

STATE OF MICHIGAN  
COURT OF CLAIMS

MOTHERING JUSTICE, MICHIGAN ONE  
FAIR WAGE, MICHIGAN TIME TO CARE,  
RESTAURANT OPPORTUNITIES  
CENTER OF MICHIGAN, JAMES HAWK,  
and TIA MARIE SANDERS,

No. 21-000095-MM

HON. CYNTHIA D. STEPHENS

Plaintiffs,

v

DANA NESSEL, in her official capacity as  
Attorney General and head of the Department  
of Attorney General,

Defendant.

**DEFENDANT ATTORNEY  
GENERAL DANA NESSEL'S**

**06/07/2021**

**(C)(8) MOTION FOR  
SUMMARY DISPOSITION IN  
CASE NO. 21-000095-MM**

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**DEFENDANT ATTORNEY GENERAL DANA NESSEL'S 6/7/2021  
(C)(8) MOTION FOR SUMMARY DISPOSITION IN CASE NO. 21-000095-MM**

Now comes Defendant, Attorney General Dana Nessel, under MCR  
2.116(C)(8), and asks this Court to dismiss all claims against her in Case No. 21-  
000095-MM. The Attorney General says in support:

1. This case ultimately seeks to challenge the Legislature's actions in  
performing an unconstitutional end-run around the initiative process in its  
lame-duck "adopt and amend" gambit, but seeks to do so through the  
Attorney General opinion vehicle.

2. The lawsuit names only one party as a defendant—Attorney General Nessel.
3. This is an inappropriately postured lawsuit and all claims against the Attorney General should be dismissed under MCR 2.116(C)(8) because the Attorney General is not a proper party.
4. *First*, there is no actual controversy. A court’s jurisdiction “is limited to determining rights of persons or property, which are actually controverted in a case before it.” *Amway v Grand Rapids*, 211 Mich 592, 615 (1920). Here, the Attorney General agrees with Plaintiffs’ position on the merits of PA 368 and 369. If she is not dismissed as a party, her arguments as to the constitutionality of those statutes will essentially be in lockstep with Plaintiffs’. The Attorney General disagrees with Plaintiffs only as to the inappropriate posturing of the lawsuit.
5. *Second*, the Attorney General has not caused any of the injuries alleged in the Complaint. She has not “permit[ted]” the Legislature to enact PA 368 and 369, nor has she taken any enforcement action in her role as chief law enforcement officer.
6. *Third*, this Court cannot redress the alleged injuries through the Attorney General. The only way a court could actually give the relief Plaintiffs seek would have nothing to do with the Attorney General—and conversely, the only things this Court could conceivably order the Attorney General to do would not grant the Plaintiffs any relief.
7. *Fourth*, Counts II and III do not pertain to the Attorney General.

8. Additionally, the precedent created by allowing this suit to proceed would politicize and corrupt the Attorney General opinion process. The fact that Plaintiffs believe that the incorrectness of Opinion 7306 is a basis to render it null and void is right in line with their misunderstanding of the role Attorney General opinions play in general and their mistaken belief that Attorneys General may cause a cognizable and redressable injury merely by opining on the constitutionality of a statute.
9. As required by Local Rule 2.119(A)(2), the Defendant sought Plaintiffs' acquiescence in the relief requested in this motion on June 7, 2021. Opposing counsel has not acquiesced in the relief sought.

WHEREFORE, for the reasons stated in this motion and in the attached brief in support, Defendant Dana Nessel respectfully requests that this Court dismiss all claims against her pursuant to MCR 2.116(C)(8).

Respectfully submitted,

Dana Nessel  
Attorney General

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Solicitor General

/s/ Ann M. Sherman  
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Dated: June 7, 2021