenton, 11,906; City of Grand Blanc, 7,960; City of Flushing, 8,272. United States Census Bureau, *QuickFacts* <<https://www.census.gov/quickfacts/fact/table/flushingcitymichigan,grandblanccitymichigan,fentcitymichigan,burtoncitymichigan,US/PST045222>> (accessed Nov. 12, 2023).

If the language of the statute is “unambiguous,” the Court “presume[s] that the Legislature intended the meaning clearly expressed—no further judicial construction is required or permitted, and the statute must be enforced as written.” *DiBenedetto v. West Shore Hosp*, 461 Mich 394, 402 (2000). MCL 600.8251(1) is unambiguous about the requirements of a district of the first class, and the statute unequivocally vests discretion to Plaintiff to determine where else within the District the District Court sits. Moreover, the use of the word “shall” in MCL 600.8251(1) confirms that it is the judges of the District Court that dictate where the District Court sits—not Defendants.

Accordingly, Defendants have no legal authority to dictate—whether through appropriations or otherwise—where the District Court shall sit. In fact, the Legislature has instead mandated an affirmative obligation upon the County to provide court facilities in each location where the District Court sits. MCL 600.8261 (“Court facilities shall be provided at those places where the court sits. In districts of the first and second class they shall be provided by the county”). As a result, the RJA is clear—the District Court must sit in certain locations within the district and has the discretion to determine such other places within the district where the District Court shall sit. A county has no role in determining *where* a district court sits, and its obligation is to provide the court’s facilities. Because there is no ambiguity in MCL 600.8251(1) and MCL 600.8261, the statutes must be enforced as written, which provide Plaintiff with the discretion to decide the locations where the District Court shall sit and conversely mandate Defendants to provide court facilities at those locations.

The judges of the 67th District Court are in unanimous opposition to the Plan and have determined that the District Court shall continue to sit at each of the 7 existing district court locations—as the District Court has done for about the last 50 years. The Legislature’s decision to grant discretion to the judges of the District Court of the locations where the court should sit

reflects the Legislature’s acknowledgement of the district court as a co-equal branch of state government that is best suited to make decisions about how to manage its operations and discharge its duties. The District Court’s decision to continue to sit at each of the 7 existing district court locations acknowledges the reality of the distribution of cases in Genesee County. As noted above, 73% of the 67th District’s caseload arises outside of the City of Flint and is adjudicated by courthouses that are located outside of the City of Flint. The judges of the 67th District Court are best suited to make decisions about the operations of the court, and MCL 600.8251(1)’s grant of discretion to the judges to determine where the court shall sit reflects the appropriate comity between co-equal branches of state government—the Legislature and Judiciary.

Thus, this Court should find that Defendants’ actions to close District Courthouses violates the RJA because Defendants lack the authority to unilaterally dictate where the District Court shall sit. The RJA reserves that authority to the judicial branch alone in recognition of the judiciary’s inherent authority to administer its own affairs and operations as a co-equal branch of state government. Because Defendants’ actions are unlawful, immediate injunctive relief to enjoin their interference with the operations of the judiciary is necessary and appropriate.

B. Defendants’ Actions to Exercise Control Over the Administration of the District Court Violates the Michigan Constitution and Unlawfully Usurps the District Court’s Inherent Authority.

“[T]he judicial power of the state is vested exclusively in one court of justice.” Const 1963, art 6, § 1. Accordingly, district courts—like the 67th District Court—are part of the judicial branch of state government and—co-equal with the Legislative and Executive branches. In contrast, the County is an inferior division of state government and only has the powers and immunities provided by the Legislature and lacks any inherent authority or any general grant of authority. Const 1963, art 7, § 1. Counties lack any grant of authority by the Legislature that would permit a county to exercise power and control over one of the principle branches of state government—the

judicial branch—as such a grant of authority would violate the Michigan Constitution. Const 1963, Art 3, § 2 (“No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.”).

“Each branch of government has inherent power to preserve its constitutional authority.” *46th Circuit Trial Court v Co of Crawford*, 476 Mich 131, 147 (2006) (quoting *Employees & Judge of the Second Judicial Dist Court v Hillsdale Co*, 423 Mich 705, 717; 378 NW2d 744 (1985)). Importantly, “an indispensable ingredient of the concept of coequal branches of government is that ‘each branch must recognize and respect the limits on its own authority and the boundaries of the authority, and the boundaries of the authority delegated to the other branches.’” *Hillsdale Co*, 423 Mich at 717 (quoting *United States v Will*, 449 U.S. 200, 228; 101 S Ct 471; 66 L Ed 2d 392 (1980)). Further, it is well settled that the judiciary has complete and exclusive authority for all aspects of court operation and administration. *Judicial Attys Assn v State*, 459 Mich 291, 299 (1998) (holding that “all aspects of court administration, including operations and personnel matters within the trial courts, resides within the inherent authority of the judicial branch”). Accordingly, the District Court has inherent powers reserved to it by the Michigan Constitution that Defendants may not intrude upon.

Defendants’ unilateral actions to close 6 of the 7 District Courthouses constitutes an unconstitutional usurpation by Defendants of the District Court’s inherent powers—creating a situation where “the overall operation of the court, or a constitutional function is in jeopardy because of the actions taken by the funding unit.” *46th Circuit Trial Court*, 476 Mich at 147 (quoting *Hillsdale Co*, 423 Mich at 717-719). As previously discussed, the RJA sets out specific mandates for locations of the District Court and grants discretion to district court judges as to other locations. Defendants’ actions not only violate the RJA but are also an unconstitutional exercise

of the power of the judicial branch. Const 1963, Art 3, § 2. As a result, Defendants’ Plan to close 6 of the 7 District Courthouses is unconstitutional, and the District Court has the inherent authority to bring this action to preserve its constitutional autonomy.

Defendants’ unconstitutional intrusion into the District Court’s inherent authority is exemplified by the ripple effects caused by the Plan. Defendants’ closure of District Courthouses would have the effect of repealing the District Court’s Local Administrative Order 2022-05, which governs the case management assignment process of the District Court. LAO 2022-05 was adopted by the District Court pursuant to MCR 8.111 and MCR 8.112. Defendants have no authority to take any action that would have the effect of amending, repealing, or superseding an order of the judicial branch. Const 1963, Art 3, § 2.

Moreover, Defendants’ actions threaten the serviceability of the District Court. Defendants have a mandatory obligation to provide the District Court with a serviceable level of funding. An action by the funding unit that “creates an emergency immediately threatening the existence” of the District Court is per se unserviceable. *46th Circuit Trial Court*, 476 Mich at 146. Defendants’ haphazard actions to unilaterally attempt to shutter the 67th District Courthouse in the City of Davison with 77 days’ notice—without *any* consultation from the District Court highlights the gravity and urgency of the situation and the impending crisis to existing District Court operations. Under ordinary circumstances, the relocation or reorganization of court operations is a task that requires extensive detail, planning, and coordination with court administration, the State Court Administrative Office, and local municipal stakeholders. Defendants, by their words and actions, intend to close 4 of the 7 District Courthouses by the first quarter of 2024—without any input from the Court or any impacted stakeholders. Moreover, Defendants have also begun demolition activities at the Flint courthouse. According to Chief Judge Odette, it is impossible for the Flint

Courthouse to absorb the caseload of 4 District Court locations by the end of March 2024, as the Flint Courthouse’s facilities are not equipped to process that caseload, and the District Court’s administration has not been appropriated the funding that would be needed to implement the Plan—even if the District Court and its judges agreed with the Plan.¹⁵ As a result, the District Court’s continued operations are in jeopardy, and the District Court has the inherent authority to bring this action to stop Defendants’ actions that interfere with its serviceability. Immediate injunctive relief is necessary and appropriate to ensure the serviceability of the 67th District Court and to preserve the uninterrupted continued operation of the District Court.

II. DEFENDANTS’ ACTIONS ARE UNLAWFUL BECAUSE THE ADOPTION OF A CAPITAL IMPROVEMENT PLAN ALONE DOES NOT GRANT LEGAL AUTHORITY TO BEGIN IMPLEMENTATION OF THE PLAN, AND SINCE DEFENDANTS HAVE BUDGETED FUNDS TO KEEP ALL 7 DISTRICT COURTHOUSES OPEN FOR 2024, THEIR ACTIONS CONSTITUTE AN UNLAWFUL DEVIATION FROM THE 2024 BUDGET.

Not only do Defendants’ actions violate the RJA and the Michigan Constitution, Defendants lack the legal authority to begin implementation of the Plan. As of the date of this filing, the Board has not adopted any resolution or specific action to direct the County to begin any efforts to actually implement the Plan. The adoption of a capital improvement plan pursuant to MCL 125.3865 does not grant carte blanche to county administration to begin implementing the plan. Instead, the implementation of any capital improvement plan remains within the purview of the legislative body of the local unit of government to make the ultimate determinations about when, how, or if a capital improvement plan is actually implemented. Because the Board has not actually taken any of the legal steps to adopt resolutions or otherwise dictate the execution or implementation of the Plan, the actions of the County’s Director of Administration to unilaterally

¹⁵ Exhibit 9 – Affidavit of Hon. Christopher R. Odette.

do so are unlawful. Further, Defendants have not amended their adopted 2024 Budget to implement the Plan. Any efforts to implement the Plan without the adoption of an amendment to the County’s general appropriations act constitutes an unlawful deviation pursuant to MCL 141.437, and the District Court is entitled to enforcement of the adopted 2024 Budget, which provides sufficient funding to maintain the operation of all 7 District Courthouses for fiscal year 2024.

A. Defendants’ Adoption of a Capital Improvement Plan Does Not Grant Unlimited Discretion to County Administration to Begin Implementation of Such a Plan Without Further Action by the County Board of Commissioners.

The primary regulatory control over the expenditure of public money entrusted to Defendant is through the budgeting process. The Uniform Budgeting and Accounting Act (“UBAA”), MCL 141.421 et seq., provides a transparent process whereby local governments estimate likely revenues, make appropriations, and may only incur expenses which are associated with a specific funding source in a general appropriations ordinance. MCL 141.436(3). The County’s appropriations ordinance is legally its budget. MCL 141.244c(2). Amendments to a budget require amendment of the appropriations ordinance. MCL 141.437(1). MCL 125.3865 authorizes capital improvement plans like the one adopted by Defendants on September 13, 2023; however, MCL 125.3865 does not excuse compliance with any other applicable law. A local unit of government cannot adopt a capital improvement plan as a justification to excuse compliance with other generally applicable laws, like the UBAA, the Open Meetings Act, or the County Board of Commissioners Act.

A capital improvement plan is not a general appropriations ordinance nor an amendment to one. MCL 125.3865. It is a plan for how future capital needs are to be prioritized and how these needs may be budgeted for in the future, but there is no requirement in MCL 125.3865 for a local unit of government to follow a capital improvement plan. Phrased differently, capital improvement

plans are helpful to project and anticipate capital needs, but require budgetary implementation each year to be realized. Indeed, capital improvement plans may take years to implement and during such time frame, the composition of the elected representatives of the legislative body of the local unit of government may change or have evolving viewpoints that render a previously adopted capital improvement plan undesirable or infeasible. Accordingly, adoption of a capital improvement plan does not operate as a substitute for the budgeting process required by UBAA or the requirements of a local unit of government to comply with generally applicable laws such as the Open Meetings Act. Defendants' attempts to utilize a capital improvements plan as a substitute for the ordinary operations of government is unlawful and must be enjoined.

The Board's meeting minutes confirm that there has been no budget amendment to implement the Plan to close District Courthouses.¹⁶ Likewise, the Board's minutes show that there has not been any resolution to terminate the County's lease for the Davison Courthouse. The County's power to make and break leases is statutorily reserved for the County's Board of Commissioners under MCL 46.11(a). Nevertheless, the County's Director of Administration sent the letter to terminate the lease for the Davison Courthouse on September 14, 2023.¹⁷ The County's Director of Administration lacked any legal authority to terminate the County's lease for the Davison Courthouse, as the adoption of the Plan alone does not permit the exercise of such authority. Accordingly, Defendants' actions to implement the Plan are unlawful and Defendants' must be enjoined from taking further action to implement the Plan.

¹⁶ Exhibit 4 – September 13, 2023 Meeting Minutes; Exhibit 5 – Subsequent Genesee County Board of Commissioners Meeting Minutes.

¹⁷ Exhibit 6 – September 14, 2023 Letter from Genesee County.

B. Defendants’ Actions Constitute an Unlawful Deviation from the 2024 Budget.

As noted above, the UBAA prohibits deviations from an adopted budget without corresponding amendments. As this Honorable Court recently confirmed, once appropriated, the “stated purpose” of an appropriation must be achieved, or else an unlawful “deviation” from the budget occurs, writing:

MCL 141.437(1) provides that “a deviation from the original general appropriations act shall not be made without amending the general appropriations act” and that such an amendment is performed by “the legislative body of the local unit” MCL 141.437(2) provides that “[i]f, during a fiscal year, it appears to the chief administrative officer . . . that the actual and probable revenues from taxes and other sources in a fund are less than the estimated revenues, . . . the chief administrative officer or fiscal officer shall present to the legislative body recommendations which, if adopted, would prevent expenditures from exceeding available revenues for that current fiscal year.”

Macomb Co Prosecutor v Macomb Co Executive, 341 Mich App 289, 310 n14 (2022).

Defendants must achieve the purposes of the appropriated funds. Moreover, as shown on page 5 supra, the District Court is budgeted a comparable level of funding in 2024 as it has received in past years. The closure of six courthouses is not a “stated purpose” of any appropriation in the 2024 Budget; in fact, the opposite is true. The cost of the continued operation of all existing District Courthouses is retained in the 2024 Budget just as it has been for years, and must be expended for that purpose. Otherwise, Defendants’ actions unlawfully deviate from the 2024 Budget in violation of MCL 141.437(1) and Plaintiff has a clear, legal right to the benefit of appropriations made to fund all of its District Courthouses.

III. ABSENT IMMEDIATE INJUNCTIVE RELIEF, THE CONTINUED OPERATIONS OF THE 67TH DISTRICT COURT ARE IN IMMEDIATE JEOPARDY AND THE PUBLIC AT LARGE MAY LOSE ACCESS TO THE JUDICIAL SYSTEM IN GENESEE COUNTY.

A temporary restraining order is appropriate when the (1) plaintiff is likely to prevail on the merits; (2) plaintiff will suffer irreparable harm if a temporary restraining order is not issued;

(3) the public interest will be harmed if a temporary restraining order is not granted; and (4) the injury the defendant will suffer if a temporary restraining order is issued does not outweigh the harm that the plaintiff would suffer if preliminary injunctive relief is not granted. *Detroit Fire Fighters Ass'n IAFF Local 344 v City of Detroit Fire Fighters*, 482 Mich 18, 34; 753 NW2d 579 (2008), citing *Michigan State Employees Ass'n v Dep't of Mental Health*, 421 Mich 152, 157–158; 365 NW2d 93 (1984).¹⁸

Plaintiff has satisfied all the requirements of obtaining a temporary restraining order and injunctive relief. Plaintiff has filed a verified complaint, supporting affidavits, and documentary evidence to support the issuance of a temporary restraining order and injunctive relief. Given the timing of (1) Defendants' expedited efforts to proceed with implementation of the Plan to close 6 of the 7 District Courthouses adopted on September 13, 2023, (2) Defendants' purported cancelation of Plaintiff's lease for the Davison Courthouse, (3) commencement of demolition and construction activities at the District Court's Flint Courthouse, and (4) Defendants' repeated statements that it intends to proceed forward with the closure of 4 (yet-to-be-named) District Courthouses by the first quarter of 2024, the 67th District Court requires an immediate *ex parte* temporary restraining order to preserve the status quo, ensure that the District Court's operations can continue during the pendency of this action, and ensure the administration of justice in Genesee County. Plaintiff's Verified Complaint and Ex Parte Motions are being filed on November 13,

¹⁸ Pursuant to MCR 3.310(B)(1)(b), Counsel for Plaintiff sent a letter to Counsel for Defendants on Monday, November 6, 2023, indicating Plaintiff's intention to file this action, the legal bases for this action, and Plaintiff's intention to pursue emergency, *ex parte* injunctive and declaratory relief if Defendants did not cease implementation of the Board's Plan. Counsel for Defendants has not responded to Plaintiff Counsel's November 6, 2023 letter. A copy of Counsel's November 6, 2023 letter is attached as Exhibit 12.

2023—two months after the adoption of the Plan and only after it has become apparent that Defendants will not voluntarily reconsider their course of actions.

Similarly, the four factors for awarding injunctive relief all weigh in Plaintiff’s favor.

A. Plaintiff is Likely to Prevail on the Merits in this Matter Because Defendants Lack any Legal Authority to Usurp District Court Operations.

Plaintiff has a strong likelihood of success on the merits of its claim because the District Court is granted the sole and exclusive authority to determine the locations where the District Court may sit pursuant to MCL 600.8251(1) and Defendants have a mandatory legal obligation to provide Plaintiff court facilities at the locations where the 67th District Court sits pursuant to MCL 600.8261, and Defendants’ actions are unlawful and unconstitutional for the reasons more fully described above.

B. Plaintiff and the Public At Large Will Be Irreparably Harm Without Immediate Injunctive Relief Because Defendants’ Actions Jeopardize the District Court’s Continued Operations.

Plaintiff will suffer irreparable harm without immediate injunctive relief because Defendants have taken immediate measures to begin closing courthouses, including actions to purportedly terminate Defendants’ lease agreement for the Davison Courthouse. Even the “temporary loss of a constitutional right constitutes irreparable harm which cannot be adequately remedied by and action at law.” *Garner v Mich State Univ*, 185 Mich App 750, 764; 462 NW2d 832 (1990). Additionally, Plaintiff’s harm is irreparable because the District Court has no adequate remedy at law and the injury that Plaintiff has suffered and will continue to suffer from Defendants’ unlawful actions are “a noncompensable injury for which there is no legal measurement of damages.” *Thermatool Corp v Borzým*, 227 Mich App 366, 377; 575 NW2d 334 (1998). Accordingly, the District Court’s harm is irreparable, and injunctive relief is necessary to preserve the status quo.

C. The Balancing of the Equities Weighs In Favor of Granting the Injunctive Relief As Defendants’ Have No Equitable Right to Intrude Upon the Constitutional Authority of a Branch of State Government.

The balancing of the equities weighs in favor of the District Court. As described more fully herein, the District Court has sat in its existing 7 locations since 1974. Defendants passed their 2024 Budget prior to the adoption of the Plan to close 6 of the 7 District Courthouses, which provides sufficient funding to continue operating all 7 District Courthouses in 2024. Defendants cannot claim an inequity from doing what they have already budgeted for and what the law requires of them. Accordingly, this factor weighs in favor of granting injunctive relief.

D. The Public Interest Demands the Issuance of Immediate Injunctive Relief.

The public interest and the administration of the District Court will be severely harmed absent the grant of injunctive relief, as detailed in the affidavits from various municipal and law enforcement officials throughout Genesee County, and as further detailed by Chief Judge Odette.¹⁹ The closure of 6 of 7 District Courthouses in Genesee County will severely impair the administration of justice in Genesee County and harm law enforcement operations throughout the County, which according to *Brownstown Township v Wayne County*, 68 Mich App 244, 247; 242 NW2d 538 (1976) “is one of the paramount duties” of state government. Plaintiff has no other adequate remedy at law and injunctive relief is necessary and appropriate to ensure the continued operation of the District Court free from Defendants’ unlawful and unconstitutional interference.

IV. THE 67TH DISTRICT COURT IS ENTITLED TO A WRIT OF MANDAMUS COMPELLING DEFENDANTS TO MAINTAIN THE EXISTING DISTRICT COURTHOUSES.

To obtain a writ of mandamus, a Plaintiff must show:

¹⁹ Exhibit 11 – Compiled Affidavits from Local Genesee County Municipal Officials and Law Enforcement Officers.

- 1) The Plaintiff has a clear legal right to the performance of the duty sought to be compelled, which means a legal right found in, or granted in 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.
- 2) Defendant has a clear legal duty to perform.
- 3) The act is ministerial in nature, which means the law proscribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion of judgement; and
- 4) Plaintiff has no other adequate legal or equitable remedy.

Berry v Garrett, 316 Mich App 37; 890 NW2d 882 (2016).

As discussed above, the 67th District Court has the clear, legal right to determine the locations where the District Court shall sit within the 67th District. Defendants have a clear legal duty to perform because the Michigan Legislature mandates that the County provide court facilities at the locations where the District Court sits. MCL 600.8261. Defendants' obligation to provide court facilities is mandatory and does not permit the exercise of discretion, as Defendants are mandated to follow state law. *See RPF Oil Co v Genesee Co*, 330 Mich App 533, 538 (2019). This duty is ministerial, and the 67th District Court has no adequate remedy at law. Thus, Plaintiff has a clear, legal right to the performance of the duty sought to be compelled, and Defendants have a clear, legal duty to perform. Therefore, a writ for mandamus should be ordered compelling Defendants to maintain the existing District Courthouses.

CONCLUSION AND RELIEF REQUESTED

This Court should grant Plaintiff 67th District Court the declaratory and injunctive relief requested to prevent Defendants from closing 6 of the 7 District Courthouses in Genesee County for the reasons stated herein and award the following relief:

- A. Immediately enter a Temporary Restraining Order enjoining Defendants from taking any action to close any existing 67th District Court location pending further order of this Court;
 - B. Immediately enter an Order to Show Cause as to Why a Writ of Mandamus Should Not Be Issued;
 - C. Direct that Defendants have 7 days to Answer Plaintiff’s Verified Complaint;
 - D. Award Plaintiff its reasonable attorney fees incurred in this action. *46th Circuit Trial Court v Crawford Co*, 273 Mich App 342 (2006) (holding that the judiciary is entitled to reimbursement of attorney fees incurred in litigation involving the court’s inherent powers);
 - E. Issue such orders as may be appropriate to expedite this Honorable Court’s decision on the merits in this case;
- and
- F. Award Plaintiff any other relief that this Honorable Court deems just and equitable.

DYKEMA GOSSETT PLLC

Dated: November 13, 2023

By: /s/ John W. Fraser

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