

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

INDEPENDENT CITIZENS
REDISTRICTING COMMISSION

Case No. 22- 000205 -MB
Hon. Douglas B. Shapiro

Plaintiff,

v.

MICHIGAN HOUSE OF REPRESENTATIVES and,
MICHIGAN SENATE,

Defendants.

FINK BRESSACK
David H. Fink (P28235)
Nathan J. Fink (P75185)
Philip D. Miller (P85277)
David A. Bergh (P83696)
38500 Woodward Ave.; Suite 350
Bloomfield Hills, MI 48304
Tel.: (248) 971-2500
dfink@finkbressack.com
nfink@finkbressack.com
pmiller@finkbressack.com
dbergh@finkbressack.com
Counsel for Plaintiff

THERE IS NO OTHER PENDING OR
RESOLVED CIVIL ACTION ARISING OUT OF
THE TRANSACTION OR OCCURRENCE
ALLEGED IN THE COMPLAINT.

VERIFIED COMPLAINT FOR DECLARATORY RELIEF AND MANDAMUS

Plaintiff, the Independent Citizens Redistricting Commission, by and through counsel, for
its Complaint, states as follows:

INTRODUCTION

1. This lawsuit has become necessary because the State Legislature has failed to meet

its Constitutional duty to adequately fund the Independent Citizens Redistricting Commission (the “Commission”). Since October 1, 2022, the Commission has been operating without a single dollar of appropriated funds, in direct contravention of the Constitution of the State of Michigan. Only this Court can Order the relief necessary to enforce the will of the people of this State, enshrined in our Constitution four years ago.

2. On November 6, 2018, the people of Michigan overwhelmingly adopted a Constitutional Amendment creating the Commission. Const 1963, art 4, § 6.

3. The voters created a Commission that is empowered to act independently, for the benefit of the people, to create legislative districts that “shall not provide disproportionate advantage to political parties or candidates.”¹

4. In order to carry out this mandate, Const 1963, art 4, § 6 (the “Redistricting Amendment”) authorizes the Commission to take necessary steps to secure its independence and to act in the interests of the people.

5. The Commission, while part of the legislative branch of the State government, is “not subject to the control or approval of the legislature.” Const 1963, art 4, § 6(22).

6. In order to ensure that the Commission is independent of the State Legislature, the Redistricting Amendment requires the Legislature to “appropriate funds sufficient to compensate the commissioners and to enable the commission to carry out its functions, operations and activities[.]” Const 1963, art 4, § 6(5).

7. The Commission remains active, as it defends two federal lawsuits challenging its adopted plans.

¹ Proposal 18-2 Official Ballot Wording
Available at https://www.house.mi.gov/hfa/PDF/Alpha/Ballot_Proposal_2018-2_VNP_Redistricting.pdf (last accessed December 12, 2022).

8. The Redistricting Amendment creates a cause of action for the Commission to “prosecute an action regarding the adequacy of resources provided for the operation of the commission.” Const 1963, art 4, § 6(6); see also, *Citizens Protecting Michigan’s Constitution v Secretary of State*, 324 Mich App 561, 609; 922 NW2d 404 (2018) (the Redistricting Amendment “provides a cause of action if the Legislature does not appropriate the funds [as required by Const 1963, art 4, § 6(5)]”).

9. The Michigan House of Representatives and the Michigan Senate have violated this constitutional mandate by failing to appropriate funds sufficient to enable the Commission to carry out its functions, operations, and activities for fiscal year 2023.

10. As of December 12, 2022—73 days into the current fiscal year—no funds have been appropriated for the operations of the Commission.

11. This Honorable Court should order the Michigan House of Representatives and the Michigan Senate to carry out their Constitutional duties and appropriate funding for the Commission.

THE PARTIES

12. The Commission is an independent and permanent commission within the legislative branch of the State government. Const 1963, art 4, § 6.

13. The House of Representatives is a legislative body within the legislative branch of the State government. Const 1963, art 4, § 1.

14. The Senate is a legislative body within the legislative branch of the State government. Const 1963, art 4, § 1.

15. The Commission has authorized the filing of this action.

JURISDICTION

16. Under MCL 600.6419(1)(a), the Court of Claims has subject matter jurisdiction over “any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, or 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.”

17. MCL 600.6419(7) defines “the state or any of its departments or officers” to mean, inter alia, “this state or any state governing, legislative, or judicial body.”

18. The Commission seeks declaratory relief and a writ of mandamus under Const 1963, art 4, § 6(6).

19. The Court of Claims therefore has subject matter jurisdiction over this constitutional claim against this State’s legislative bodies.

20. Venue is also appropriate in this Court.

GENERAL ALLEGATIONS

21. In 2017, a ballot proposal committee called Voters Not Politicians filed an initiative petition to amend the State Constitution. See *Citizens Protecting Michigan’s Constitution*, 324 Mich App at 566-71 (discussing the history of the Voters Not Politicians initiative).

22. The Voters Not Politicians initiative sought to amend the redistricting process for congressional and legislative districts in Michigan.

23. The Voters Not Politicians initiative, identified as Proposal 18-2, was approved by over 61% of Michigan voters in the 2018 general election.²

² Election results available at https://mielections.us/election/results/2018GEN_CENR.html#90000002 (last accessed December 12, 2022).

24. The Redistricting Amendment “is self-executing.” Const 1963, art 4, § 6(20).

25. The Redistricting Amendment vests redistricting authority with the Commission, which is composed of 13 registered voters, randomly selected by the Secretary of State, four of whom identify as Republicans, four of whom identify as Democrats, and five who do not affiliate with either party. Const 1963, art 4, § 6(2)(f).

26. The Commission is “established as a permanent commission in the legislative branch.” Const 1963, art 4, § 6(1).

27. The Redistricting Amendment makes plain that the Commission is an independent body, not subject to control by the State Legislature.

28. Const 1963, art 4, § 6(22) provides in pertinent part that:

for purposes of interpreting this constitutional amendment the people declare that the powers granted to the commission are legislative functions not subject to the control or approval of the legislature, and are exclusively reserved to the commission. The commission, and all of its responsibilities, operations, functions, contractors, consultants and employees are not subject to change, transfer, reorganization, or reassignment, and shall not be altered or abrogated in any manner whatsoever, by the legislature.

29. In order to ensure that the Commission retains its independence from the State Legislature, the Redistricting Amendment mandates annual appropriations for the Commission by the Legislature.

30. Const 1963, art 4, § 6(5) provides that:

Beginning no later than December 1 of the year preceding the federal decennial census, and continuing each year in which the commission operates, **the legislature shall appropriate funds sufficient to compensate the commissioners and to enable the commission to carry out its functions, operations and activities, which activities include retaining independent, nonpartisan subject-matter experts and legal counsel, conducting hearings, publishing notices and maintaining a record of the commission's proceedings, and any other activity necessary for the commission to conduct its business, at an amount equal to not less than 25 percent of the general fund/general purpose budget for the secretary of state for that fiscal year.** Within six months after the conclusion of

each fiscal year, the commission shall return to the state treasury all moneys unexpended for that fiscal year. The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law. **Each commissioner shall receive compensation at least equal to 25 percent of the governor's salary. The State of Michigan shall indemnify commissioners for costs incurred if the legislature does not appropriate sufficient funds to cover such costs.** (emphasis added).

31. Const 1963, art 4, § 6(6) creates a constitutional cause of action if the State Legislature fails to make appropriations for the Commission, as required by § 6(5). Pursuant to § 6(6) “[t]he commission shall have legal standing to prosecute an action regarding the adequacy of resources provided for the operation of the commission.” See also, *Citizens Protecting Michigan’s Constitution*, 324 Mich App at 609 (the Redistricting Amendment “provides a cause of action if the Legislature does not appropriate the funds [as required by Const 1963, art 4, § 6(5)]”).

32. While the Commission has completed its responsibility of creating redistricting plans following the 2020 decennial census, the terms of the commissioners shall not expire “before any judicial review of the redistricting plan is complete.” Const 1963, art 4, § 6(18).

33. As of the date of filing of this Verified Complaint for Declaratory Relief and Mandamus, judicial review of the redistricting plan is not complete.

34. The Commission is currently defending an action filed in the United States District Court for the Western District of Michigan alleging that the Commission’s state legislative redistricting plans violate the Voting Rights Act and the Equal Protection Clause of the Fourteenth Amendment. See *Agee, et al v Benson, et al*, Docket No. 1:22-cv-0072, filed March 23, 2022 (“*Agee*”).

35. Under a Case Management Order entered in *Agee* on November 1, 2022, discovery in that matter is scheduled to proceed until at least April 14, 2023. (Ex. 8).

36. The Commission is also currently defending a separate action filed in the United States District Court for the Western District of Michigan, alleging that the Commission's Congressional redistricting plan violates the United States Constitution's "one person, one vote" requirement. See *Banerian, et al v Benson, et al* Docket No. 1:22-cv-0054, filed January 20, 2022.

37. The terms of the present commissioners have therefore not expired pursuant to Const 1963, art 4, § 6(18).

38. The Commission has incurred and will continue to incur legal expenses defending these matters, as authorized by Const 1963, art 4, § 6(6).

39. Consistent with the Constitutional requirement to "return to the state treasury all moneys unexpended for [each] fiscal year," the Commission intends to return all funds for Fiscal Year 2022 which were not expended in that Fiscal Year and has not expended any funds for Fiscal Year 2023.

40. The Commission has diligently controlled and managed the funds appropriated for its operations.

41. For the fiscal year ending September 30, 2021 and for the six month period ending March 31, 2022, the State of Michigan Office of the Auditor General issued the following Report:

We issued an unmodified opinion on MICRC's financial schedule to reflect that it was fairly presented, in all material respects, in accordance with accounting principles generally accepted in the United States of America.

42. For the fiscal year ending September 30, 2021 and for the six month period ending March 31, 2022, the State of Michigan Office of the Auditor General issued the following Report on Internal Control, Compliance, and Other Matters: "This report does not contain any findings."

43. As financial stewards of taxpayer funds, the Commission's proposed FY 2023 budget reduced each Commissioner's salary to 25 percent of the governor's salary, moved the

Commission's Executive Director from a full-time to a part-time position, and designated nearly 75 percent of the budget for anticipated legal fees to enable the Commission to defend the adopted redistricting plans.

44. In order to ensure that it had sufficient funding to carry out its constitutional duties, the Commission has repeatedly advised the Legislature about the Commission's budgetary needs for fiscal year 2023 ("FY 2023")

45. On May 13, 2022, the Commission's Executive Director Edward Woods ("Mr. Woods") sent an email message to legislative leaders requesting assistance with processing the Commission's FY 2023 budget request. (Ex. 1 – May 13, 2022 Email from Mr. Woods, with Attachments).

46. On June 27, 2022, Mr. Woods sent an email message to the State Budget Director, asking whether the Commission was included in the FY 2023 budget. On June 30, 2022, the State Budget Director responded by email, stating that an appropriation for the Commission had not been made for FY 2023. (Ex. 2 – June 27 and June 30, 2022 Email Exchange).

47. On August 18, 2022, Mr. Woods sent a letter to the Chair of the Senate Appropriations Committee and the Chair of the House Appropriations Committee, requesting the appropriation of funds consistent with the attached proposed budget for the Commission for FY 2023, before FY 2023 began on October 1, 2022. (Ex. 3 – August 18, 2022 Correspondence).

48. On October 4, 2022, Mr. Woods again sent correspondence to the Chair of the Senate Appropriations Committee and the Chair of the House Appropriations Committee requesting the appropriation of funds for the Commission's proposed FY 2023 budget and highlighting the Legislature's duty to fund the Commission under the Constitution. (Ex. 4 – October 4, 2022 Correspondence).

49. On October 12, 2022, the Chairs of the House and Senate Appropriations Committees sent correspondence to the Commission in response to the Commission's October 4, 2022 letter. (Ex. 5 – October 12, 2022 Correspondence).

50. On October 13, 2022, Mr. Woods once again sent correspondence to the Chair of the Senate Appropriations Committee and the Chair of the House Appropriations Committee requesting the appropriation of funds for the Commission's proposed FY 2023 budget. (Ex. 6 – October 13, 2022 Correspondence). Mr. Woods addressed concerns expressed by the legislative leaders, again highlighting the binding Constitutional language, requiring the appropriation. *Id.*

51. On November 10, 2022, Mr. Woods yet again sent correspondence to the Chair of the Senate Appropriations Committee and the Chair of the House Appropriations Committee requesting the appropriation of funds for the Commission's proposed FY 2023 budget. (Ex. 7 – November 10, 2022 Correspondence)

52. The November 10, 2022 correspondence stated that that it constituted formal notice that the Commission had determined that the “funds or other resources provided for operation of the commission are not adequate” as provided in Const 1963, art 4, § 6(6) and that the Commission would be filing suit to ensure the Legislature's compliance with the Constitution if adequate funding was not appropriated by November 17, 2022. *Id.*

53. On November 17, 2022, representatives of the Commission came to the State Capitol and met with the Senate Appropriations Chair to request the appropriation of adequate funds for the operation of the Commission and to answer any questions.

54. On November 22, 2022, representatives of the Commission again came to the State Capitol and met with the House Appropriations Chair to request the appropriation of adequate funds for the operation of the Commission and to address any questions.

55. On December 8, 2022, the Legislature held its final “lame duck” session and failed to appropriate any funds for the operation of the Commission for FY 2023.

56. The current Legislature has now adjourned for the year and is not expected to meet again until the new Legislature convenes in January.

57. As of the date of filing, the Legislature has appropriated absolutely no funding for the operations of the Independent Citizens Redistricting Commission for Fiscal Year 2023, leaving the Commission no choice but to file this lawsuit.

COUNT I – VIOLATION OF THE REDISTRICTING AMENDMENT FOR FAILURE TO MAKE APPROPRIATIONS

58. The preceding paragraphs are repeated and realleged as if fully set forth herein.

59. The Redistricting Amendment provides that for each year in which the Commission is operational, the State Legislature “shall appropriate funds sufficient to compensate the commissioners and to enable the commission to carry out its functions, operations and activities.” Const 1963, art 4, § 6(5).

60. The State Legislature has failed to appropriate any funds for the Commission for FY 2023, in violation of its Constitutional duty.

61. The Redistricting Amendment authorizes the Commission to pursue a cause of action in this Court “regarding the adequacy of resources provided for the operation of the commission.” Const 1963, art 4, § 6(6).

WHEREFORE, the Commission respectfully requests that this Honorable Court immediately order the Legislature to comply with its Constitutional obligations and appropriate \$3,169,825.00 to the Commission for FY 2023 and award the Commission such additional relief as the Court deems appropriate.

**COUNT II – DECLARATORY JUDGMENT FOR FAILURE TO MAKE
APPROPRIATIONS IN VIOLATION OF THE REDISTRICTING AMENDMENT**

62. The preceding paragraphs are repeated and realleged as if fully set forth herein.

63. Pursuant to MCR 2.605, this Court has the power to declare the rights and other legal relations of a party in a case of actual controversy

64. An actual case or controversy exists between the parties because the Legislature has failed to appropriate funds for the operation of the Commission for FY 2023, despite its Constitutional obligation to do so.

65. Declaratory relief and a prompt decision are necessary to ensure that the Commission is able to carry out its functions, operations and activities for each year that the Commission is operational, including, but not limited to, defending the adopted plans.

66. The Redistricting Amendment authorizes the Commission to pursue a cause of action to compel the Legislature to appropriate sufficient funds for the operation of the Commission. Const 1963, art 4, § 6(6). Accordingly, the controversy between the parties (whether the Legislature is failing to perform its Constitutional duty to appropriate adequate funds for the operation of the Commission), is within this Court’s jurisdiction to adjudicate.

67. Declaratory relief is appropriate in this matter because: 1) the Commission has a clear legal right to receive adequate appropriations and the Legislature has failed to comply with its Constitutional obligations to appropriate adequate funds; and 2) this Court’s declaratory judgment is necessary to put an end to the impasse that has prevented the Commission from funding its operations.

WHEREFORE, the Commission respectfully requests that this Honorable Court declare the legal rights and obligations of the parties as they relate to the Redistricting Amendment, and grant the following relief pursuant to MCR 2.605:

- A. Order a speedy hearing and advance the hearing, if necessary, on the Court's calendar under MCR 2.605(D);
- B. Enter a final, declaratory judgment that declares and adjudicates, fully and finally, that the Legislature must appropriate \$3,169,825.00 to the Commission for FY 2023 and must comply with its Constitutional obligations in the future to provide adequate funding for the Commission whenever it is active;
- C. Issue a permanent injunction requiring the Legislature to appropriate \$3,169,825.00 to the Commission for FY 2023; and
- D. Award the Commission such additional relief as the Court deems appropriate and just.

COUNT III – MANDAMUS

68. The preceding paragraphs are repeated and realleged as if fully set forth herein.

69. Pursuant to MCR 3.301 and MCR 3.305, this Court has the power to issue a writ of mandamus.

70. There is a clear legal duty for the Legislature to comply with its Constitutional obligation to “appropriate funds sufficient to compensate the commissioners and to enable the Commission to carry out its functions, operations and activities.”

71. Mandamus is a proper remedy here because: 1) the Commission has a clear legal right to receive the Constitutionally-mandated appropriation from the Legislature for the reasons set forth above; 2) the Legislature has abrogated its duty to appropriate funds for the operation of the Commission for FY 2023, as required by the Redistricting Amendment; 3) the appropriation of funds by the Legislature pursuant to the Redistricting Amendment is a ministerial act, and; 4) the Commission is without an adequate remedy at law as demonstrated by the facts set forth above.

WHEREFORE, the Commission respectfully requests that this Honorable Court issue a writ of mandamus compelling the Legislature to appropriate \$3,169,825.00 to the Commission for FY 2023 and award the Commission such additional relief as the Court deems appropriate.

Dated: December 12, 2022

Respectfully submitted,

FINK BRESSACK

/s/ David H. Fink
David H. Fink (P28235)
Nathan J. Fink (P75185)
Philip D. Miller (P85277)
David A. Bergh (P83696)
38500 Woodward Avenue, Suite 350
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nfink@finkbressack.com
pmiller@finkbressack.com
dbergh@finkbressack.com

I declare under the penalties of perjury that the statements above are true to the best of my knowledge, information and belief:

/s/ Edward Woods III (with permission)
Edward Woods III, Executive Director on behalf
of the Independent Citizens Redistricting Commission

EXHIBIT 1

From: Woods, Edward (MICRC)

Sent: Friday, May 13, 2022 5:22 PM

To: GregVanWoerkom@house.mi.gov

Cc: Whitmer, Gretchen (MIEOG) <Gretchen.Whitmer@michigan.gov>; jasonwentworth@house.mi.gov; donnalasinski@house.mi.gov; senjananich@senate.gov; senmshirkey@senate.michigan.gov;

ThomasAlbert@house.mi.gov; SenJStamas@senate.michigan.gov; AnnBollin@house.mi.gov; Rep. Terry Sabo (District 92) <terrrysabo@house.mi.gov>; SueAllor@house.mi.gov; SteveMarino@house.mi.gov; SarahLightner@house.mi.gov; joetate@house.mi.gov; AmosONeal@house.mi.gov; Harkins, Chris (DTMB) <HarkinsC2@michigan.gov>; Davis Grimm <DGrimm@house.mi.gov>; dfink@finkbressack.com

Subject: MICRC FY 2022 and 2023 Budget Requests

Hello Chair VanWoerkom,

The Michigan Independent Citizens Redistricting Commission needs your assistance to process our FY 2022 and 2023 Budget Requests. Please see the attached letter and reports.

If you have any questions or need additional information, please contact me at 517-331-6309.

Sincerely,

--Edward



Edward Woods III
Executive Director
Michigan Independent Citizens Redistricting Commission
Email: woodsE3@michigan.gov
Web: www.Michigan.gov/MICRC
Phone: 517-331-6309

FY 2022 ADDITIONAL PROJECTED LEGAL EXPENSES



Item	Additional Projected Costs	Description
Litigation Counsel	\$1,350,000.00	Six months at \$225,000.00
Local Counsel	\$180,000.00	Six months at \$30,000.00
Voting Rights Act Counsel	\$30,000.00	Five months at \$6,000.00
General Legal (paralegal and legal subscription services)	\$39,000.00	Six months at \$6,500.00
Mapping/Racial Polarization and Partisan Fairness Consultants	\$90,000.00	Six months at \$15,000.00
Legal Bills	\$477,487.42	Outstanding legal bills
TOTAL	\$2,166,487.42	Additional Projected Legal Expenses



May 13, 2022

The Honorable Greg VanWoerkom
Chair
House Committee on Appropriations Subcommittee on General Government
N-1195 House Office Building
P.O. Box 30014
Lansing, MI 48909

Dear Chair VanWoerkom:

The Michigan Independent Citizens Redistricting Commission appreciated the opportunity to come before the House Committee on Appropriations Subcommittee on General Government. At that meeting, we projected a budget shortfall of \$1,157,064.00 due to legal fees.

At the Commission meeting yesterday, we reviewed the attached budget and now have a balance of \$728,190.67 as of April 30. This amount does not include current outstanding legal bills totaling \$477,487.42. Paying these bills would leave us with \$250,703.25. Consequently, the MICRC will exhaust its currently budgeted funds in June 2022.

During our presentation to the House Committee on Appropriations Subcommittee on General Government, the Commission shared how it reduced staff salaries, communications and outreach, and meeting expenses to accommodate the increase in legal fees.

Due to ongoing litigation and potential litigation after the primary election, the Commission is requesting an additional \$2,166,487.42 for FY 2022. Seeing that our legal bills vary and wanting to be responsible with our estimate, there is a strong possibility that we may ask for more funds in this current fiscal year. In addition, we expect to continue defending our maps in FY 2023 and may face additional litigation after the general election. Consequently, we respectfully request that you place the MICRC in the State's budget for FY 2023. We ask a response to our requests no later than Tuesday, May 31, 2022.

If you have any questions or need additional information, please feel free to contact me at 517-331-6309.

Sincerely,

Edward Woods III
Executive Director



-
- CC: The Honorable Gretchen Whitmer, Governor
The Honorable Jason Wentworth, Speaker of the House
The Honorable Mike Shirkey, Senate Majority Leader
The Honorable Donna Lasinski, House Democratic Leader
The Honorable Jim Ananich, Senate Democratic Leader
The Honorable Thomas Albert, Chair, House Appropriations
The Honorable Jim Stamas, Chair, Senate Appropriations
House Committee on Appropriations Subcommittee on General Government
Mr. Chris Harkins, State Budget Director
Mr. Davis Grimm, Office of State Representative Greg VanWoerkom
Mr. David Fink, MICRC Local Counsel, Fink Bressack
- Enc. MICRC FY 2022 Expenditure Report—043022
FY 2022 Projected Legal Expenses

**MICHIGAN
INDEPENDENT
CITIZENS
REDISTRICTING
COMMISSION**



FY2022 REPORT OF EXPENDITURES

May 12, 2022

FY 2022 EXPENSES



EXPENSES	AMOUNT
Consultants	\$1,106,714.23
Commissioner Salaries	\$495,141.90
Communications & Outreach	\$273,524.52
Staff Salaries	\$231,647.08
Meetings	\$210,068.62
Travel and Office Reimbursements	\$35,580.92
Braille Maps and Translation	\$22,210.66
Technology	\$6,256.81
FOIA Income and Returns	(\$434.91)
TOTAL	\$2,380,709.83

CONSULTANTS



Amount Expended: \$1,106,714.23

Description: Litigation Counsel (\$399,963.14)*
Mapping (\$370,192.35)** Local Counsel
(\$227,708.75)***, Voting Rights Act Legal
Counsel (\$91,573.94)****, and General
Legal Expenses (\$17,276.05)

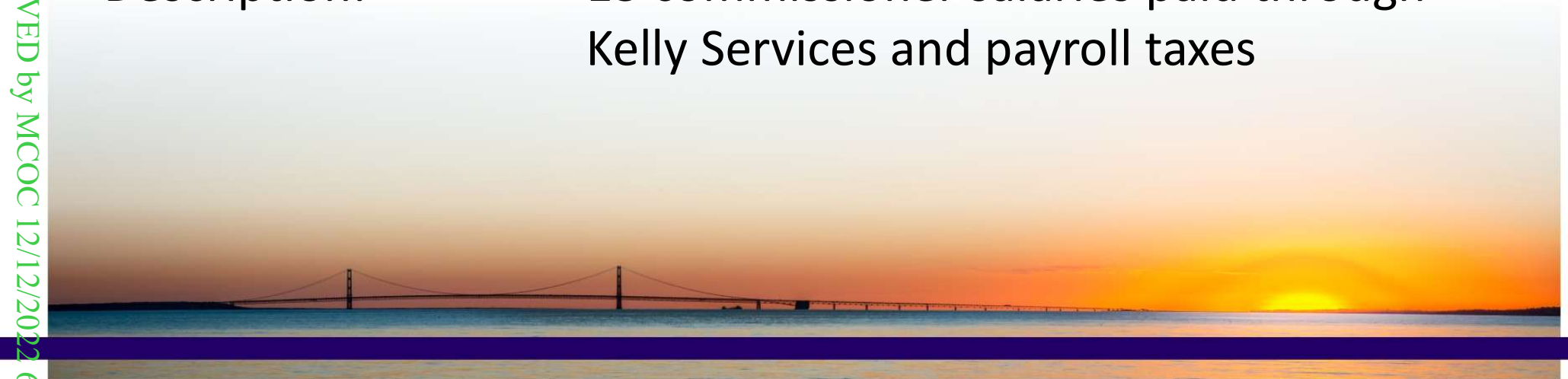
*Paid through Feb. **Paid through Mar. ***Paid through Feb. ****Paid through Mar.

COMMISSIONERS SALARIES



Amount Expended: \$495,141.90

Description: 13 commissioner salaries paid through Kelly Services and payroll taxes



COMMUNICATIONS & OUTREACH



Amount Expended: \$273,524.52

Description: Promotional and outreach expenses to increase awareness and engagement in Michigan's new redistricting process



STAFF SALARIES



Amount Expended: \$231,647.08
Description: Staff salaries paid through Kelly Services and payroll taxes



MEETINGS



Amount Expended: \$210,068.62
Description: Facilities, hotel, audio visual, security, parking, group meals



TRAVEL AND OFFICE REIMBURSEMENTS



Amount Expended: \$35,580.92

Description: Travel and supplies reimbursements for Commissioners and staff



BRAILLE MAPS AND TRANSLATION



Amount Expended: \$22,210.66

Description: Braille maps (\$20,737.50) and translation services (\$1,473.16)



TECHNOLOGY



Amount Expended: \$6,256.81

Description: Cell phone service (\$5,526.91) and technology services (\$729.90) through the Michigan Department of Technology, Management, and Budget.

FOIA Income and Returns



Amount Expended: (\$434.91)
Description: Income from FOIA (\$280.07) requests and office supplies (\$154.64) returns



TOTAL



Appropriation:	\$3,108,900.00
Total Expenses:	<u>\$2,380,709.33</u>
Balance:	\$728,190.67



EXHIBIT 2

From: Harkins, Chris (DTMB) <HarkinsC2@michigan.gov>
Sent: Thursday, June 30, 2022 3:23 PM
To: Woods, Edward (MICRC) <WoodsE3@michigan.gov>
Subject: RE: MICRC Budget Update

Edward,

The FY22 budget supplemental will include \$2.2 million for the Redistricting Commission. The Administration has not yet recommended an FY23 portion, and the Legislature has not agreed to the request. Should we find that this funding remains needed, there will be opportunities for a supplemental request in the next fiscal year.

Thank you,
Chris

From: Woods, Edward (MICRC) <WoodsE3@michigan.gov>
Sent: Monday, June 27, 2022 3:21 PM
To: Harkins, Chris (DTMB) <HarkinsC2@michigan.gov>
Subject: MICRC Budget Update

Hello Chris,

I hope this message finds you well.

I read the late-breaking news about a budget deal for FY 2023. Is the MICRC included as a part of that budget deal?

Have you heard anything about the supplemental budget request for the MICRC for FY 2022?

Thanks for your consideration!

--Edward



Edward Woods III
Executive Director
Michigan Independent Citizens Redistricting Commission
Email: woodsE3@michigan.gov
Web: www.Michigan.gov/MICRC
Phone: 517-331-6309

RECEIVED by MCCOC 12/12/2022 6:19:05 PM

EXHIBIT 3

From: Woods, Edward (MICRC) <WoodsE3@michigan.gov>
Sent: Thursday, August 18, 2022 4:57 PM
To: The Office of Senator Stamas; ThomasAlbert@house.mi.gov
Cc: Whitmer, Gretchen (MIEOG); jasonwentworth@house.mi.gov; donnalasinski@house.mi.gov; senjananich@senate.gov; senmshirkey@senate.michigan.gov; AnnBollin@house.mi.gov; Rep. Terry Sabo (District 92); SueAllor@house.mi.gov; SteveMarino@house.mi.gov; SarahLightner@house.mi.gov; joetate@house.mi.gov; AmosONeal@house.mi.gov; Harkins, Chris (DTMB); Davis Grimm; GregVanWoerkom@house.mi.gov; Brady, Mike (MDOS); Reinhardt, Sarah (MDOS)
Subject: MICRC FY 23 Budget Request
Attachments: MICRC FY 23 Budget Request.pdf; MICRC FY 23 Budget 081822.pdf

Hello Senator Stamas and Representative Albert,

In collaboration with Governor Gretchen Whitmer and the State Budget Office, the Michigan Independent Citizens Redistricting Commission needs your assistance processing our FY 2023 Budget request. Please see the attached letter and FY 23 budget.

If you have any questions or need additional information, please get in touch with me at 517-331-6309.

Sincerely,

--Edward



Edward Woods III
Executive Director
Michigan Independent Citizens Redistricting Commission
Email: woodsE3@michigan.gov
Web: www.Michigan.gov/MICRC
Phone: 517-331-6309



August 18, 2022

The Honorable James Stamas, Chair
Senate Appropriate Committee
P.O. Box 30036
Lansing, MI 48909-7536

The Honorable Thomas Albert, Chair
House Appropriations Committee
P.O. Box 30014
Lansing, MI 48909-0846

Dear Senator Stamas and Representative Albert:

On behalf of the Michigan Independent Citizens Redistricting Commission, I would like to thank you for collaborating with Governor Gretchen Whitmer and the State Budget Office and approving our FY 22 Budget Supplemental request. Consequently, we can pay our outstanding legal bills.

As you may know, we still have two pending cases in the U.S. District Court for the Western Michigan District of Michigan, Agee, Jr. et al. v. Benson et al. and Banerian et al. v. Benson et al. Considering these cases, the MICRC approved the attached FY 23 Budget at its meeting today.

In addition to these legal challenges, highlights of the budget include:

- Reducing each Commissioner's salary to 25 percent of the Governor's salary.
- Changing the Executive Director from a full-time to a part-time position.
- Designating nearly 75 percent of the budget for legal fees in defending the maps.

In collaboration with Governor Whitmer and the State Budget Office, the MICRC requests your approval for the MICRC FY 23 Budget Supplemental before FY 23 begins on October 1, 2022.

If you have any questions or need additional information, please get in touch with me at Woodse3@michigan.gov or 517-331-6309.

Sincerely,

Edward Woods III
Executive Director

**MICHIGAN
INDEPENDENT
CITIZENS
REDISTRICTING
COMMISSION**



Cc: The Honorable Gretchen Whitmer, Governor of Michigan
The Honorable Jason Wentworth, Speaker of the House
The Honorable Mike Shirkey, Senate Majority Leader
The Honorable Donna Lasinski, Democratic Leader of the House
The Honorable Jim Ananich, Senate Majority Leader
The Honorable Gary VanWoerkom, Chair, House Committee on Appropriations
Subcommittee on General Government
Mr. Christopher M. Harkins, State Budget Director

Attachment: FY 2023 MICRC Budget

MICRC FY 23 Budget

INCOME

CODES

DESCRIPTION

Legislative Appropriation

\$3,169,825.00

25 percent of the MDOS gf/gp (\$12,679,300)

EXPENSE

Salaries

\$749,000.00

13 salaries at 25 percent of the Governor's salary that includes the vendor service fees and taxes

6136 Commissioner Salaries \$653,000.00

6128 Staff Salaries \$96,000.00

A part-time Executive Director up to 20 hours per week at the current rate that includes the vendor service fees and taxes

Travel Costs

4502

\$9,000.00

Business related travel and expense reimbursements for commission and staff

Technology

\$33,000.00

6100 Cell Phones/Zoom \$10,000.00

6112 DTMB Support \$23,000.00

14 cell phones and a Zoom license
IT Support for 14 computers and cell phones

Meetings

6082

\$12,000.00

Expenses related for up to 12 hours of virtual meetings

MICRC FY 23 Budget

Consultants	6133		\$2,363,000.00	Contracts for consultants
		Litigation Counsel	\$2,000,000.00	
		Local Counsel	\$248,000.00	
		Line Drawing	\$50,000.00	
		Voters Rights	\$50,000.00	
		Legal Service	\$10,000.00	
		Fiscal analysis	\$5,000.00	
Advertising	6131		\$0.00	Promotional
Office Supplies	6230		\$3,825.00	Postage, copies, toner, etc.
<u>TOTAL EXPENSES</u>			\$3,169,825.00	
<u>UNALLOCATED</u>			\$0.00	

RECEIVED by MCCOC 12/12/2022 6:19:05 PM

EXHIBIT 4

From: Woods, Edward (MICRC) <WoodsE3@michigan.gov>
Sent: Tuesday, October 4, 2022 5:29 PM
To: The Office of Senator Stamas; MaryWhiteford@house.mi.gov
Cc: Whitmer, Gretchen (MIEOG); jasonwentworth@house.mi.gov; donnalasinski@house.mi.gov; senjananich@senate.gov; senmshirkey@senate.michigan.gov; Harkins, Chris (DTMB)
Subject: MICRC FY 23 Second Budget Request Letter
Attachments: MICRC FY 23 Second Budget Request Letter.pdf; MICRC FY 23 Budget Request and Excerpt of the State of Michigan Constitution.pdf

Hello Senator Stamos and Representative Whiteford,

The Michigan Independent Citizens Redistricting Commission needs legislative action to process our FY 23 Budget request. Please see the attached letter and the first request, which includes a highlighted version of the Excerpt of the State of Michigan Constitution.

If you have any questions or need additional information, please get in touch with me at 517-331-6309.

Sincerely,

--Edward



Edward Woods III
Executive Director
Michigan Independent Citizens Redistricting Commission
Email: woodsE3@michigan.gov
Web: www.Michigan.gov/MICRC
Phone: 517-331-6309



Oct. 4, 2022

The Honorable James Stamas, Chair
Senate Appropriations Committee
P.O. Box 30036
Lansing, MI 48909-7536

The Honorable Mary Whiteford, Chair
House Appropriations Committee
P.O. Box 30014
Lansing, MI 48909-0846

Dear Senator Stamas and Representative Whiteford:

On behalf of the Michigan Independent Citizens Redistricting Commission, we need your immediate action to appropriate our funds for FY 2023. On Aug. 18, we submitted our budget request for \$3,169,825.00 and noted that we still have two pending cases (Agee, Jr. et al. v. Benson et al. and Banerian et al. v. Benson et al.) in the U.S. District Court for the Western Michigan District of Michigan. Unfortunately, however, we never received a budget appropriation for FY 2023.

We request that you comply with the State of Michigan Constitution. The attached highlighted Excerpt of the State of Michigan Constitution clearly states the following.

- “Beginning no later than December 1 of the year preceding the federal decennial census, and continuing each year in which the commission operates, the legislature shall appropriate funds sufficient to compensate the commissioners and to enable the commission to carry out its functions, operations and activities, which activities include retaining independent, nonpartisan subject-matter experts and legal counsel, conducting hearings, publishing notices and maintaining a record of the commission’s proceedings, and any other activity necessary for the commission to conduct its business, at an amount equal to no less than 25 percent of the general fund/general purpose budget for the secretary of state for the fiscal year.”
- “The State of Michigan shall indemnify commissioners for costs incurred if the legislature does not appropriate sufficient funds to cover such costs. The commission shall have legal standing to prosecute an action regarding the adequacy of resources provided for the operation of the commission, and to defend any action regarding an adopted plan. The commission shall inform the legislature if the commission determines that funds or other resources provided for operation of the commission are not adequate. The legislature shall provide adequate funding to allow the commission to defend any action regarding an adopted plan.”
- “The terms of the commissioner shall expire once the commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete.”

The current lack of funding prevents us from performing our Constitutional obligations.



Page 2
MICRC FY 23 Second Budget Request Letter
Oct. 4, 2022

As you may know, the Michigan Independent Citizens Redistricting Commission received a clean audit with no findings from the Office of the Auditor General. Here's a link to the report, [Microsoft Word - PRINT FINAL Report 900-0160-22.docx \(michigan.gov\)](#).

As an independent and nonpartisan body established by Michigan citizens, it is our preference to resolve this issue by Wednesday, Oct. 12, 2022. Please let us know how to proceed.

If you have any questions or need additional information, please get in touch with me at Woodse3@michigan.gov or 517-331-6309.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Woods III', written over a light grey circular stamp.

Edward Woods III
Executive Director

CC: The Honorable Gretchen Whitmer, Governor of Michigan
 The Honorable Jason Wentworth, Speaker of the House
 The Honorable Mike Shirkey, Senate Majority Leader
 The Honorable Donna Lasinski, Democratic Leader of the House
 The Honorable Jim Ananich, Senate Majority Leader
 Mr. Christopher M. Harkins, State Budget Director

Attachments: Budget Request Sent Aug. 18, 2022
 State Constitution (Excerpt) Constitution of Michigan of 1963



August 18, 2022

The Honorable James Stamas, Chair
Senate Appropriate Committee
P.O. Box 30036
Lansing, MI 48909-7536

The Honorable Thomas Albert, Chair
House Appropriations Committee
P.O. Box 30014
Lansing, MI 48909-0846

Dear Senator Stamas and Representative Albert:

On behalf of the Michigan Independent Citizens Redistricting Commission, I would like to thank you for collaborating with Governor Gretchen Whitmer and the State Budget Office and approving our FY 22 Budget Supplemental request. Consequently, we can pay our outstanding legal bills.

As you may know, we still have two pending cases in the U.S. District Court for the Western Michigan District of Michigan, Agee, Jr. et al. v. Benson et al. and Banerian et al. v. Benson et al. Considering these cases, the MICRC approved the attached FY 23 Budget at its meeting today.

In addition to these legal challenges, highlights of the budget include:

- Reducing each Commissioner's salary to 25 percent of the Governor's salary.
- Changing the Executive Director from a full-time to a part-time position.
- Designating nearly 75 percent of the budget for legal fees in defending the maps.

In collaboration with Governor Whitmer and the State Budget Office, the MICRC requests your approval for the MICRC FY 23 Budget Supplemental before FY 23 begins on October 1, 2022.

If you have any questions or need additional information, please get in touch with me at Woodse3@michigan.gov or 517-331-6309.

Sincerely,

Edward Woods III
Executive Director

**MICHIGAN
INDEPENDENT
CITIZENS
REDISTRICTING
COMMISSION**



Cc: The Honorable Gretchen Whitmer, Governor of Michigan
The Honorable Jason Wentworth, Speaker of the House
The Honorable Mike Shirkey, Senate Majority Leader
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MICRC FY 23 Budget

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Office Supplies	6230			\$3,825.00	Postage, copies, toner, etc.
<u>TOTAL EXPENSES</u>				\$3,169,825.00	
<u>UNALLOCATED</u>				\$0.00	

STATE CONSTITUTION (EXCERPT)
CONSTITUTION OF MICHIGAN OF 1963

§ 6 Independent citizens redistricting commission for state legislative and congressional districts.

Sec. 6. (1) An independent citizens redistricting commission for state legislative and congressional districts (hereinafter, the "commission") is hereby established as a permanent commission in the legislative branch. The commission shall consist of 13 commissioners. The commission shall adopt a redistricting plan for each of the following types of districts: state senate districts, state house of representative districts, and congressional districts. Each commissioner shall:

- (a) Be registered and eligible to vote in the State of Michigan;
- (b) Not currently be or in the past 6 years have been any of the following:
 - (i) A declared candidate for partisan federal, state, or local office;
 - (ii) An elected official to partisan federal, state, or local office;
 - (iii) An officer or member of the governing body of a national, state, or local political party;
 - (iv) A paid consultant or employee of a federal, state, or local elected official or political candidate, of a federal, state, or local political candidate's campaign, or of a political action committee;
 - (v) An employee of the legislature;
 - (vi) Any person who is registered as a lobbyist agent with the Michigan bureau of elections, or any employee of such person; or
 - (vii) An unclassified state employee who is exempt from classification in state civil service pursuant to article XI, section 5, except for employees of courts of record, employees of the state institutions of higher education, and persons in the armed forces of the state;

(c) Not be a parent, stepparent, child, stepchild, or spouse of any individual disqualified under part (1)(b) of this section; or

(d) Not be otherwise disqualified for appointed or elected office by this constitution.

(e) For five years after the date of appointment, a commissioner is ineligible to hold a partisan elective office at the state, county, city, village, or township level in Michigan.

(2) Commissioners shall be selected through the following process:

(a) The secretary of state shall do all of the following:

(i) Make applications for commissioner available to the general public not later than January 1 of the year of the federal decennial census. The secretary of state shall circulate the applications in a manner that invites wide public participation from different regions of the state. The secretary of state shall also mail applications for commissioner to ten thousand Michigan registered voters, selected at random, by January 1 of the year of the federal decennial census.

(ii) Require applicants to provide a completed application.

(iii) Require applicants to attest under oath that they meet the qualifications set forth in this section; and either that they affiliate with one of the two political parties with the largest representation in the legislature (hereinafter, "major parties"), and if so, identify the party with which they affiliate, or that they do not affiliate with either of the major parties.

(b) Subject to part (2)(c) of this section, the secretary of state shall mail additional applications for commissioner to Michigan registered voters selected at random until 30 qualifying applicants that affiliate with one of the two major parties have submitted applications, 30 qualifying applicants that identify that they affiliate with the other of the two major parties have submitted applications, and 40 qualifying applicants that identify that they do not affiliate with either of the two major parties have submitted applications, each in response to the mailings.

(c) The secretary of state shall accept applications for commissioner until June 1 of the year of the federal decennial census.

(d) By July 1 of the year of the federal decennial census, from all of the applications submitted, the secretary of state shall:

(i) Eliminate incomplete applications and applications of applicants who do not meet the qualifications in parts (1)(a) through (1)(d) of this section based solely on the information contained in the applications;

(ii) Randomly select 60 applicants from each pool of affiliating applicants and 80 applicants from the pool of non-affiliating applicants. 50% of each pool shall be populated from the qualifying applicants to such pool who returned an application mailed pursuant to part 2(a) or 2(b) of this section, provided, that if fewer than 30 qualifying applicants affiliated with a major party or fewer than 40 qualifying non-affiliating applicants have applied to serve on the commission in response to the random mailing, the balance of the pool shall be populated from the balance of qualifying applicants to that pool. The random selection process used by the

secretary of state to fill the selection pools shall use accepted statistical weighting methods to ensure that the pools, as closely as possible, mirror the geographic and demographic makeup of the state; and

(iii) Submit the randomly-selected applications to the majority leader and the minority leader of the senate, and the speaker of the house of representatives and the minority leader of the house of representatives.

(e) By August 1 of the year of the federal decennial census, the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives may each strike five applicants from any pool or pools, up to a maximum of 20 total strikes by the four legislative leaders.

(f) By September 1 of the year of the federal decennial census, the secretary of state shall randomly draw the names of four commissioners from each of the two pools of remaining applicants affiliating with a major party, and five commissioners from the pool of remaining non-affiliating applicants.

(3) Except as provided below, commissioners shall hold office for the term set forth in part (18) of this section. If a commissioner's seat becomes vacant for any reason, the secretary of state shall fill the vacancy by randomly drawing a name from the remaining qualifying applicants in the selection pool from which the original commissioner was selected. A commissioner's office shall become vacant upon the occurrence of any of the following:

(a) Death or mental incapacity of the commissioner;

(b) The secretary of state's receipt of the commissioner's written resignation;

(c) The commissioner's disqualification for election or appointment or employment pursuant to article XI, section 8;

(d) The commissioner ceases to be qualified to serve as a commissioner under part (1) of this section; or

(e) After written notice and an opportunity for the commissioner to respond, a vote of 10 of the commissioners finding substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office.

(4) The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all technical services that the commission deems necessary. The commission shall elect its own chairperson. The commission has the sole power to make its own rules of procedure. The commission shall have procurement and contracting authority and may hire staff and consultants for the purposes of this section, including legal representation.

(5) Beginning no later than December 1 of the year preceding the federal decennial census, and continuing each year in which the commission operates, the legislature shall appropriate funds sufficient to compensate the commissioners and to enable the commission to carry out its functions, operations and activities, which activities include retaining independent, nonpartisan subject-matter experts and legal counsel, conducting hearings, publishing notices and maintaining a record of the commission's proceedings, and any other activity necessary for the commission to conduct its business, at an amount equal to not less than 25 percent of the general fund/general purpose budget for the secretary of state for that fiscal year. Within six months after the conclusion of each fiscal year, the commission shall return to the state treasury all moneys unexpended for that fiscal year. The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law. Each commissioner shall receive compensation at least equal to 25 percent of the governor's salary. The State of Michigan shall indemnify commissioners for costs incurred if the legislature does not appropriate sufficient funds to cover such costs.

(6) The commission shall have legal standing to prosecute an action regarding the adequacy of resources provided for the operation of the commission, and to defend any action regarding an adopted plan. The commission shall inform the legislature if the commission determines that funds or other resources provided for operation of the commission are not adequate. The legislature shall provide adequate funding to allow the commission to defend any action regarding an adopted plan.

(7) The secretary of state shall issue a call convening the commission by October 15 in the year of the federal decennial census. Not later than November 1 in the year immediately following the federal decennial census, the commission shall adopt a redistricting plan under this section for each of the following types of districts: state senate districts, state house of representative districts, and congressional districts.

(8) Before commissioners draft any plan, the commission shall hold at least ten public hearings throughout the state for the purpose of informing the public about the redistricting process and the purpose and responsibilities of the commission and soliciting information from the public about potential plans. The commission shall receive for consideration written submissions of proposed redistricting plans and any supporting materials, including underlying data, from any member of the public. These written submissions are public records.

(9) After developing at least one proposed redistricting plan for each type of district, the commission shall publish the proposed redistricting plans and any data and supporting materials used to develop the plans. Each

commissioner may only propose one redistricting plan for each type of district. The commission shall hold at least five public hearings throughout the state for the purpose of soliciting comment from the public about the proposed plans. Each of the proposed plans shall include such census data as is necessary to accurately describe the plan and verify the population of each district, and a map and legal description that include the political subdivisions, such as counties, cities, and townships; man-made features, such as streets, roads, highways, and railroads; and natural features, such as waterways, which form the boundaries of the districts.

(10) Each commissioner shall perform his or her duties in a manner that is impartial and reinforces public confidence in the integrity of the redistricting process. The commission shall conduct all of its business at open meetings. Nine commissioners, including at least one commissioner from each selection pool shall constitute a quorum, and all meetings shall require a quorum. The commission shall provide advance public notice of its meetings and hearings. The commission shall conduct its hearings in a manner that invites wide public participation throughout the state. The commission shall use technology to provide contemporaneous public observation and meaningful public participation in the redistricting process during all meetings and hearings.

(11) The commission, its members, staff, attorneys, and consultants shall not discuss redistricting matters with members of the public outside of an open meeting of the commission, except that a commissioner may communicate about redistricting matters with members of the public to gain information relevant to the performance of his or her duties if such communication occurs (a) in writing or (b) at a previously publicly noticed forum or town hall open to the general public.

The commission, its members, staff, attorneys, experts, and consultants may not directly or indirectly solicit or accept any gift or loan of money, goods, services, or other thing of value greater than \$20 for the benefit of any person or organization, which may influence the manner in which the commissioner, staff, attorney, expert, or consultant performs his or her duties.

(12) Except as provided in part (14) of this section, a final decision of the commission requires the concurrence of a majority of the commissioners. A decision on the dismissal or retention of paid staff or consultants requires the vote of at least one commissioner affiliating with each of the major parties and one non-affiliating commissioner. All decisions of the commission shall be recorded, and the record of its decisions shall be readily available to any member of the public without charge.

(13) The commission shall abide by the following criteria in proposing and adopting each plan, in order of priority:

(a) Districts shall be of equal population as mandated by the United States constitution, and shall comply with the voting rights act and other federal laws.

(b) Districts shall be geographically contiguous. Island areas are considered to be contiguous by land to the county of which they are a part.

(c) Districts shall reflect the state's diverse population and communities of interest. Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates.

(d) Districts shall not provide a disproportionate advantage to any political party. A disproportionate advantage to a political party shall be determined using accepted measures of partisan fairness.

(e) Districts shall not favor or disfavor an incumbent elected official or a candidate.

(f) Districts shall reflect consideration of county, city, and township boundaries.

(g) Districts shall be reasonably compact.

(14) The commission shall follow the following procedure in adopting a plan:

(a) Before voting to adopt a plan, the commission shall ensure that the plan is tested, using appropriate technology, for compliance with the criteria described above.

(b) Before voting to adopt a plan, the commission shall provide public notice of each plan that will be voted on and provide at least 45 days for public comment on the proposed plan or plans. Each plan that will be voted on shall include such census data as is necessary to accurately describe the plan and verify the population of each district, and shall include the map and legal description required in part (9) of this section.

(c) A final decision of the commission to adopt a redistricting plan requires a majority vote of the commission, including at least two commissioners who affiliate with each major party, and at least two commissioners who do not affiliate with either major party. If no plan satisfies this requirement for a type of district, the commission shall use the following procedure to adopt a plan for that type of district:

(i) Each commissioner may submit one proposed plan for each type of district to the full commission for consideration.

(ii) Each commissioner shall rank the plans submitted according to preference. Each plan shall be assigned a point value inverse to its ranking among the number of choices, giving the lowest ranked plan one point and

the highest ranked plan a point value equal to the number of plans submitted.

(iii) The commission shall adopt the plan receiving the highest total points, that is also ranked among the top half of plans by at least two commissioners not affiliated with the party of the commissioner submitting the plan, or in the case of a plan submitted by non-affiliated commissioners, is ranked among the top half of plans by at least two commissioners affiliated with a major party. If plans are tied for the highest point total, the secretary of state shall randomly select the final plan from those plans. If no plan meets the requirements of this subparagraph, the secretary of state shall randomly select the final plan from among all submitted plans pursuant to part (14)(c)(i).

(15) Within 30 days after adopting a plan, the commission shall publish the plan and the material reports, reference materials, and data used in drawing it, including any programming information used to produce and test the plan. The published materials shall be such that an independent person is able to replicate the conclusion without any modification of any of the published materials.

(16) For each adopted plan, the commission shall issue a report that explains the basis on which the commission made its decisions in achieving compliance with plan requirements and shall include the map and legal description required in part (9) of this section. A commissioner who votes against a redistricting plan may submit a dissenting report which shall be issued with the commission's report.

(17) An adopted redistricting plan shall become law 60 days after its publication. The secretary of state shall keep a public record of all proceedings of the commission and shall publish and distribute each plan and required documentation.

(18) The terms of the commissioners shall expire once the commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete.

(19) The supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their respective duties, may review a challenge to any plan adopted by the commission, and shall remand a plan to the commission for further action if the plan fails to comply with the requirements of this constitution, the constitution of the United States or superseding federal law. In no event shall any body, except the independent citizens redistricting commission acting pursuant to this section, promulgate and adopt a redistricting plan or plans for this state.

(20) This section is self-executing. If a final court decision holds any part or parts of this section to be in conflict with the United States constitution or federal law, the section shall be implemented to the maximum extent that the United States constitution and federal law permit. Any provision held invalid is severable from the remaining portions of this section.

(21) Notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee because of the employee's membership on the commission or attendance or scheduled attendance at any meeting of the commission.

(22) Notwithstanding any other provision of this constitution, or any prior judicial decision, as of the effective date of the constitutional amendment adding this provision, which amends article IV, sections 1 through 6, article V, sections 1, 2 and 4, and article VI, sections 1 and 4, including this provision, for purposes of interpreting this constitutional amendment the people declare that the powers granted to the commission are legislative functions not subject to the control or approval of the legislature, and are exclusively reserved to the commission. The commission, and all of its responsibilities, operations, functions, contractors, consultants and employees are not subject to change, transfer, reorganization, or reassignment, and shall not be altered or abrogated in any manner whatsoever, by the legislature. No other body shall be established by law to perform functions that are the same or similar to those granted to the commission in this section.

History: Const. 1963, Art. IV, § 6, Eff. Jan. 1, 1964;—Am. Init., approved Nov. 6, 2018, Eff. Dec. 22, 2018.

Compiler's note: The constitutional amendment set out above was submitted to, and approved by, the electors as Proposal 18-2 at the November 6, 2018 general election. This amendment to the Constitution of Michigan of 1963 became effective December 22, 2018.

Constitutionality: The United States Supreme Court held in *Reynolds v Sims*, 377 US 533; 84 S Ct 1362; 12 L Ed 2d 506 (1964) that provisions establishing weighted land area-population formulae violate the Equal Protection Clause of the United States Constitution. Because the apportionment provisions of former art IV, §§ 2 - 6 are interdependent and not severable, the provisions are invalidated in their entirety and the Commission on Legislative Apportionment cannot survive. In re Apportionment of State Legislature—1982, 413 Mich 96; 321 NW2d 565 (1982), rehearing denied 413 Mich 149; 321 NW2d 585; stay denied 413 Mich 222; 321 NW2d 615, appeal dismissed 459 US 900; 103 S Ct 201; 74 L Ed 2d 161.

Transfer of powers: See MCL 16.132.

EXHIBIT 5



MICHIGAN LEGISLATURE

October 12, 2022

Michigan Independent Citizens Redistricting Commission
Attn.: Edward Woods III, Executive Director
P. O. Box 30318
Lansing, MI 48918
Via email to: Woodse3@michigan.gov

Mr. Woods:

We acknowledge receipt of your letter of October 4, 2022.

You note that the Michigan Independent Citizens Redistricting Commission submitted a budget request (for \$3,169,825) by letter dated August 18, 2022, that the Commission did not receive an appropriation for Fiscal Year 2023, and that it is the Commission's "preference to resolve this issue by Wednesday, Oct. 12, 2022."

By way of historical perspective, every time the Governor's Executive Budget Recommendation has included a request to fund the Commission, the Legislature—in pursuance of its constitutional functions—appropriated funds, as follows:

- 2019 PA 154, appropriating \$2,000,000 for Proposal 2 implementation (fiscal year ending Sept. 30, 2020)
- 2019 PA 56, appropriating \$3,362,800 (fiscal year ending Sept. 30, 2020)
- 2020 PA 166, appropriating \$3,149,400 (fiscal year ending Sept. 30, 2021)
- 2021 PA 87, appropriating \$3,108,900 (fiscal year ending Sept. 30, 2022).

However, the Governor's February 2022 proposed general government budget for Fiscal Year 2023 did not include an appropriation request for the Commission. After the standard legislative process, including committee hearings, negotiations, and amendments, the Legislature adopted a general government operations budget for Fiscal Year 2023, which the Governor signed on July 20, 2022. (2022 PA 166.)

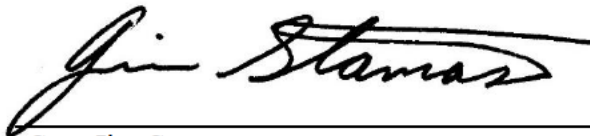
By letter dated March 24, 2022 addressed to the Appropriations Committee Chairs, the Commission advised that there was a shortfall in Fiscal Year 2022 in the amount of \$1,156,964.30, and it respectfully requested "consideration of this additional amount." In response to that request, the Legislature addressed this shortfall and appropriated to the Commission the sum of \$2,200,000. (2022 PA 166.)

We received a letter from you on August 18, 2022, thanking us for “collaborating with Governor Gretchen Whitmer and the State Budget Office and approving the Commission’s FY 22 Budget Supplemental request.” That letter also states that in “collaboration with Governor Whitmer and the State Budget Office, the MICRC requests your approval for the MICRC FY 23 Budget Supplemental...” Notably, your first request to the Legislature for Fiscal Year 2023 funding was received seven weeks after the Legislature adopted the Fiscal Year 2023 budget and more than four weeks after the Governor signed that budget into law. (2022 PA 166.)

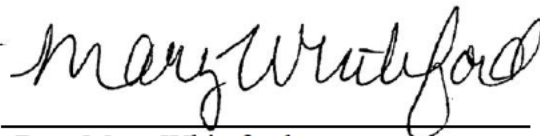
The Legislature received from the Governor a supplemental appropriations request on September 7, 2022. Despite the referenced collaboration, the Governor’s supplemental request did not include a request for funding of the Commission. The Legislature appropriated supplemental funds on September 28, 2022. (2022 PA 194.)

Finally, we understand that the Commission has not spent \$1.7 million of the funds that the Legislature previously appropriated to the Commission for Fiscal Year 2022. As for additional funding, the Senate and House Appropriation Committees are committed to considering and addressing the Commission’s request in the ordinary course, consistent with the Legislature’s constitutional obligations. Since your letter did not identify any exigent funding circumstances, we assume there are none.

Sincerely,



Sen. Jim Stamas
Chair
Senate Appropriations Committee



Rep. Mary Whiteford
Chair
House Appropriations Committee

EXHIBIT 6

From: Woods, Edward (MICRC)
Sent: Thursday, October 13, 2022 3:51 PM
To: 'The Office of Senator Stamas' <SenJStamas@senate.michigan.gov>; Rep. Mary Whiteford (District 80 <MaryWhiteford@house.mi.gov>
Subject: RE: Letter to MICRC Executive Director

Thanks Senator Stamas and Representative Whiteford for your letter!

Please note the attached Commission's response and FY 23 Budget.

All the best!

--Edward



Edward Woods III
Executive Director
Michigan Independent Citizens Redistricting Commission
Email: woodsE3@michigan.gov
Web: www.Michigan.gov/MICRC
Phone: 517-331-6309

From: The Office of Senator Stamas <SenJStamas@senate.michigan.gov>
Sent: Wednesday, October 12, 2022 3:37 PM
To: Woods, Edward (MICRC) <WoodsE3@michigan.gov>; Rep. Mary Whiteford (District 80 <MaryWhiteford@house.mi.gov>
Subject: Letter to MICRC Executive Director

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Mr. Woods,

On behalf of Senator Stamas and Representative Whiteford, please see the attached correspondence.

From: Woods, Edward (MICRC) <WoodsE3@michigan.gov>
Sent: Tuesday, October 4, 2022 5:29 PM
To: The Office of Senator Stamas <SenJStamas@senate.michigan.gov>; MaryWhiteford@house.mi.gov
Cc: Whitmer, Gretchen (MIEOG) <Gretchen.Whitmer@michigan.gov>; jasonwentworth@house.mi.gov; donnalasinski@house.mi.gov; senjananich@senate.gov; The Office of Senator Shirkey <SenMShirkey@senate.michigan.gov>; Harkins, Chris (DTMB) <HarkinsC2@michigan.gov>
Subject: MICRC FY 23 Second Budget Request Letter

Hello Senator Stamos and Representative Whiteford,

The Michigan Independent Citizens Redistricting Commission needs legislative action to process our FY 23 Budget request. Please see the attached letter and the first request, which includes a highlighted version of the Excerpt of the State of Michigan Constitution.

If you have any questions or need additional information, please get in touch with me at 517-331-6309.

Sincerely,

--Edward



Edward Woods III
Executive Director
Michigan Independent Citizens Redistricting Commission
Email: woodsE3@michigan.gov
Web: www.Michigan.gov/MICRC
Phone: 517-331-6309



Oct. 13, 2022

The Honorable James Stamas, Chair
Senate Appropriations Committee
P.O. Box 30036
Lansing, MI 48909-7536

The Honorable Mary Whiteford, Chair
House Appropriations Committee
P.O. Box 30014
Lansing, MI 48909-0846

Dear Senator Stamas and Representative Whiteford:

On behalf of the Michigan Independent Citizens Redistricting Commission (MICRC), please accept our appreciation for providing a timely response to our Oct 4, 2022 letter.

Considering the historical perspective, we would like you to reconsider the Constitutional language requiring the Legislature to appropriate funds. Please note the wording below.

“The legislature shall appropriate funds sufficient to compensate the commissioners and enable the commission to carry out its functions, operation and activities, which activities include retaining independent, nonpartisan subject-matter experts and legal counsel, conducting hearings, publishing notices and maintaining a record of the commission’s proceedings, and any other activity necessary for the commission to conduct its business, at an amount equal to not less than 25 percent of the general fund/general purpose budget for the secretary of state for that fiscal year.”

As responsible stewards of taxpayer funds and in compliance with the Constitution, the Commission will return all funds not expended in the fiscal year. In our case, this means FY 2022. Here’s the language.

“Within six months after the conclusion of each fiscal year, the Commission shall return to the state treasury all moneys unexpended for that fiscal year.”

Although we have unexpended funds, we are unable to spend them unless the Legislature reappropriates them as a part of the FY 2023 budget “at an amount equal to not less than 25 percent of the general fund/general purpose budget for the secretary of state for that fiscal year.” As you may know, the Commission returned \$20.90 in unexpended funds for FY 2021.

We would identify this as an exigent funding circumstance because we do not have an appropriation for the budget for FY 2023. In addition, as noted in our Oct. 4, 2022 letter, we still have two pending cases (Agee, Jr. et al. v. Benson et al. and Banerian et al. v. Benson et al.) in the U.S. District Court for the Western District of Michigan. Consequently, the work of the Commission is not complete. Please note this constitutional language.

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Page 2
MICRC FY 23 Second Budget Request Response
Oct. 13, 2022

“The terms of the commissioners shall expire once the commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete.”

As an independent and nonpartisan legislative body established by Michigan citizens, we request that, no later than Thursday, October 20, 2022, the Legislature take immediate action by either: 1) approving the MICRC FY 2023 budget, or 2) authorizing the MICRC to use the unexpended funds FY 2022 funds toward the FY 2023 budget.

If you have any questions or need additional information, please get in touch with me at Woodse3@michigan.gov or 517-331-6309.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Woods III', written over a light grey background.

Edward Woods III
Executive Director

MICRC FY 23 Budget

INCOME

CODES

DESCRIPTION

Legislative Appropriation

\$3,169,825.00

25 percent of the MDOS gf/gp (\$12,679,300)

EXPENSE

Salaries

\$749,000.00

13 salaries at 25 percent of the Governor's salary that includes the vendor service fees and taxes

6136 Commissioner Salaries \$653,000.00

A part-time Executive Director up to 30 hours per week at the current rate that includes the vendor service fees and taxes. However, it is budgeted not to exceed 20 hours per week.

6128 Staff Salaries \$96,000.00

Travel Costs

4502

\$9,000.00

Business related travel and expense reimbursements for commission and staff

Technology

\$33,000.00

6100 Cell Phones/Zoom \$10,000.00

14 cell phones and a Zoom license
IT Support for 14 computers and cell phones

6112 DTMB Support \$23,000.00

MICRC FY 23 Budget

Meetings	6082			\$12,000.00	Expenses related for up to 12 hours of virtual meetings
Consultants	6133			\$2,363,000.00	Contracts for consultants
		Litigation Counsel	\$2,000,000.00		
		Local Counsel	\$248,000.00		
		Line Drawing	\$50,000.00		
		Voters Rights	\$50,000.00		
		Legal Service	\$10,000.00		
		Fiscal analysis	\$5,000.00		
Advertising	6131			\$0.00	Promotional
Office Supplies	6230			\$3,825.00	Postage, copies, toner, etc.
<u>TOTAL EXPENSES</u>				\$3,169,825.00	
<u>UNALLOCATED</u>				\$0.00	

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EXHIBIT 7

From: Woods, Edward (MICRC) <WoodsE3@michigan.gov>
Sent: Thursday, November 10, 2022 6:44 PM
To: The Office of Senator Stamas; Rep. Mary Whiteford (District 80)
Cc: Whitmer, Gretchen (MIEOG); Harkins, Chris (DTMB); David Fink; Nate Fink; kmcknight@bakerlaw.com
Subject: MICRC FY 23 Budget Courtesy Letter
Attachments: MICRC FY 23 Courtesy Letter.pdf

Hello, Senator Stamas and Rep. Whiteford,

I hope this message finds you well and looking forward to celebrating Veterans Day tomorrow.

Please note the attached Michigan Independent Citizens Redistricting Commission courtesy letter regarding the FY 23 budget.

Sincerely,

--Edward



Edward Woods III
Executive Director
Michigan Independent Citizens Redistricting Commission
Email: woodsE3@michigan.gov
Web: www.Michigan.gov/MICRC
Phone: 517-331-6309



November 10, 2022

The Honorable James Stamas, Chair
Senate Appropriations Committee
P.O. Box 30036
Lansing, MI 48909-7536

The Honorable Mary Whiteford, Chair
House Appropriations Committee
P.O. Box 30014
Lansing, MI 48909-0846

Dear Senator Stamas and Representative Whiteford:

It appears that we are at an impasse in resolving the need for appropriations for the Michigan Independent Citizens Redistricting Commission ("MICRC") for Fiscal Year 2023. No funds have been appropriated for this fiscal year, which began six weeks ago.

While you note correctly in your correspondence of October 12, 2022 that MICRC has significant unexpended funds from Fiscal Year 2022, the Constitution of the State of Michigan ("the Constitution") instructs MICRC to "return to the state treasury all funds unexpended for that fiscal year."

The Constitution states that "[t]he commission shall inform the legislature if the commission determines that funds or other resources provided for operation of the commission are not adequate." Because no funds have been appropriated for the current fiscal year, and because MICRC needs funds "to enable the commission to carry out its functions," please accept this as formal notice that the funds provided for operation of the commission (including the defense of actions regarding the adopted plans) are not adequate.

If this matter is not resolved to the satisfaction of MICRC before November 17, 2022, we will be left with no option other than to file suit, pursuant to the Constitutional provision granting the MICRC "legal standing to prosecute an action regarding the adequacy of resources provided for the operation of the commission."

We would prefer to resolve this matter without involving the courts, so, if you are interested in meeting or talking in good faith to find a path to provide the necessary funds, please get in touch with me immediately at Woodse3@michigan.gov or 517-331-6309.

Sincerely,

Edward Woods III
Executive Director

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**MICHIGAN
INDEPENDENT
CITIZENS
REDISTRICTING
COMMISSION**



CC: The Honorable Gretchen Whitmer, Governor
Chris Harkins, State Budget Office Director
Michigan Independent Citizens Redistricting Commission
David H. Fink and Nathan J. Fink, General Counsel and Local Litigation Counsel for MICRC
Katherine McKnight, Litigation Counsel for MICRC

EXHIBIT 8

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD AGEE, JR., et al,

Case No. 1:22-cv-272

Plaintiffs,

v.

Three-Judge Court

JOCELYN BENSON, et al,

Defendants.

_____ /

CASE MANAGEMENT ORDER

IT IS HEREBY ORDERED:

Motions to Join Parties or Amend Pleadings		FEBRUARY 6, 2023
Rule 26(a)(1) Disclosures		NOVEMBER 23, 2022
Disclose Name, Address, Area of Expertise and a short summary of expected testimony of Expert Witnesses (Rule 26(a)(2)(A))	Plaintiffs: Defendants:	DECEMBER 28, 2022 FEBRUARY 15, 2023
Disclosure of Expert Reports (Rule 26(a)(2)(B))	Plaintiffs: Defendants:	JANUARY 18, 2023 MARCH 8, 2023
Voluntary Exchange of Documents		NOVEMBER 23, 2022
Completion of Discovery		APRIL 14, 2023
Dispositive Motions	Motions: Responses: Reply Briefs:	MAY 5, 2023 JUNE 2, 2023 JUNE 16, 2023
Interrogatories will be limited to: (Single Part Questions)		25 per party
Depositions will be limited to: (Fact Witnesses)		10 per side (not including named parties)

1. **JOINER OF PARTIES AND AMENDMENTS OF PLEADINGS:** All motions for joinder of parties and all motions to amend the pleadings must be filed by the date set forth in the table above.

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2. DISCLOSURES AND EXCHANGES: Deadlines for exchange of Rule 26(a)(1) disclosures, names of lay witnesses, identification of experts, voluntary exchange of documents, and disclosure of expert reports under Rule 26(a)(2), if applicable, are ordered as set forth in the table above.
3. DISCOVERY: All discovery proceedings shall be completed no later than the date set forth in the table above, and shall not continue beyond this date. All interrogatories, requests for admissions, and other written discovery requests must be served no later than thirty days before the close of discovery. All depositions must be completed before the close of discovery. Interrogatories will be limited as set forth in the table above. Depositions will be limited as set forth in the table above. There shall be no deviations from this order without prior approval of the court upon good cause shown. Time limitations for depositions set forth in Rule 30(d)(1) apply to this case.
4. MOTIONS:
 - a. Non-dispositive motions shall be filed in accordance with W.D. Mich. LCivR 7.3. They may be referred to a Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(A). In accordance with 28 U.S.C. § 471, et seq., it is the policy of this Court to prohibit the consideration of discovery motions unless accompanied by a certification that the moving party has made a reasonable and good faith effort to reach agreement with opposing counsel on the matters set forth in the motion.
 - b. Dispositive motions shall be filed in accordance with W.D. Mich. LCivR 7.2 by the date set forth in the table above. If dispositive motions are based on supporting documents such as depositions or answers to interrogatories, only those excerpts which are relevant to the motion shall be filed. The case manager will notify counsel of the date for oral argument. **Pursuant to Administrative Order 07-026, one courtesy copy of all dispositive motion papers (including responses and replies) and all accompanying exhibits must be submitted directly to the judge's chambers on paper. The copy must be hand-delivered or sent via first class mail the same day the document is e-filed.**
5. SETTLEMENT CONFERENCE: The parties are under an ongoing obligation to engage in good faith settlement negotiations. No settlement conference has been scheduled at this time.

Dated: November 1, 2022

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge
On behalf of the Three-Judge Panel

STATE OF MICHIGAN
COURT OF CLAIMS

Bundle Cover Sheet

Lower Court:	L Ct No.:	COC No.: TEMP-OD2VJRS0
Case Title: INDEPENDENT CITIZENS REDIST. COMMISSION v. MICHIGAN HOUSE OF RE		
Priority: NONE	Filing Option: File Only	

Filer Information

<u>Filer</u> Nathan Fink 38500 Woodward Ave., Ste. 350 Bloomfield Hills, MI 48304 nfink@finkbressack.com	<u>Attorney</u> David Fink, P28235(MI) 38500 Woodward Ave., Ste. 350 Bloomfield Hills, MI 48304 dfink@finkbressack.com
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Filing Summary

Filing Type	Filing Name	Fee
Summons and Complaint	Summons and Verified Complaint With Exhibits	\$150.00
	eFiling System Fee:	\$25.00
	NON-REFUNDABLE Automated Payment Service Fee:	\$5.25
	Total:	\$180.25

Alternate Payment Reason: None

The document(s) listed above were electronically filed with the Michigan Court of Claims.

TEMP-OD2VJRS0-29907954

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