

STATE OF MICHIGAN

20th CIRCUIT COURT FOR THE COUNTY OF OTTAWA

PATRICK FLYNN, AJ RATERINK,
PATRICIA LOOKS, BRIAN DOKTER,
and STEVE AND JAMIE LEMIEUX,

Plaintiffs,

File No. 21-6624-CZ

Hon. Jon Hulsing

v

OTTAWA COUNTY DEPARTMENT OF
PUBLIC HEALTH, LISA STEFANOSKY,
M.ED., in her official capacity as
Administrative Health Officer for
the Ottawa County Department of
Public Health AND THE OTTAWA COUNTY
BOARD OF COMMISSIONERS,

Defendants.

PLAINTIFF'S COMPLAINT FOR IMMEDIATE DECLARATORY RELIEF
AND MANDAMUS AND MOTION FOR SUMMARY DISPOSITION
AND
DEFENDANT'S MOTION TO DISMISS AMENDED COMPLAINT FOR IMMEDIATE
DECLARATORY RELIEF AND MANDAMUS

BEFORE THE HONORABLE JON HULSING, CIRCUIT JUDGE

Grand Haven, Michigan - Monday, December 6, 2021

APPEARANCES:

For the Plaintiffs:

D. Adam Tountas (P68579)
Jonathan B. Koch (P80408)
Smith Haughey Rice & Roegge
100 Monroe Center, NW
Grand Rapids, Michigan 49503
(616)774-8000

For the Defendants:

Douglas W. Van Essen (P33169)
Silver & Van Essen, PC
300 Ottawa Avenue, NW, Suite 600
Grand Rapids, Michigan 49503
(616) 988-5600

Recorded and
Transcribed by:

Lorri L. Coleman, CER 8536
Ottawa County 20th Circuit Court
414 Washington Avenue, Suite 300
Grand Haven, Michigan 49417
(616) 846-8322

TABLE OF CONTENTS

		<u>Page</u>
<u>WITNESSES:</u>		
None		
<u>EXHIBITS:</u>	<u>Identified</u>	<u>Received</u>
None		

1 Grand Haven, Michigan

2 Monday, December 6, 2021 - 3:04 p.m.

3 THE COURT: This is file number 21-6624-CZ,
4 Patrick Flynn, et al, versus the Ottawa County Department
5 of Public Health, Lisa Stefanovsky, and the County Board
6 of Commissioners. Counsel are here. I have reviewed all
7 of the materials in advance of today's hearing. I also
8 had a brief conversation with counsel in chambers
9 regarding possible DQ or recusal, and it's my
10 understanding that neither counsel believes that there's
11 a conflict with the court sitting in this case. I did
12 share some communications that I had with the other
13 judges and with Mr. Van Essen prior to this lawsuit being
14 filed and that was dealing with county protocols as it
15 pertained to mask mandates and I shared those emails.
16 Obviously Mr. Van Essen has seen them in the past. I
17 shared them with Mr. Tountas, but we're okay to proceed
18 then?

19 MR. TOUNTAS: We are, your Honor.

20 THE COURT: Okay.

21 MR VAN ESSEN: Yes, your Honor.

22 THE COURT: Who wishes to go first? I know we
23 kind of have cross motions, but I'll leave it -- who
24 wishes to go first?

25 MR. TOUNTAS: He filed first, if you want to

1 go.

2 MR VAN ESSEN: It's my motion and I'm older.

3 THE COURT: Mr. Van Essen, you may proceed.

4 MR VAN ESSEN: So age before beauty, your
5 Honor.

6 THE COURT: There we go.

7 MR VAN ESSEN: Good afternoon again, your
8 Honor. Doug Van Essen on behalf of Lisa Stefanovsky, the
9 Board of Commissioners, and the Department of Public
10 Health of Ottawa County.

11 The plaintiff's position, as I understand it
12 from reading their brief, your Honor, is that the court's
13 task is very easy. You just apply the plain language of
14 Chapter 2441 and Chapter 2453. You don't even have to
15 interpret the two, and in their view it's clear that the
16 promulgation processes for 2441 and 2442 apply to any
17 order issued under 2453.

18 Honestly, your Honor, if we're not going to get
19 to statutory interpretation, then I think clearly the
20 defendant's motion must be granted. That is to say
21 there's nothing in 2441 that says it applies to an order
22 issued by a health officer under 2453. There's nothing
23 in 2453 that says the promulgation procedure described by
24 the statute in 2441 and 2442 applies to a health
25 officer's issued order under 2453 or 2451, which is the

1 imminent hazard or imminent threat statute. So the plain
2 language of the Public Health Code would seemingly
3 support the defendant's position that the orders are --
4 and the Public Health Code at least -- different from
5 regulations, and one cannot say that under the Public
6 Health Code every order is also a regulation and indeed
7 we know that's not true. This court is eventually going
8 to issue an order as a state officer. It's not going to
9 issue a regulation. It doesn't promulgate regulations.
10 Regulations are part of the positive law of the state or
11 public health regulations adopted by Ottawa County are
12 akin to an ordinance and they're part of the positive law
13 of the -- of Ottawa County. Orders have the hallmark of
14 typically -- not always because the Public Service
15 Commission can issue an order, but typically they're
16 issued by officers and they're not promulgated in the
17 sense of notice and an opportunity to be heard, but
18 rather they're issued upon factual findings and they're
19 temporal in nature.

20 Now, the plaintiffs argue that in 2441 it has
21 language that talks about regulations track with the
22 authority given to the department under the Public Health
23 Code, but that's the department, not the health officer.
24 The provisions of 2451 and 2453 are personal to the
25 health officer. The mask mandate was issued not by the

1 Public Health Department, but it was issued by the health
2 officer as the mask mandates of 2020 were issued by the
3 director of the department, not by the Michigan
4 Department of Community Health.

5 I have before the court the relevant sections
6 from the Public Health Code that I think the court needs
7 to review and we start with 2233. This is the language
8 in chapter 22 that pertains to the state's authority, but
9 the language is almost exactly as the legislature use
10 when it turned in 24 -- chapter 24 to the local health
11 department's authority. So, we see in 2233 that the
12 department may promulgate rules. We have an actor, the
13 agency. We have a process, a discretionary process may
14 promulgate. We have an object, it's a regulation.

15 2251, Imminent Danger. We have the director
16 now, a different actor, that upon a different process a
17 finding of imminent health shall -- not discretionary,
18 but shall immediately issue a notice and shall issue an
19 order immediately; not a promulgation as under 2233 which
20 requires the Administrative Procedures Act to be
21 followed, 30 days' notice at a minimum. Now we have an
22 imminent danger by a different actor, the health -- the
23 director of the Department of Health, who has to do
24 something immediate and that is to issue a notice and an
25 order.

1 My friends Larry Willey and Chip Chamberlain
2 are defending Director Lyon, Nick Lyon, who is the
3 accused by the state of Michigan of violating his
4 personal duties under 2251 with respect to the Flint lead
5 crisis. Namely, he knew there was an imminent threat.
6 He essentially made those findings in a number of
7 communiques, but he failed to immediately notify the
8 residents of Flint or to issue an order trying to protect
9 them from the imminent health hazards, and that is
10 alleged by the state of Michigan to be a personal,
11 criminal violation of the law by not the department, but
12 by the director at the time, Nick Lyon.

13 Then we see the same statute effectively for
14 the health -- the Director of Community Health in
15 epidemics, that if the director determines that control
16 of an epidemic is necessary, the director by emergency
17 order may prohibit the gathering of people for any
18 purpose. There's no sense that you have to wait for 30
19 days and have the department promulgate a gathering
20 restriction order. It is an emergency order which can go
21 in effect upon the finding that the epidemic requires it.

22 In structuring penalties and violations for the
23 Public Health Code or rules promulgated or orders issued
24 in 2262, we have the department now may promulgate a
25 regulation that will set a fine schedule or other penalty

1 for a violation of the code, the statute, a violation of
2 the regulation promulgated -- again, a different process,
3 a different object, namely a regulation -- or the
4 issuance of an order, that personal order which the
5 director can issue. Clearly, if you look at the
6 Department of Community Health's authoritative --
7 authority given by the Public Health Code, you see a
8 distinction between the positive law regulation and a
9 temporal, immediate issuance of an order such as the
10 court would issue upon a finding of certain conditions.

11 So then we migrate over to chapter 24 which is
12 obviously the set of statutes we're most focused on now.
13 The premise of the plaintiffs apparently is that the
14 legislature would use the same terms but in a different
15 fashion with respect to local health departments.
16 There's nothing in here that would suggest that. In
17 fact, it uses the same language. 2441, the department.
18 When the department is the actor, it may adopt
19 regulations -- which is different than issuing an order
20 -- to carry out the functions or the duties vested by law
21 in the department as opposed to the officer. The
22 regulations then have to be approved by the local
23 governing body in a process that typically requires --
24 well, that does according to 2442 require notice and an
25 opportunity to be heard and a minimum of 20 days.

1 There's no way you can promulgate a county health
2 department regulation in less than 20 days because 2442
3 absolutely requires a minimum comment period of 22 days
4 before any regulation can be promulgated at the local
5 level.

6 We then have the same imminent hazard statute
7 in 21 -- 2451 and now it's not the department. It's a
8 different actor. In this case it's the health officer
9 with a personal responsibility that's obligatory, not
10 discretionary. It's an obligation of Lisa Stefanovsky if
11 she finds there is an imminent danger to public health
12 that she immediately issue a notice and an order to
13 individuals affected by that imminent danger. There are
14 sections in here which immediately -- that define
15 imminent danger, which clearly indicate not a reflective
16 notice opportunity and promulgation opportunity, but
17 imminent action based on factual findings of an imminent
18 threat. That is carried over to epidemics in 2453. If a
19 local health officer determines that control of an
20 epidemic is necessary to protect the public health, the
21 health officer may issue an emergency order to prohibit
22 the gathering of people.

23 Now, all attacks on my client Lisa
24 Stefanovsky's issuance of the order in this case
25 independent of the possible interface of the Board of

1 Commissioners have been dropped. At this point it is
2 conceded by the plaintiffs that she made adequate
3 findings of fact that there was an epidemic and that
4 supported adequately her issuance not of any order, but
5 of an emergency order, and courts have already determined
6 that the mask mandate as a condition for gathering is a
7 sufficient or appropriate exercise of -- whether it's
8 2253 as it was last year or 2453 as it is this year, a
9 health officer or Community Mental Health director's
10 exercise of this particular statute.

11 In section 2 of this key statute, there's a
12 discussion about providing involuntary detention. So, a
13 health officer can -- whether it's AIDS or whether it is
14 chickenpox, theoretically the health officer has the
15 ability to abate that condition or to abate that threat
16 by actually issuing an order that would require the
17 detention of individuals who are contagious and who are a
18 threat to public health. Now, obviously there's a whole
19 process whereby once detained the individual has to be
20 given due process and an opportunity and -- earlier in
21 the epidemic and, in fact, we still haven't repealed
22 that. We -- Judge Van Allsburg issued a blanket order
23 allowing the health department to seize individuals in
24 COVID and place them in detention. We haven't exercised
25 that blanket order and that order does require within 48

1 hours that a petition be filed, et cetera, compliant with
2 2453 too, but that's how imminent and urgent activities
3 are under 2453.

4 We have the same disjunctive language, your
5 Honor, in the local health department's authority as we
6 have with the department when it comes to establishing
7 violations. This time it's the Board of Commissioners,
8 again like it would be the department pursuant to
9 regulation, that would have to promulgate a fee schedule,
10 a fine schedule, and again the objects are disjointed. A
11 violation of the code, a violation of the Board of
12 Commissioners' approved regulations, or the violation of
13 an issued order can all be the subject of that regulation
14 that establishes those fines.

15 So, it isn't just the notion that we can equate
16 regulation and order that the court would have to
17 undertake and essentially find that all orders are
18 regulations in this context, but you'd also have to
19 ignore the issuance versus promulgation language that is
20 there with both the department and with the local health
21 department. And you would also have to find that it's
22 irrelevant that the legislature always chooses order in
23 association with an individual's responsibility or
24 authority to issue these orders and it always selects
25 agency or local health department when it uses the verb

1 promulgate and the object regulations. You would have to
2 find that it's meaningless that in both the violation
3 sections the legislature chose to authorize regulations
4 or rules that would make discreet fines for a violation
5 of the statute, regulations, or the rules. That
6 obviously we know there's a difference between the
7 statute and the regulations, but you would have to find
8 that it's a nullity that they added the fines and the
9 possibility of fines for the violation of issued orders
10 that they meant the same thing as a regulation. And, in
11 fact, the court would have to engage in mental gymnastics
12 that in the hundred years of this statute no court has
13 ever even been asked to do. If they're right then
14 Director Gordon's or Director Hertel's mask mandates last
15 year were equally ineffective because they weren't
16 promulgated regulations. No one challenged that. I
17 submitted the opinion of the House attorney that despite
18 the request of Representative Meerman, said, no, this is
19 an issued order of the health officer. The Board of
20 Commissioners has nothing to do with either approving or
21 disproving those emergency orders under this particular
22 statute.

23 If the court were to grant the plaintiff's the
24 declaratory relief that they're asking, the health
25 department and the health officer would be unable to meet

1 the regular and ordinary use of 2253, which is
2 noroviruses such as we had at Hope College a few years
3 ago, the chickenpox case that -- or the chickenpox
4 situation which Judge Miedema recently resolved. Those
5 were orders that had to be issued in an urgent situation
6 where the time period for contagion was well under 20
7 days, where if 20 days had to be waited before the health
8 department's officers could act, the contagion would have
9 spread and would have defeated the very purpose for the
10 order. This code was developed after the pandemics of
11 the flu and of smallpox. It has now been used again a
12 hundred years later for COVID. We can all hope we never
13 have to have another epidemic order of that nature, a
14 pandemic, as applied locally or at the state level
15 through these statutes, but to take away their regular
16 tool for dealing with smallpox or chickenpox or measles
17 or noroviruses would mean to defeat the obvious intent of
18 the legislature in giving health officers the personal
19 authority and cloak them with the power to deal with
20 those situations. We respectfully request that the court
21 not accept that invitation. Thank you.

22 THE COURT: Thank you. Mr. Tountas?

23 MR. TOUNTAS: Thank you, your Honor. Adam
24 Tountas here on behalf of the plaintiffs. Your Honor,
25 it's this simple: The August 20 and October 8 mask

1 mandates are unenforceable, invalid, and they are that
2 way because they were not voted on by the local governing
3 entity. In this instance, the Board of County
4 Commissioners.

5 The defendants acknowledge this is a case of
6 statutory construction and Mr. Van Essen stood at this
7 podium eloquently for about 25 minutes and didn't engage
8 of one instance of statutory construction, didn't talk
9 about these words, didn't cite a case, didn't cite a
10 legal dictionary, didn't cite a lay dictionary. That's
11 what we have to do, your Honor, when we interpret code
12 sections. We do that because words have meaning, because
13 in order to understand what the law says you have to
14 understand what those words mean, and when you do that
15 text is king. Text is where we go first and we start
16 with the framework.

17 Let's start with the framework of the local
18 Public Health Act. You have MCL 333.2413 which says a
19 local governing entity -- in this case, your Honor, the
20 Board of Commissioners -- creates the health department.
21 Section 2428 says that local governing entity appoints
22 the health officer, in this case Ms. Stefanovsky. She
23 doesn't act with any authority in her own right. She
24 acts because she was appointed to act in that fiduciary
25 capacity by the County Commission. And then you have

1 another section, 2441, the one we're talking about today,
2 which says the health department may adopt regulations
3 but they shall be subject to the oversight of the local
4 governing entity. It's within that entire framework of
5 accountability that these questions are answered. And we
6 do have the epidemic section and the pandemic section
7 which says that -- these are specifically 2451 and 2453
8 that mention the term order and those words are undefined
9 in the statute. They're undefined in any single section
10 of the health code, the broad one and the one that deals
11 with local health agencies, and so here we're stuck in
12 this quandry. We don't know what those words mean
13 without engaging in statutory construction and our
14 supreme court at the state and federal level has shown us
15 how to do that. You go to a dictionary, and we've cited
16 three different dictionary definitions that deal with
17 these terms. Black's Law Dictionary, which is the one
18 we're taught to go to in law school first and foremost,
19 it says a regulation is, quote, an official rule or order
20 having legal force usually issued by an administrative
21 agency. Merriam Webster's Dictionary of the Law, which
22 the state supreme court has cited on more than on
23 occasion, defines regulation as, quote, an authoritative
24 rule, specifically a rule or order issued by a
25 governmental agency and often having force of law. We

1 also cited Merriam Webster's Collegiate Dictionary to
2 have a lay dictionary's take on this issue that says a
3 regulation is, quote, a governmental order having the
4 force of law. So wherever you look, whichever one of
5 these tools out of the kit that the supreme court has
6 said you go to to interpret a statute, we come to this
7 conclusion: An order is a type of regulation issued by
8 an administrative agency. It's how that agency tells
9 people like me and my kids and these plaintiffs here's
10 what you can do, here's what you can't do. It's how that
11 agency regulates and governs. And so if those two terms
12 are the same, now we know how we have to read section
13 2441. Now we understand that even though you're allowed
14 to have the issuance of an emergency order and you can do
15 so without the notice and hearing provided in 2441, that
16 doesn't mean you get to issue that order in an
17 accountability vacuum. That is an absurd result when you
18 look at the entire framework where the County Commission
19 creates a health department, appoints an administrator,
20 and has final say over what does and doesn't have the
21 force of law.

22 Now, the argument that Mr. Van Essen offered
23 basically comes down to this: Well, of course they mean
24 different things. They're different words. And we're
25 not going to bother looking at what those words mean in

1 the law or in a dictionary of any sort, but they're
2 different and so they have to be different because of
3 chickenpox or because of this instance that happened a
4 hundred years ago. Those are textually unsupportable
5 arguments. There's nowhere in the local health code that
6 it says you can issue a regulation, but it can't deal
7 with disease. You know, your regulations, you can issue
8 orders about stuff that isn't subject to normal business.
9 It simply says you can issue an order if you have to act
10 more rapidly and outside the auspices of the normal
11 rulemaking process, but it does not, your Honor. There's
12 no textual support in the statute, no case they've cited,
13 no case we've cited that says you're otherwise immune
14 from accountability. You're otherwise outside the scope
15 of the local governing entities' absolute authority to
16 regulate what does and doesn't have the authority of law.

17 Now, the point I would offer if you're going to
18 go for these non-textual arguments is to, good grief,
19 look at the statutory framework. You know, they say,
20 well -- and they made this argument in writing, your
21 Honor: Well, look, if regulations and orders were
22 subject to the same approval process, then you've
23 basically merged the rules and it's the first one and
24 everything's gotta go through notice and comment. Well,
25 no, that's not true. Notice doesn't show up in the other

1 section. But flip the argument. What if they're right?
2 What if there's this regulation rulemaking process which
3 is arcane and takes a long time and is out here, but then
4 there's this process the administrator can use whenever
5 he or she decides they want to, not subject to any
6 review, judicial, elected official or otherwise? It can
7 be about any subject matter they want that's normally
8 within the purview of the health department and there's
9 not a darn thing anybody can do about it whether here,
10 whether at the County Commission meeting, or otherwise.
11 That is where the exception swallows the rule. That is
12 untenable when you look at the statutory framework of the
13 Public Health Code.

14 And, quite frankly, -- I'm not embarrassed to
15 state from the podium, we said it in our brief -- it's
16 un-American. We don't live in East Germany in some
17 administrative state where somebody who's unelected gets
18 to make rules that dictate the scope, course, and
19 trajectory of our lives. We live in the United States of
20 America where elected officials are accountable to us at
21 the ballot box and they are ultimately in charge of the
22 people that they appoint subject to our accountability.
23 That's how we do government in this country. They have
24 cited no case suggesting otherwise. They have pointed us
25 to no legal dictionary suggesting we've got order and

1 regulation wrong. They do nothing but stand up here and
2 weave a confusing tapestry about chickenpox and hundred
3 year-old rules and that's nonsense. That's not how we do
4 it. The August 20 order is invalid because it was not
5 voted on by the County Commissioners that my clients
6 elected, that I elected, that sit in control of that arm
7 of government and so they should be stricken.

8 Now, that brings us to our second item of
9 relief which is this order of mandamus. Your Honor, we
10 cited the arguments and the authority in our brief.
11 Mandamus can't compel the exercise of discretion in any
12 particular way, but it can compel the exercise of
13 discretion, period. We think that's an appropriate
14 remedy here. It's not about masks. This is about the
15 process. This is about forcing the County Commissioners
16 to do what they were elected to do, which is to sit and
17 make a difficult judgment call on whether kids in school
18 should be wearing masks. If they take that vote and they
19 say yes, then kids wear masks, period, until we have new
20 commissioners and that's the way we do government in this
21 country. But if they say nothing, Ms. Stefanovsky's
22 order means nothing because it has no force and effect of
23 law. And so the second item of relief we're asking for,
24 your Honor, is not just to strike down these unlawful
25 orders, but it's to require the County Commission to vote

1 if they insist on renewing these orders or mandating
2 vaccines or mandating anything down the road that we
3 can't think of now outside the COVID pandemic or not in
4 the interest of public health. When the health
5 department acts, it does not do so in an accountability
6 vacuum. And we'll rest on our brief beyond that. Thank
7 you, your Honor.

8 THE COURT: Mr. Van Essen, these orders are
9 set to expire, like, on January 3 or something; is that
10 accurate?

11 MR VAN ESSEN: January 2nd.

12 THE COURT: Right before the kids return from
13 the school break?

14 MR VAN ESSEN: That's correct, your Honor.

15 THE COURT: All right. Thank you very much.
16 I thank the attorneys for their presentation. I thank
17 everybody for the ton of time that they spent on doing
18 these briefs. I note that the court has about 56 days to
19 render its opinion. It would be, I guess, easy for a
20 judge to say, oh, it's December 6 today and January 2 or
21 3 is less than a month away. I'll sit on it and moot it
22 out. I'm not going to do that. I'm going to make a
23 decision. I'm going to give my reasons for it, but I'm
24 going to give the answer right now because I don't want
25 the persons who are concerned in this to say what's this

1 guy talking about? What's the answer? Are the
2 director's orders lawful? Yeah, they are and here's why.
3 So, I'm not going to grant the relief that Mr. Tountas
4 requests. I am going to grant the relief that corporate
5 counsel would like.

6 Under MCL 333.2428, the local health officer
7 has powers and duties. Those are powers and duties given
8 to the local health officer. On section 23 -- excuse me
9 -- 2433, they are the duties of the local health
10 department. It's different. 2441 is the adoption of
11 regulations, which is why we're here, but as Mr. Van
12 Essen points out, to adopt those regulations there's a
13 notice requirement and it's at least 20 days. 2442 gives
14 a notice requirement and that's perfectly fine for
15 regulations, but to require the County Board of
16 Commission to act on an order by the health officer, that
17 would gut 2453 if the local health officer -- this is not
18 the department, this is the local health officer --
19 determines that control of an epidemic is necessary to
20 protect public health, he or she may issue emergency
21 orders. I mean, my goodness, we can think of situations
22 where there's an epidemic and to require 20 days to
23 evaluate that and have politicians look at that and in
24 the meantime the epidemic is spreading perhaps by
25 wildfire. No. This order can be issued immediately.

1 And then 2451, imminent danger to health or lives. Upon
2 determination that imminent danger to the health or lives
3 of individuals exists, the local health officer, not the
4 department, the local health officer immediately shall
5 inform the individual affected by the imminent danger to
6 issue an order shall be delivered to a person authorized
7 to avoid, correct, or remove the imminent danger.

8 Imminent, immediate. To require 20 days and then maybe
9 up to 45 days to issue the regulation, that would gut
10 2451 of its meaning. And then 2443, except as otherwise
11 provided in this act, a person who violates a regulation
12 of a local health department or an order of a local
13 health officer -- they're two separate animals -- is
14 guilty of a misdemeanor. It's a regulation of a local
15 department or an order of a local officer. They're
16 separate animals here.

17 So obviously there are requirements. 2453
18 requires that there be an epidemic. 2451 requires that
19 there be a determination of imminent danger. There has
20 to be a reason behind the orders issued by the health
21 officer. You know, if the health officer issues those
22 orders, then they're valid.

23 Now, can a local health officer abuse his or
24 her authority? Absolutely. What can be done? The
25 county board hired them. The county board can fire them

1 and change the law. One can think of a number of
2 situations where a local health officer could exceed his
3 or her -- the grounds of common sense. Fire the officer,
4 change the law, but until that's done, those persons who
5 were unsuccessful in the last election have to wait until
6 the next election, and if your side still loses, you have
7 to comply with the rules that have been lawfully done
8 until your side wins. It requires, I think, 56 votes in
9 the House and I forget how many in the Senate and the
10 Governor as well. So until you win, you have to comply
11 with the rules. These rules are valid. Thank you very
12 much. Thank you. Will you prepare the order?

13 MR VAN ESSEN: Yes.

14 THE COURT: Thank you.

15 MR. TOUNTAS: Thank you, your Honor.

16 THE COURT: Thank you.

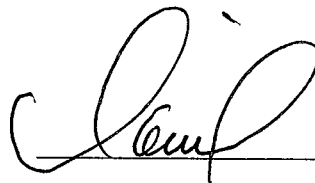
17 (At 3:39 p.m., hearing concluded)

STATE OF MICHIGAN

COUNTY OF OTTAWA

I certify that that this transcript, consisting of 25 pages, is a complete, true, and correct record of the videotape of the proceedings and testimony taken in this case as recorded on Monday, December 6, 2021.

Date: 12-8-21



Lorri L. Coleman, CER 8536

Ottawa County 20th Circuit Court
414 Washington Avenue, Suite 300
Grand Haven, Michigan 49417
(616) 846-8230