

STATE OF MICHIGAN

IN THE COURT OF CLAIMS

DAR LEAF, in his official capacity as
BARRY COUNTY SHERIFF, BARRY
COUNTY, MICHIGAN,

Plaintiff,

Court of Claims Docket No.

v.

MICHIGAN ATTORNEY GENERAL
DANA NESSEL, in her official and
individual capacity; SECRETARY OF
STATE JOCELYN BENSON, in her
official and individual capacity; THE
MICHIGAN STATE POLICE;
MICHIGAN STATE POLICE
TROOPER BRYAN FULLER, in his
official and individual capacity;
MICHIGAN STATE POLICE
TROOPER DAVID GEYER, in his
official and individual capacity; and
OTHER GOVERNMENT OFFICIAL
DEFENDANTS TO BE NAMED OR
IDENTIFIED,

Defendants.

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

STEFANIE LAMBERT (P71303) Law Offices of Stefanie Lambert PLLC Attorney for Plaintiff 500 Griswold St., Suite 2340 Detroit, MI 48226	
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COMPLAINT FOR DECLARATORY, MANDAMUS AND INJUNCTIVE
RELIEF; AND DAMAGES, INCLUDING ATTORNEYS' FEES

NOW COME the Plaintiff / Petitioner, BARRY COUNTY SHERIFF DAR LEAF and the BARRY COUNTY SHERIFF'S OFFICE (collectively referred to as the Sheriff), a Constitutional Office under Article 7, § 4 of the Michigan Constitution, by and through his attorneys, and for this complaint for declaratory, mandamus, injunctive, and other relief, state as follows:

INTRODUCTION

1. Article 7, § 4 of the Michigan Constitution states that “There shall be elected for four years in each organized county a sheriff...whose duties and powers shall be provided by law.” 1963 Mich Const art. 7, § 4.

2. In 1880, of the Constitutional Office of Sheriff the Michigan Supreme Court stated:

It cannot be maintained that legislation would be valid which retained the names but destroyed the powers of such officers. While there is an undoubted power to vary the duties of such officers it cannot be lawful to so change those duties as to practically change the office. When officers are named in a constitution they are named as having a known legal character. *Allor v Bd of Auditors of Wayne County*, 43 Mich 76; 4 N.W. 92 (1880).

3. The office of county sheriff is constitutionally created, Const 1963, art 7, § 4, and the duties and authority of the sheriff are established by common law and statute, MCL 51.68 *et seq.* *Capitol City Lodge No. 141, FOP v Meridian Twp*, 90 Mich. App. 533, 539; 282 N.W.2d 383 (1979).

4. In Michigan, the office of sheriff has a known legal character and no other governmental entity (state or federal) may vary the duties and powers of the Sheriff in such a way which obstructs, changes, interferes, with, impedes, or altogether usurps the legal character of the office. *Id.*

5. Throughout Michigan's history, the County Sheriff has been a Constitutional Officer, which brings with it certain powers, duties, and responsibilities. *Id.*

6. The office of sheriff was created by the constitution and is considered the chief law enforcement officer of the county. *Nat'l Union of Police Officers v. Bd. of Comm'rs*, 93 Mich. App. 76, 84, 286 N.W.2d 242, 246 (1979). See also, *Scougale v. Sweet*, 124 Mich. 311, 322, 82 N.W. 1061, 1064 (1900) (noting the Sheriff wields "the executive power for the preservation of the public peace") and *People ex rel Leroy v. Hurlbut*, 24 Mich. 44, 82-83 (1871) (noting that "[p]reservation of the peace has always been regarded, both in England and in America, as one of the most important prerogatives of the state; it is not the peace of the city or county, but the peace of the king or state that is violated by crimes and disorders; municipal officers have no power as conservators or justices of the peace; this power is reposed

singularly in the office of Sheriff *and if it is assumed by any other local officers it will be an usurpation*"). Accord *McMillian v Monroe County*, 520 U.S. 781, 791, 792-94; 117 S. Ct. 1734 (1997) (holding consistent with common-law duties it is the duty of sheriffs in their respective counties, by themselves or deputies, to ferret out crime, to apprehend and arrest criminals and, insofar as within their power, to secure evidence of crimes in their counties and to present a report of the evidence so secured to the district attorney or assistant district attorney for the county).

7. The Sheriff represents the sovereignty of the State and he has no superiors in his county and in the execution of his law enforcement duties the Sheriff represents the state and no other entity may exercise "*direct control over how the sheriff fulfills his law enforcement duty*". *McMillian v Monroe County*, 520 U.S. 781, 791, 792-94; 117 S. Ct. 1734 (1997).

8. "By this mandate, sheriffs are given *complete* authority to enforce the state criminal law in their counties." *Id.* at 790 (emphasis added).

9. MCL 51.70 provides in pertinent part: "Each sheriff may appoint 1 or more deputy sheriffs at the sheriff's pleasure, and may revoke those appointments at any time. Persons may also be deputed by a sheriff, by an instrument in writing, to do particular acts, who shall be known as special deputies and each sheriff may revoke those appointments at any time." *Id.* (emphasis added). Under this provision, the

Sheriff has unfettered and “broad authority” and discretion. *People v Van Tubbergen*, 249 Mich App 354, 361; 642 NW2d 368 (2002).

10. “The office of sheriff has an unbroken lineage from the Anglo-Saxon *shire-reeve*”. W. Anderson, *A Treatise on the Law of Sheriffs, Coroners and Constables* 5 (1941). See also, W. Murfree, *A Treatise on the Law of Sheriffs and Other Ministerial Officers* 6 (1890) (sheriffs elected by county voters in all States but two).

11. “In the exercise of executive and administrative functions, in conserving the public peace, in vindicating the law, and in preserving the rights of the government, he (the sheriff) represents the sovereignty of the State and he has no superior in his county.” R. Cooley, *Handbook on the Law of Municipal Corporations* 512 (1914).

12. “Sheriffs, coroners, clerks and other so-called county officers are properly state officers for the county. Their functions and duties pertain chiefly to the affairs of state in the county.” J. Bouvier, *Bouvier’s Law Dictionary* 3058 (8th ed. 1914) (defining sheriff as “[a] county officer representing the executive or administrative power of the state within his county”).

13. Thus, neither the County, the State, or the Federal Government may so invade or change the statutory and constitutional duties and powers of the Sheriff, through direct circumscription or by indirect means (e.g., removing funding or authority) so as to destroy the Sheriff’s power to perform his office. Const. 1963, art. 7, § 4;

Labor Mediation Bd v Tuscola County Sheriff, 25 Mich App 159, 162; 181 NW2d 44 (1970).

14. Being “an inherent attribute of sovereignty”, the police power of the state is attributable to the Sheriff’s powers and duties. *National Union of Police Officers et al v Wayne County*, 93 Mich App 76, 82-83, 88-89; 286 NW2d 242 (1979); *People v Robinson*, 344 Mich 353; 74 NW2d 41 (1955).

15. Vested with the authority and imperative of a constitutional office, it is said of the Sheriff, that “[t]he legislature has no power without a constitutional amendment to diminish his official powers, or to transfer to other officers the duties which properly pertain to his office.” 1 W. Anderson, *Sheriffs, Coroners and Constables*, § 50 (1941).

16. The Sheriff’s office is therefore different from other county institutions in that it is a *constitutional office*. Thus, the Sheriff’s law enforcement duties are the exclusive purview of the Sheriff, as an elected constitutional officer. 1963 Mich Const art 7, § 4; see also Anderson, *supra* at § 6 (discussing the Sheriff’s exclusive authority to exercise the executive and administrative functions related to his law enforcement duties). See also *McMillian v Monroe County*, 520 U.S. 781, 791, 792-94; 117 S. Ct. 1734 (1997).

17. The Sheriff duties include all common law and statutory duties attendant to the office of Sheriff. *Brownstown Twp. v. County of Wayne*, 68 Mich. App. 244; 242 N.W. 2d 538 (1976).

18. A sheriff is obligated to enforce county ordinances and state laws throughout the county. *Id.* at 249, citing *Scougale, supra*, and stating that “a sheriff could not shut his eyes to crime and has a duty to respond to prevent a breach of the peace of which he had notice and it was the duty of the sheriff to enforce those laws enacted by the people for the protection of their lives, persons, property, health, and morals.”) (cleaned up).

19. In 1976, the Michigan Attorney General opined that, consistent with Supreme Court case law, “the duties of sheriff relate to the execution of the orders, judgments, and process of the courts; *the preservation of the peace; the arrest and detention of persons charged with the commission of a public offense; the service of papers in actions;...they are...connected with the administration of justice....*” 1976 Mich. AG LEXIS 151, *3, citing *White v East Saginaw*, 43 Mich 567, 570 (1880).

20. In Michigan, consistent with common-law duties, Sheriffs also have a duty to enforce the law, and to investigate and ferret out potential criminal activity. *White v East Saginaw*, 43 Mich. 567, 570; 6 N.W. 86 (1880) (recognizing the common-law duties of the sheriff as including the execution of the orders, judgments and process of the courts, the preservation of the peace, the arrest and detention of

persons charged with the commission of a public offence, the service of papers in actions, and the like).

21. “Michigan has codified the common law duties of the sheriff with little variance.” *Brownstown Twp v Wayne County*, 68 Mich App 244, 249; 242 NW2d 538 (1976).

22. Thus, under MCL 45.407 the “Sheriff shall perform all reasonable services within the jurisdiction of their offices for which the county may be liable and serve and execute all civil writs and processes that may be reasonably served and executed by said officers.” *Allor, supra* at 101-103; *Brownstown Twp. v. Wayne County*, 68 Mich. App. 244, 242 N.W.2d 538 (1976).

23. The theory behind these cases is that if the known legal character of the office is altered, the official can no longer be characterized as a “sheriff”. In the latter instance, the constitutional provision for the office of sheriff will have been abrogated.

24. The conducting of elections in Michigan are subject to several legal requirements and criminal statutes under both state and federal law.

25. It is the duty of the County Sheriff, as well as that of Plaintiff, as a constitutional officer and consistent with his statutory and common-law duties, and as the chief law enforcement officer of the county on behalf of the citizenry, to investigate and

ferret out potential criminal activity, including violations of state and federal election laws.

26. Indeed, MCL 168.41 of the Michigan Election Code specifically states: “It is hereby made the duty of any police, sheriff or other peace officer, present and having knowledge of any violation of any of the provisions of this act [Chapter 168, Michigan Compiled Laws 168.1 to 168.992, Act 116 of 1954,] to forthwith institute criminal proceedings for the punishment of such offender.”

27. For example, under MCL 168.520, the Sheriff is required to investigate any alleged or suspected illegal or fraudulent voter registration activity. It states:

If a township or city clerk has knowledge that there is a probable illegal or fraudulent registration in the township or city, or in any ward or precinct of the township or city, the clerk has the power and duty to make a full investigation of the facts concerning the registration and to ascertain whether any name has been illegally or fraudulently registered. A township or city clerk is authorized and empowered to call upon the police department of the city or the sheriff of the county in which the city is located, or both, to assist in making the investigation, and the police department and the sheriff are required to render assistance if the clerk makes a request for assistance, and to furnish the clerk at his or her request with all available assistance in making the investigation.

28. Further, under MCL 168.941, “It is hereby made the duty of any police, sheriff or other peace officer, present and having knowledge of any violation of any of the provisions of this act, to forthwith institute criminal proceedings for the punishment of such offender.”

29. This lawsuit represents a flagrant violation of these aforementioned constitutional and statutory laws on the part of the Defendants, acting in concert and jointly, who have taken it upon themselves to obstruct justice, interfere with the and ultimately usurp the powers and duties of the County Sheriff, and to obstruct, impede, taint, prejudice, stop, and/or adulterate an ongoing criminal investigation into allegations of criminal acts related to elections and voting.

PARTIES

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

31. Plaintiff / Petitioner is Barry County Sheriff Dar Leaf and the Barry County Sheriff's Office (collectively referred to as the Sheriff).

32. The Barry County Sheriff's Office is located at 1212 W State St, Hastings, MI 49058.

33. At all times relevant to the circumstances and facts laid out in this Complaint, Sheriff Leaf was acting in his official capacity as an elected constitutional officer, i.e., in accordance with the duties and responsibilities imposed upon him by common law and statutory law for and on behalf of the citizenry who elected him. Const 1963, art 7, § 4; MCL 41.65 to MCL 41.69.

34. Defendant Attorney General Nessel is the Attorney General of the State of Michigan. Defendant Nessel has no accountability to the Barry County Electorate,

and even less authority to encroach upon the law enforcement functions of a constitutional sheriff.

35. Defendant Nessel has shown her inherent bias against any fraud claims or suspected criminal acts committed in relation to the investigation of rampant voter fraud that occurred during the November 2020 election, including the suspected hacking and manipulation of voting machines (finally acknowledged by the media). (Exhibit 1, Various Social Media Posts and Publications).

36. Defendant Nessel has also shown her mockery and disdain for Barry County Sheriff Dar Leaf in her multiple “Twitter” posts and on other social media and biased “news” articles. (Exhibit 1).

37. Even before the November 2020 election was over, Defendant Nessel “predicted” that counting of ballots would not stop and go on much longer than election day. (Exhibit 1).

38. Defendant Nessel also urged the DOJ not to investigate Michigan election integrity and allegations of widespread fraud and voting machine anomalies. (Exhibit 1).

39. Defendant Nessel even attacked Monica Palmer for not wanting to certify the 2020 election. (Exhibit 1).

40. In light of these admitted biases and her mockery and disdain for Plaintiff, and all others who point out the now demonstrated problems with voter fraud, illegal

ballot harvesting and trafficking, and voting machine hacking, Defendant Nessel is conflicted out and unable to ethically or legally overview, direct, authorize, or otherwise involve herself in any ostensible “investigation” of voter fraud and alleged criminal activity that may have occurred in Barry County, and in the process of that she is nonetheless forbidden from obstructing, interfering with, encroaching upon, or otherwise usurping the exclusive constitutional duties of Plaintiff County Sheriff.

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

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

43. Michigan law provides that Secretary Benson “[a]dvise and direct local election officials as to the proper methods of conducting elections.” MCL 168.31(1)(b). See also *Hare v. Berrien Co Bd. of Election*, 129 N.W.2d 864 (Mich. 1964); *Davis v.*

Secretary of State, 2020 Mich. App. LEXIS 6128, at *9 (Mich. Ct. App. Sep. 16, 2020).

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

45. Beyond this, Secretary Benson, or any other Defendant or party, has no law enforcement or executive authority to encroach upon law enforcement functions of a constitutional sheriff.

46. Defendant Benson has shown her inherent bias against any fraud claims or suspected criminal acts committed in relation to the investigation of rampant voter fraud that occurred during the November 2020 election, including the suspected hacking and manipulation of voting machines (finally acknowledged by the media and as demonstrated in multiple unbiased and impartial expert analyses). (Exhibit 2, Various Social Media Posts and Other Publications).

47. Defendant Benson has also shown her mockery and disdain for Barry County Sheriff Dar Leaf in her multiple “Twitter” posts and on other social media and biased “news” articles. (Exhibit 2).

48. In light of these admitted biases and her mockery and disdain for Plaintiff, and all others who point out the now demonstrated problems with voter fraud, illegal ballot harvesting and trafficking, and voting machine hacking, Defendant Benson is conflicted out and unable to ethically or legally overview, direct, authorize, or otherwise involve herself in any ostensible “investigation” of voter fraud and alleged criminal activity that may have occurred in Barry County, and in the process of that she is nonetheless forbidden from obstructing, interfering with, encroaching upon, or otherwise usurping the exclusive constitutional duties of Plaintiff County Sheriff.

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

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

51. Defendant Brater has no law enforcement or executive authority to encroach upon law enforcement functions of a constitutional sheriff.

52. Defendant / Respondent, Michigan State Police (MSP), is an unelected and unaccountable strong arm of the state, a partisan and politically controlled, run and operated “state police” force in every sense of the term, acts as a law enforcement branch for and on behalf of the executive branch of the state government, including Defendants AG Nessel, SOS Benson, Director Brater, and at all times relevant to the facts and circumstances described in this complaint, acted at the direction of or in collaboration with any and all of the other Defendants, named or unnamed, and who were and remain an arm of the executive branch of government.

53. Defendant Michigan State Police (and Individual Troopers (to be named)) are members of the State Police and Act at the behest of and request by other executive branch members, including, but not limited to Defendant Nessel and Defendant Benson.

54. Defendant MSP and Individual Trooper Defendants (to be named), have no law enforcement or executive authority to encroach upon law enforcement functions of a constitutional sheriff.

55. Defendant / Respondent Sergeant Bryan Fuller is an officer and employee of Defendant, Michigan State Police, an arm of the state, and acts as a law enforcement officer for and on behalf of the executive and administrative branch of the state

government, including Defendants Nessel, Benson and Brater, and at all times relevant to the facts and circumstances described in this complaint, acted at the direction of or in collaboration with any and all of the other Defendants, named or unnamed, and who were and remain an arm of the state government defendants.

56. Defendant Fuller has no law enforcement or executive authority to encroach upon or interfere with the performance by the Sheriff of an ongoing investigation and the Sheriff's law enforcement functions as a constitutional sheriff.

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

58. Detective Geyer has no law enforcement or executive authority to encroach upon or interfere with the performance by the Sheriff of an ongoing investigation and the Sheriff's law enforcement functions as a constitutional sheriff.

59. Defendant / Respondent, Unnamed State Troopers, are officers, directors, and commanders who are in the direct chain of command of the Michigan State Police, and/or Defendant Sergeant Fuller and/or Defendant Sergeant Geyer, and/or acting in

concert therewith, and who acted as law enforcement officers for and on behalf of the executive and administrative branch of the state government, including Defendants Nessel, Benson, and Brater, and at all times relevant to the facts and circumstances described in this complaint, acted at the direction of or in collaboration with any and all of the other Defendants, named or unnamed, and who were and remains an arm of the state government defendants.

60. Any and all other entities or individuals (federal and state) to be named as Defendants upon discovery, who either instructed, advised, conspired with, cooperated with, or directed any and all of the other Defendants, and/or who acted at the direction of or in collaboration with any and all of the other Defendants, named or unnamed, and who were and remain actors that encroached upon and interfered with the law enforcement functions of Plaintiff Constitutional Sheriff.

JURISDICTION

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

62. The Court of Claims has exclusive jurisdiction over “any demand for monetary, equitable, or declaratory relief, or any demand for an extraordinary writ against the state or any of its departments or officers notwithstanding another law that confers jurisdiction of the case in the circuit court.” MCL 600.6419(1)(a) (emphasis added).

See also, *Rusha v Dep't of Corrections*, 307 Mich App 300, 305; 859 NW2d 735 (2014).

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

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

DECLARATORY RELIEF

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

66. An action for declaratory relief is authorized by Michigan Court Rules and law and lies as a remedy that may be sought by government officials as against other government officials and individuals in litigation concerning disputes over the proper role or roles of the respective parties, and allegations of interference with legal duties and powers of the one seeking a declaration of such respective rights and obligations. *Demorest v Di Pentima*, 118 Mich App 299, 303; 324 NW2d 634

(1982). See also *Gyarmati v Bielfield*, 245 Mich App 602, 605; 629 NW2d 93 (2001); see also MCR 2.605(A).

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

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

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

70. While it is true that a declaratory judgment is usually obtained before there has been an interference with the rights of a party, such interference is not necessarily a bar to such an action. “The distinctive characteristic of a declaratory judgment is that the declaration stands by itself, that is, no executory process follows as of course. In other words, such a judgment does not involve executory or coercive relief. The essential distinction between an action for declaratory judgment and the usual action is that no actual wrong need have been committed or loss have occurred in order to sustain the declaratory judgment action, but there must be no uncertainty *that the*

loss will occur or that the asserted right has been or will be invaded. The purpose of the declaratory judgment is to permit adjudication of the rights or status of the parties without the necessity of a previous crime or breach.” *Demorest, supra* (cleaned up) (emphasis added).

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

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

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

74. The Supreme Court has also consistently recognized that the declaratory judgment avenue is available to guide and inform litigants before a legal insult occurs. “One great purpose is to enable parties to have their differences authoritatively settled in advance of any claimed invasion of rights, that they may

guide their actions accordingly and often may be able to keep them within lawful bounds” *Merkel v Long*, 368 Mich 1, 13; 117 NW2d 130 (1962) (cleaned up).

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

INJUNCTIVE RELIEF

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

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

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

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

MANDAMUS RELIEF

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

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

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

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

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

GENERAL ALLEGATIONS

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

85. This lawsuit represents a flagrant violation of constitutional and statutory law on the part of Defendants, both named and unnamed, who took it upon themselves to bully, harass, intimidate, threaten, and ultimately to unconstitutionally usurp, and/or cause to be usurped and replaced, and/or to invade and encroach upon the powers and duties of Plaintiff as the Constitutional Sheriff of Barry County, in the performance of his constitutional and common-law duties, and in adhering to his oath of office by choosing to honor and uphold state and federal laws by exercising his constitutional and statutory duties to investigate alleged election fraud and crime.

86. Defendants, without authority, have encroached upon Plaintiff's duties by obstructing and interfering with his lawful investigation, obstructing justice in the process, and covering up evidence and crimes, including those that they themselves were involved in and conspired with others to commit.

87. Defendants usurped and otherwise obstructed an elected constitutional officer and prevented him from performing his constitutional, statutory, and common-law duties as County Sheriff in accordance with the Michigan Constitution, and state and federal laws.

88. Defendants, without legitimate authority, also unconstitutionally and unlawfully confiscated property, documents, and information (including voting

machines with its attendant software, programs, and data), all of which was required to be sealed, preserved, protected, and retained by federal law. See, e.g., 52 USC § 20701.

89. Defendants acted in concert or individually to transfer and reallocate the duties and powers of the Plaintiff usurping his power and removing from him or otherwise preventing his ability to perform his constitutional and statutory duties.

90. Defendants acts included but are not limited to threatening, harassing, and interfering with witnesses, local government officials (including township clerks), deputies, agents, and experts, and interfering with, obstructing, and otherwise defiling investigative works and the results of such works; confiscating and/or destroying confidential files and information pertaining to an ongoing investigation; unconstitutionally and unlawfully (and without the proper procedure) usurping Plaintiff's law enforcement functions and authorities, which are exclusively reserved to him under Michigan common law and statutory law; stepping in to quell an ongoing legitimate investigation, confiscating confidential files and documents related thereto; obstructing, harassing, and/or threatening his deputies and agents conducting the law enforcement function on his behalf as they are allowed to do exclusively and with immunity under Michigan law, confiscating voting equipment and information and data that is required by federal law to be protected and preserved.

91. On or about November 3, 2020, Plaintiff Barry County Sheriff Dar Leaf received information that election fraud and voting machine fraud was taking place in Barry County Michigan before, during and after the November 2020 election. (Exhibit 3, Affidavit of Plaintiff Barry County Sheriff Dar Leaf).

92. Pursuant to his exclusive common-law and statutory duties to investigate and ferret out criminal activity occurring within his county, Sheriff Leaf opened an investigation (the Election Investigation). *Id.*

93. As with all such law enforcement investigations, confidentiality, protections and investigatory privileges are sacrosanct and necessary to properly perform the law enforcement function because leaks and disclosures that erode these principles reduce the likelihood that true justice and truth will prevail. As one court has noted, generally, “[t]he law enforcement privilege plays a critical role in litigation involving the government. The purpose of the privilege... is to prevent disclosure of law enforcement techniques and procedures, to preserve the confidentiality of sources, to protect witness and law enforcement personnel, to safeguard the privacy of individuals involved in an investigation, and otherwise to prevent interference with an investigation.” *In re Dep't of Investigation*, 856 F.2d 481, 483, nn. 1-2 (2d Cir. 1988); *United States v. Amodeo*, 44 F.3d 141, 147 (2d Cir. 1995). Those goals are of such importance that the privilege, though it developed at common law from

executive privilege, 18 has been largely incorporated into both New York state 19 and federal 20 statutory law. *Id.*

94. On or around the beginning of March 2022, members of an undisclosed government agency (including Defendants State Police, Sergeant Fuller, and Sergeant Geyer), believed to consist of both “state” and “federal” elements directed and controlled by, or in collaboration with the other Defendants herein, began calling and harassing Plaintiff and Plaintiff’s deputies and agents conducting the Election Investigation, and asking questions about the investigation and seeking other information.

95. At approximately the same time, members of an undisclosed government agency (including Defendants State Police, Sergeant Fuller, and Sergeant Geyer), believed to consist of both “state” and “federal” elements directed and controlled by, or in collaboration with the other Defendants herein, confiscated voter machines and files, records, documents, correspondence, and information that were a part of and subject to the ongoing investigation.

96. At approximately the same time, members of an undisclosed government agency (including Defendants State Police, Sergeant Fuller, and Sergeant Geyer), believed to consist of both “state” and “federal” elements directed and controlled by, or in collaboration with the other Defendants herein, went to the private residence of Irving Township Clerk to demand that she give them access to the township

clerk's office so that they could take the voter machines and records, documents, data, and information that were subject to the ongoing investigation.

97. At approximately the same time, members of an undisclosed government agency (including Defendants State Police, Sergeant Fuller and Detective Geyer), believed to consist of both "state" and "federal" elements directed and controlled by, or in collaboration with the other Defendants herein, went to the Irving Township Clerk's office with access having been forced upon the Irving Township Clerk, and they raided the clerk's office taking and/or adulterating the voter machines and records, documents, and information that were subject to the ongoing investigation.

98. At approximately the same time, members of an undisclosed government agency (including Defendants State Police, Sergeant Fuller, and Detective Geyer), believed to consist of both "state" and "federal" elements directed and controlled by, or in collaboration with the other Defendants herein, contacted a Deputy working for Plaintiff and who was conducting the investigation by and on behalf of Plaintiff Sheriff.

99. On information and belief, at approximately the same time, members of an undisclosed government agency (including Defendants State Police, Sergeant Fuller, and Detective Geyer), believed to consist of both "state" and "federal" elements directed and controlled by, or in collaboration with the other Defendants herein, presented an ultimatum to said Deputy and subpoenaed him to sit for an interview

and/or give testimony related to his work on the investigation by and on behalf of the Plaintiff Sheriff, including requiring said Deputy to disclose details and information regarding the law enforcement investigation, all of which was and is protected by the law enforcement privileges, confidentiality, protections and investigatory privileges. (Exhibits, Affidavits).

100. On information and belief, at approximately the same time, members of an undisclosed government agency (including Defendants State Police, Sergeant Fuller, and Detective Geyer), believed to consist of both “state” and “federal” elements directed and controlled by, or in collaboration with the other Defendants herein, have contacted and/or are in the process of contacting other deputies and agents of Plaintiff Sheriff in order to intimidate them, interview them, confiscate protected materials and information in their possession related to the ongoing Election Investigation being conducted by Plaintiff Sheriff.

101. These aforementioned actions, among others to be further revealed, are a direct, unconstitutional usurpation of and encroachment upon Plaintiff’s common-law and statutory powers and duties as a Constitutional Sheriff under Michigan Constitution, statutory law, and jurisprudence.

COUNT I – DECLARATORY RELIEF

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

103. Article 7, § 4 of the Michigan Constitution states that “There shall be elected for four years in each organized county a sheriff...whose duties and powers shall be provided by law.” 1963 Mich Const art. 7, § 4.

104. As explained herein, the Sheriff represents the sovereignty of the State and he has no superiors in his county and in the execution of his law enforcement duties the Sheriff represents the state and no other entity may exercise “*direct control over how the sheriff fulfills his law enforcement duty*”. *McMillian v Monroe County*, 520 U.S. 781, 791, 792-94; 117 S. Ct. 1734 (1997). “By this mandate, sheriffs are given complete authority to enforce the state criminal law in their counties.” *Id.* at 790.

105. In Michigan as in other states where he or she is named as a constitutional officer, the County Sheriff acts on behalf of the citizenry who elects them. They must be free to perform their functions without encroachment, usurpation, or interference which obstructs and otherwise adulterates a criminal investigation.

106. The office of sheriff was created by the constitution and is considered the chief law enforcement officer of the county. *Nat’l Union of Police Officers v. Bd. of Comm’rs*, 93 Mich. App. 76, 84, 286 N.W.2d 242, 246 (1979). See also, *Scougale v. Sweet*, 124 Mich. 311, 322, 82 N.W. 1061, 1064 (1900) (noting the Sheriff wields “the executive power for the preservation of the public peace”) and *People ex rel Leroy v. Hurlbut*, 24 Mich. 44, 82-83 (1871) (noting that “[p]reservation of the peace

has always been regarded, both in England and in America, as one of the most important prerogatives of the state; it is not the peace of the city or county, but the peace of the king or state that is violated by crimes and disorders; municipal officers have no power as conservators or justices of the peace; this power is reposed singularly in the office of Sheriff ***and if it is assumed by any other local officers it will be an usurpation***). Accord *McMillian v Monroe County*, 520 U.S. 781, 791, 792-94; 117 S. Ct. 1734 (1997) (holding consistent with common-law duties it is the duty of sheriffs in their respective counties, by themselves or deputies, to ferret out crime, to apprehend and arrest criminals and, insofar as within their power, to secure evidence of crimes in their counties and to present a report of the evidence so secured to the district attorney or assistant district attorney for the county).

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

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

109. By their acts, and additional acts to be disclosed in discovery, Defendants have set about to cover up their own misfeasance and malfeasance, have intentionally thwarted an investigation and obstructed justice, and in doing so they have unlawfully and unconstitutionally usurped and encroached upon the exclusive law enforcement function and authority and power of Plaintiff a constitutional sheriff, whose exclusive duties and powers are provided by common law and statutory law.

110. By coming in and harassing individuals at their private residence who are in possession of the equipment and information and data (i.e., evidence), by seizing, taking control of, and adulterating the integrity of said state and federally preserved and protected evidence; harassing and communicating with Plaintiff's deputies and agents by intimidating them, calling them in for interviews and testimony, asking them to reveal protected law enforcement investigation information, documents, and evidence, concerning the ongoing Election Investigation, removing or taking possession of any information, media, property, documents, and data pertaining to this investigation, Defendants have encroached upon and usurped performacy of Plaintiff's constitutional duties and obligations as provided by the aforementioned constitutional provisions, statutory law and jurisprudence.

111. The real effect of this usurpation of authority is to obstruct justice, cover up wrongdoing, and completely prevent Plaintiff from performing his constitutional duties to ferret out and investigate criminal activity.

112. In their brazen attempt to thwart justice and the judicial, legislative, and constitutional processes established to uphold the rule of law and legal duties and responsibilities, and most importantly to ensure that state and federal laws are not violated, Defendants instead made an effort to neutralize Plaintiff's ability to perform his constitutionally and statutorily imposed duties as an elected constitutional officer.

113. By way of this complaint, Plaintiff seeks a declaration from the Court that Defendants have unconstitutionally and unlawfully usurped and encroached upon Plaintiff's constitutional and common-law duties, have obstructed justice, and have intruded upon and adulterated the Sheriff's investigatory privileges; Defendants have made it impossible for Plaintiff to perform his constitutional and statutory duties as a constitutionally elected officer on behalf of his electorate; declare that Defendants must return to Plaintiff all of the materials and information and data it has seized and sequestered; declare that Defendants must prove to the Court that they have encroached upon Plaintiff's constitutional and common-law duties; have not obstructed justice, and have not adulterated the property and information in

violation of federal law, and that all such information required to be retained by 52 USC § 20701 has been preserved in accordance with that statute.

COUNT II – INJUNCTIVE RELIEF

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

115. Article 7, § 4 of the Michigan Constitution states that “There shall be elected for four years in each organized county a sheriff...whose duties and powers shall be provided by law.” 1963 Mich Const art. 7, § 4.

116. As explained herein, the Sheriff represents the sovereignty of the State and he has no superiors in his county and in the execution of his law enforcement duties the Sheriff represents the state and no other entity may exercise “*direct control over how the sheriff fulfills his law enforcement duty*”. *McMillian v Monroe County*, 520 U.S. 781, 791, 792-94; 117 S. Ct. 1734 (1997). “By this mandate, sheriffs are given complete authority to enforce the state criminal law in their counties.” *Id.* at 790.

117. In Michigan as in other states where he or she is named as a constitutional officer, the County Sheriff acts on behalf of the citizenry who elects them. They must be free to perform their functions without encroachment, usurpation, or interference which obstructs and otherwise adulterates a criminal investigation.

118. The office of sheriff was created by the constitution and is considered the chief law enforcement officer of the county. *Nat'l Union of Police Officers v. Bd. of Comm'rs*, 93 Mich. App. 76, 84, 286 N.W.2d 242, 246 (1979). See also, *Scougale v. Sweet*, 124 Mich. 311, 322, 82 N.W. 1061, 1064 (1900) (noting the Sheriff wields “the executive power for the preservation of the public peace”) and *People ex rel Leroy v. Hurlbut*, 24 Mich. 44, 82-83 (1871) (noting that “[p]reservation of the peace has always been regarded, both in England and in America, as one of the most important prerogatives of the state; it is not the peace of the city or county, but the peace of the king or state that is violated by crimes and disorders; municipal officers have no power as conservators or justices of the peace; this power is reposed singularly in the office of Sheriff **and if it is assumed by any other local officers it will be an usurpation**”). Accord *McMillian v Monroe County*, 520 U.S. 781, 791, 792-94; 117 S. Ct. 1734 (1997) (holding consistent with common-law duties it is the duty of sheriffs in their respective counties, by themselves or deputies, to ferret out crime, to apprehend and arrest criminals and, insofar as within their power, to secure evidence of crimes in their counties and to present a report of the evidence so secured to the district attorney or assistant district attorney for the county).

119. Constitutional officers whose duties and responsibilities and rights are prescribed by jurisprudence and positive enactment (statute) cannot have these duties, rights, and responsibilities infringed upon or taken over by any other entity

or individual. *Allor v Bd of Auditors of Wayne County*, 43 Mich 76, 101-103; 4 NW 492 (1880) (no one in whom constitutional powers and duties has been entrusted can be deprived of them by any other official or entity and elected constitutional officers have responsibilities prescribed by law which cannot be interfered with by those who are not elected by the citizens).

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

121. By their acts, and additional acts to be disclosed in discovery, Defendants have set about to cover up their own misfeasance and malfeasance, have intentionally thwarted an investigation and obstructed justice, and in doing so they have unlawfully and unconstitutionally usurped and encroached upon the exclusive law enforcement function and authority and power of Plaintiff a constitutional sheriff, whose exclusive duties and powers are provided by common law and statutory law.

122. By coming in and harassing individuals at their private residence who are in possession of the equipment and information and data (i.e., evidence), by seizing, taking control of, and adulterating the integrity of said state and federally preserved and protected evidence; harassing and communicating with Plaintiff's deputies and agents by intimidating them, calling them in for interviews and testimony, asking them to reveal protected law enforcement investigation information, documents, and

evidence, concerning the ongoing Election Investigation, removing or taking possession of any information, media, property, documents, and data pertaining to this investigation, Defendants have encroached upon and usurped performacy of Plaintiff's constitutional duties and obligations as provided by the aforementioned constitutional provisions, statutory law and jurisprudence.

123. The real effect of this usurpation of authority is to obstruct justice, cover up wrongdoing, and completely prevent Plaintiff from performing his constitutional duties to ferret out and investigate criminal activity.

124. In their brazen attempt to thwart justice and the judicial, legislative, and constitutional processes established to uphold the rule of law and legal duties and responsibilities, and most importantly to ensure that state and federal laws are not violated, Defendants instead made an effort to neutralize Plaintiff's ability to perform his constitutionally and statutorily imposed duties as an elected constitutional officer.

125. By way of this complaint, Plaintiff seeks to enjoin Defendants from continuing to interfere with his constitutional and statutory duties, that Defendants be enjoined from unconstitutionally and unlawfully usurping and taking over those duties; that Defendants be enjoined from preventing Plaintiff from performing his constitutional and statutory duties as a constitutionally elected officer on behalf of his electorate; enjoin Defendants from interfering with the Election Investigation,

from obstructing justice; from interviewing or otherwise harassing and threatening Plaintiff's deputies and agents and from gathering and taking from those individuals law enforcement investigation privileged information and materials, including but not limited to data, written correspondence, notes, recordings, etc., enjoin them from keeping and/or tampering with the aforementioned evidence and information in violation of state and federal law.

COUNT III – MANDAMUS RELIEF

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

127. Article 7, § 4 of the Michigan Constitution states that “There shall be elected for four years in each organized county a sheriff...whose duties and powers shall be provided by law.” 1963 Mich Const art. 7, § 4.

128. As explained herein, the Sheriff represents the sovereignty of the State and he has no superiors in his county and in the execution of his law enforcement duties the Sheriff represents the state and no other entity may exercise “*direct control over how the sheriff fulfills his law enforcement duty*”. *McMillian v Monroe County*, 520 U.S. 781, 791, 792-94; 117 S. Ct. 1734 (1997). “By this mandate, sheriffs are given complete authority to enforce the state criminal law in their counties.” *Id.* at 790.

129. In Michigan as in other states where he or she is named as a constitutional officer, the County Sheriff acts on behalf of the citizenry who elects them. They must be free to perform their functions without encroachment, usurpation, or interference which obstructs and otherwise adulterates a criminal investigation.

130. The office of sheriff was created by the constitution and is considered the chief law enforcement officer of the county. *Nat'l Union of Police Officers v. Bd. of Comm'rs*, 93 Mich. App. 76, 84, 286 N.W.2d 242, 246 (1979). See also, *Scougale v. Sweet*, 124 Mich. 311, 322, 82 N.W. 1061, 1064 (1900) (noting the Sheriff wields “the executive power for the preservation of the public peace”) and *People ex rel Leroy v. Hurlbut*, 24 Mich. 44, 82-83 (1871) (noting that “[p]reservation of the peace has always been regarded, both in England and in America, as one of the most important prerogatives of the state; it is not the peace of the city or county, but the peace of the king or state that is violated by crimes and disorders; municipal officers have no power as conservators or justices of the peace; this power is reposed singularly in the office of Sheriff **and if it is assumed by any other local officers it will be an usurpation**”). Accord *McMillian v Monroe County*, 520 U.S. 781, 791, 792-94; 117 S. Ct. 1734 (1997) (holding consistent with common-law duties it is the duty of sheriffs in their respective counties, by themselves or deputies, to ferret out crime, to apprehend and arrest criminals and, insofar as within their power, to secure

evidence of crimes in their counties and to present a report of the evidence so secured to the district attorney or assistant district attorney for the county).

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

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

133. By their acts, and additional acts to be disclosed in discovery, Defendants have set about to cover up their own misfeasance and malfeasance, have intentionally thwarted an investigation and obstructed justice, and in doing so they have unlawfully and unconstitutionally usurped and encroached upon the exclusive law enforcement function and authority and power of Plaintiff a constitutional sheriff, whose exclusive duties and powers are provided by common law and statutory law.

134. By coming in and harassing individuals at their private residence who are in possession of the equipment and information and data (i.e., evidence), by seizing, taking control of, and adulterating the integrity of said state and federally preserved and protected evidence; harassing and communicating with Plaintiff's deputies and agents by intimidating them, calling them in for interviews and testimony, asking them to reveal protected law enforcement investigation information, documents, and evidence, concerning the ongoing Election Investigation, removing or taking possession of any information, media, property, documents, and data pertaining to this investigation, Defendants have encroached upon and usurped performacy of Plaintiff's constitutional duties and obligations as provided by the aforementioned constitutional provisions, statutory law and jurisprudence.

135. The real effect of this usurpation of authority is to obstruct justice, cover up wrongdoing, and completely prevent Plaintiff from performing his constitutional duties to ferret out and investigate criminal activity.

136. In their brazen attempt to thwart justice and the judicial, legislative, and constitutional processes established to uphold the rule of law and legal duties and responsibilities, and most importantly to ensure that state and federal laws are not violated, Defendants instead made an effort to neutralize Plaintiff's ability to perform his constitutionally and statutorily imposed duties as an elected constitutional officer.

137. By way of this complaint, Plaintiff seeks a mandamus as against Defendants and a command by this Court forcing them to stop interfering with his constitutional and statutory duties, that Defendants be ordered to cease from unconstitutionally and unlawfully usurping and taking over those duties as they are not authorized by law to do; that Defendants be ordered to cease preventing Plaintiff from performing his constitutional and statutory duties as a constitutionally elected officer on behalf of his electorate; order Defendants to cease interfering with the Election Investigation, from obstructing justice; from interviewing or otherwise harassing and threatening Plaintiff's deputies and agents, and from gathering and taking from those individuals law enforcement investigation privileged information and materials, including but not limited to data, written correspondence, notes, recordings, etc., and other evidence, and to prohibit them from keeping and/or tampering with the aforementioned evidence and information in violation of state and federal law.

RELIEF REQUESTED

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

139. Michigan courts recognize a right to attorneys' fees when a public official incurs such fees in connection with asserting or defending the performance of his or his legal duties. See, e.g., *Smedley v City of Grand Haven*, 125 Mich 424; 84 NW 626 (1900), *Exeter Twp Clerk v Exeter Twp Bd*, 108 Mich App 262; 310 NW2d 357

(1981), and *City of Warren v Dannis*, 136 Mich App 651; 357 NW2d 731 (1984), lv den 422 Mich 932 (1985). See also *McKim v Green Oak Twp Bd*, 158 Mich App 200, 207-08; 404 NW2d 658 (1987).

140. In the instant case, Plaintiff has asserted his constitutional and statutory duties to conduct an investigation and to ferret out and investigate potential criminal wrongdoing.

141. Plaintiff has or will demonstrate that Defendants have usurped and infringed upon and in fact made it impossible for him to perform his constitutional and statutory duties, and he is obligated to incur legal fees in defending and protecting his constitutional office.

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

143. Plaintiff is further entitled to declaratory, injunctive, and mandamus relief as requested herein.

WHEREFORE, due to the urgency and the severity of imminent potential harm to the integrity of law enforcement investigations, the information and data required to be retained in accordance with federal law, and good cause having been demonstrated, and legal argument and authority having been presented in this

Complaint, Plaintiff seeks Temporary Injunctive Relief, Declaratory and Mandamus Relief to, inter alia:

1. prevent Defendants from further usurping and interfering with the performance of his duties and his investigations;
2. prevent Defendants from seizing and keeping property and information and data created during, related to, or subject of said investigations, and order Defendants to return all such information;
3. prevent Defendants from tampering with or otherwise adulterating the property and evidence that it unlawfully confiscated;
4. prevent Defendants from harassing, threatening, seizing, or otherwise interfering with by interviewing and confiscation of their property all deputies and agents lawfully engaged by the Plaintiff to assist him in conducting his investigation;
5. prevent Defendants from obstructing justice, interfering with and/or destroying all investigatory confidences and privileges;
6. prevent Defendants from leaking information related to Plaintiff's investigation to the press and to further refrain from commenting or otherwise alerting the public of the nature of such confidential investigatory information as is protected by law;

7. enter an order pursuant to MCR 3.310, enjoining Defendants from carrying out or otherwise causing to be carried out any and all tampering, deletion, erasing, or adulteration of the data and evidence related to the general election of November 2020 as required by federal law, and order that all evidence related to the investigation that is in their possession be returned to Plaintiff;
8. Order Defendants to show cause as to why its proposed actions are authorized by law and are not ultra vires of their constitutional and statutory authority, and thereby in contravention of and directly violative of Plaintiff's exercise of his constitutional and statutory duties as a constitutional, elected official of a known legal character with certain duties and powers provided by law, and beholden to his electorate;
9. Order that a hearing be held on the merits of this Complaint wherein it shall be determined whether the Defendants must honor their respective constitutional, statutory and legal obligations vis-à-vis Plaintiff in his official capacity as a constitutional officer and perform those actions and procedures deemed necessary to bring about compliance by Defendants with state and federal law and to restore to Plaintiff his ability to perform his independent duties and functions; whether Defendants must further refrain from unconstitutionally encroaching upon the Plaintiff's constitutional office in violation of the doctrine of separation of powers and the exercise of his

exclusive powers, and such other relief as this Honorable Court deems just and equitable under the law.

Respectfully submitted,

/s/ Stefanie Lambert

STEFANIE LAMBERT JUNTILLA (P71303)
Attorney for Plaintiff

Dated: June 3, 2022