

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TIMOTHY KING, MARIAN SHERIDAN,
JOHN HAGGARD, CHARLES RITCHARD,
JAMES HOOPER, DAREN RUBINGH,

Plaintiffs,

v.

No. 2:20-cv-13134
Hon. Linda V. Parker
Mag. R. Steven Whalen

GRETCHEN WHITMER, in her
official capacity as the Governor of
the State of Michigan, JOCELYN
BENSON, in her official capacity as
Michigan Secretary of State and the
Michigan BOARD OF STATE
CANVASSERS,

Defendants,

and

CITY OF DETROIT, DEMOCRATIC
NATIONAL COMMITTEE and
MICHIGAN DEMOCRATIC PARTY,
Intervenor-Defendants.

Stefanie Lambert Junttila (P71303)
Attorney for Plaintiffs
500 Griswold Street, Suite 2340
Detroit, MI 48226
(313) 963-4740
attorneystefanielambert@gmail.com

Heather S. Meingast (P55439)
Erik A. Grill (P64713)
Assistant Attorneys General
Attorneys for Defendants Whitmer, Benson, and Board of State Canvassers
PO Box 30736
Lansing, Michigan 48909
517.335.7659
meingasth@michigan.gov
grille@michigan.gov

David Fink (P28235)
Nathan Fink (P75185)
Attorneys for Intervenor City of Detroit
38500 Woodward Avenue, Suite 350
Bloomfield Hills, Michigan 48304
248.971.2500
dfrink@finkbressack.com

Mary Ellen Gurewitz (P25724)
Attorney for Intervenor DNC/MDP
423 North Main Street, Suite 200
Royal Oak, Michigan 48067
313.204.6979
maryellen@cummingslawpllc.com

Scott R. Eldridge
Attorney for Intervenor DNC/MDP
One Michigan Avenue, Suite 900
Lansing, Michigan 48933
517.483.4918
eldridge@millercanfield.com

Andrew A. Paterson, Jr. (P18690)
Attorney for Intervenor Davis
2893 East Eisenhower Parkway
Ann Arbor, Michigan 48108
248.568.9712
Aap43@outlook.com

**REPLACEMENT MOTION FOR EXTENSION OF TIME TO
RESPOND TO DEFENDANTS' AND INTERVENORS' MOTIONS
TO DISMISS AND FOR SANCTIONS**

Now come the Plaintiffs, by and through counsel, pursuant to Rule 6(b)(A) and in accordance with the Court's Order of January 12, 2021 [Dkt 81], hereby file this Replacement Motion for an extension of time within which to respond to Defendants' and Intervenor-Defendants' various motions to dismiss and for sanctions [Dkts 70, 72, and 73].

1. Plaintiffs respectfully move that this Honorable Court extend Plaintiffs' time to reply from January 12, 2021, to January 19, 2021.

2. Plaintiffs submit that good cause exists to support the granting of this motion.

3. A Brief in Support of this motion is contained within the motion, in compliance with Local Rule 7.1(d)(1)(A).

**BRIEF IN SUPPORT OF REPLACEMENT MOTION FOR
EXTENSION OF TIME TO RESPOND TO DEFENDANTS' AND
INTERVENORS' MOTIONS TO DISMISS AND FOR SANCTIONS**

This motion presents the issue of whether good cause exists to grant Plaintiffs an extension of time to prepare and file responses to three dispositive motions filed by Defendants and Intervenor-Defendants (hereinafter “Defendants”) within the provisions of Fed. R. Civ. P. 6(b)(1)(A). Plaintiffs seek a 7-day extension of time to respond to the Defendants’ motions filed December 22, 2020 [Dkts 70, 72, and 73], from January 12, 2021 to January 19, 2021. In support of their motion, Plaintiffs state as follows:

1. On December 22, 2020, Defendants filed the following motions:

- a) Defendants Gretchen Whitmer, Jocelyn Benson and Michigan Board of State Canvassers’ “State Defendant’s Motion to Dismiss” [Dkt 70];
- b) Intervenor-Defendants Democratic National Committee and Michigan Democratic Party’s “Intervenor-Defendants’ Motion to Dismiss Plaintiffs’ First Amended Complaint” [Dkt 72]; and
- c) Intervenor-Defendant City of Detroit’s “The City of Detroit’s Motion to Dismiss and for an Award of Sanctions” [Dkt 73].

2. These three motions and their briefs in support comprise a total of 149 pages [Dkts 70, 72, and 73], supported by 94 pages of exhibits [Dkts 72-1 through -5; Dkts 73-1 through -4].

3. Plaintiffs’ deadline to respond to all of these motions is presently January 12, 2021.

4. On January 11, 2021, Plaintiffs filed a Motion for Extension of Time to respond to several of the Defendants' Motions to Dismiss and for sanctions. [Dkt 80 (stricken)].

5. By order entered January 12, 2021, this Court ordered that the motion be stricken from the case for failure to comply with E.D. MI. L.R. 7.1(b)(1) and 7.1(d). [Dkt 81].

6. This Honorable Court moreover ordered that "Plaintiffs shall file a proper motion that complies with all requirements, by the close of business on January 12, 2021." [Dkt 81 at 2].

7. Undersigned counsel regrets that in her urgency to file her motion of January 11, 2021 [Dkt 80 (stricken)], she failed to ensure full compliance with Local Rules 7.1(b)(1) and 7.1(d).

8. Counsel has reviewed the stricken motion closely and has attempted to remediate each apparent violation of the Local Rules of this Court in preparing this Replacement Motion.

9. Due to the size and scope of the pleadings filed by the Defendants, Counsel requires additional time to research the claims advanced by the Defendants and to prepare and file Plaintiff's responses thereto.

10. This Court should weigh the following factors as favoring Plaintiff's motion:

- a) The time for filing Responses to the Defendants' motions listed above has not expired.
- b) This motion is not being made for the purpose of delay; rather, it is made in good faith based upon current assignments and a genuine need for more time to prepare a response.

- c) The Defendants' motions seek dispositive rulings with respect to this litigation, as well as extraordinary relief against undersigned counsel. In view of this, adequate time for undersigned counsel to formulate a fulsome response is of vital importance to the full and fair consideration of Plaintiffs' claims, as well as to proper disposition of motions which may greatly impact undersigned counsel's future livelihood.
- d) No party will be prejudiced by the delay, as it will not delay this litigation, which is still in its early stages.
- e) The City of Detroit filed a second motion for sanctions on January 5, 2021 [Dkt 78], Plaintiffs' response to which is not due until January 19, 2021.
- f) There have not been any previous requests for extension for Plaintiffs' deadlines to respond to these motions.
- g) Plaintiffs' Petition for a Writ of Certiorari, Case No. 20-815, is currently pending before the United States Supreme Court and responses are due by January 14, 2021. Counsel represents that the Supreme Court's disposition of this case may impact Plaintiffs' decisions regarding how to respond to Defendants' motions.
- h) Heather Meingast, counsel for Defendants Gretchen Whitmer, Jocelyn Benson and Michigan Board of State Canvassers; together with David Fink, Counsel for Intervenor City of Detroit and Scott Eldridge, counsel for Democratic National

Committee and Michigan Democratic Party, have been contacted, and all oppose the proposed extension. (Exhibit 1).

- i) This court has already scheduled Plaintiffs' deadline to respond to Intervenor Robert Davis' motion for sanctions, filed 12/22/20 [Dkt 69] to January 19, 2021 [Dkt 76].

11. For all the foregoing reasons, Plaintiffs submit that good cause exists to grant an extension in this case, and that such extension will serve the ability of this Court to fully and fairly consider the issues raised by Defendants' motions.

Wherefore, Plaintiffs respectfully request that this Honorable Court enter an order extending the time to file a response to the above motions until January 19, 2021.

Respectfully submitted,

/s/ Stefanie Lambert Junttila
STEFANIE LAMBERT JUNTILA
(P71303)
Attorney for the Plaintiffs
500 Griswold Street, Ste. 2340
Detroit, MI 48226
(313) 963-4740
attorneystefanielambert@gmail.com

Date: January 12, 2020

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2021, I electronically filed the foregoing document with the Clerk of this Court using the ECF system, which will send notification of such filing to all attorneys of record registered for electronic filing.

/s/ Stefanie Lambert Junttila
STEFANIE LAMBERT JUNTILA
(P71303)
Attorney for the Plaintiffs
500 Griswold Street, Ste. 2340
Detroit, MI 48226
(313) 963-4740
attorneystefanielambert@gmail.com

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Counsel:

As you know, our response to the Motion to Dismiss is due on January 12, 2020. We are requesting an extension to respond to the motion until January 19, 2021. Please let me know if you will agree to that extension and we will prepare a consent motion.

Sincerely,

Stefanie Lambert Junttila



Whitmer v. King

Meingast, Heather (AG) <MeingastH@michigan.gov>
To: Stefanie Lambert <attorneystefanielambert@gmail.com>
Cc: "Grill, Erik (AG)" <GrillE@michigan.gov>

Mon, Jan 11, 2021 at 2:26 PM

Hello Ms. Lambert,

Ordinarily we would agree to such requests as a matter of course. Unfortunately, these are not ordinary times, and we do not agree to the extension. It is our position that this case should be resolved as quickly as possible.

Thank you,

Heather

Heather S. Meingast, Division Chief

Civil Litigation, Employment & Elections Division

Michigan Department of Attorney General

meingasth@michigan.gov

(517) 335-7659 (office)

From: Stefanie Lambert <attorneystefanielambert@gmail.com>

Sent: Monday, January 11, 2021 12:18 PM

To: Grill, Erik (AG) <GrillE@michigan.gov>; Meingast, Heather (AG) <MeingastH@michigan.gov>

Subject: Whitmer v. King

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[Quoted text hidden]



Ste

Whitmer v. King

Stefanie Lambert <attorneystefanielambert@gmail.com>

Mon, Jan 11, 2021 at 12:21 PM

To: Darryl Bressack <dbressack@finkbressack.com>, dfink@finkbressack.com, nfink@finkbressack.com

Counsel:

As you know, our response to the Motion to Dismiss is due on January 12, 2020. We are requesting an extension to respond to the motion until January 19, 2021. Please let me know if you will agree to that extension and we will prepare a consent motion.

Sincerely,

Stefanie Lambert Junttila



Whitmer v. King

David Fink <dfink@finkbressack.com>

Mon, Jan 11, 2021 at 3:07 PM

To: Stefanie Lambert <attorneystefanielambert@gmail.com>

Cc: Darryl Bressack <dbressack@finkbressack.com>, Nate Fink <nfink@finkbressack.com>

Ms. Junttila,

The City of Detroit will not stipulate to any extension of time for your response.

The damage caused by your lawsuit is magnified every day that these seditious lies remain in the court record.

David Fink



David H. Fink

T: [248-971-2500](tel:248-971-2500)

E: dfink@finkbressack.com | W: <http://www.finkbressack.com>

A: 38500 Woodward Ave., Suite 350, Bloomfield Hills, MI 48304

A: 535 Griswold St., Suite 1000, Detroit, MI 48226

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Stefanie Lambert

RE: Whitmer v. King [MCPS-ACTIVE.FID2617013]

Eldridge, Scott R. <Eldridge@millercanfield.com>

Mon, Jan 11, 2021 at 2:55 PM

To: Stefanie Lambert <attorneystefanielambert@gmail.com>, "megurewitz@gmail.com" <megurewitz@gmail.com>

Dear Stefanie:

We have inquired with our clients about your request. They do not consent to an extension.

Thank you for your attention to this matter.

Scott

Scott R. Eldridge | Senior Principal Attorney / Managing Director

Miller Canfield

One Michigan Avenue, Suite 900
Lansing, Michigan 48933 (USA)

T +1.517.483.4918 | F +1.517.374.6304 | **Mobile** +1.517.927.9223

eldridge@millercanfield.com | [View Profile](#) + [VCard](#)



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