No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JAMES EDWARD WHITE,
PETITIONER,
v.
STATE OF MICHIGAN,
RESPONDENT

MOTION FOR LEAVE TO FILE ORIGINAL ACTION UNDER ARTICLE III OF THE CONSTITUTION OF THE UNITED STATES
AND
NOTICE OF CONSTITUTIONAL QUESTION

JAMES EDWARD WHITE
Pro Se
4107 Breakwater Dr
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(517) 381-1960
Petitioner

QUESTION PRESENTED[1]

1. Does the Seventh Amendment of the United States Constitution apply to Michigan Courts and in particular to damage claims in the Michigan Court of Claims?

[1] This does not preclude other possible questions that might arise from Michigan efforts to dodge the question. Michigan's lawyers have been very adept at doing that over the full series of Plaintiff's cases and courts, including the U.S. Supreme Court, have acquiesced in those dodges and simply never read the laws in question.

PARTIES TO THE PROCEEDINGS

James Edward White, Petitioner

State of Michigan, Respondent

CORPORATE DISCLOSURE STATEMENT

No corporate entities are involved, the defendant being the State of Michigan and Plaintiff being an individual.

LIST OF PROCEEDINGS

State Court of Claims; No. 22-000153-MZ; James Edward White v. State of Michigan, Supreme Court of Michigan, and Supreme Court Clerk; Denial of Jury Trial November 1, 2022; Opinion January 20, 2023; reconsideration denied March 16, 2023

Michigan Court of Appeals; No. 365597; James Edward White v. State of Michigan, Supreme Court of Michigan, and Clerk of the Court (Larry Royster): Unpublished per curiam May 16, 2024; reconsideration denied June 20, 2024

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TABLE OF AUTHORITIES

Constitutional Provisions

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CITATION OF OPINIONS AND ORDERS

There are no published, citable opinions or orders in the cases shown in the previous List of Proceedings.

MOTION

Plaintiff moves that the United States Supreme Court take up this case as an original jurisdiction since it is a case against the State of Michigan for creating and apparently following a law in violation of U.S. Const. Amend. VII.

BASIS FOR JURISDICTION

U.S. Const. Art. III, § 2 (Appendix F):

1. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution …

2. In all Cases … in which a State shall be Party, the supreme Court shall have original Jurisdiction.

U.S. Const. Art. VI (Appendix G):

2. This Constitution, … shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

U.S. Const. Amend. VII (Appendix H):

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, …

Michigan Compiled Laws (MCL) 600.6443 (Appendix R):

> The case shall be heard by the judge ***without a jury***. …

This Court has jurisdiction under the U.S. Const. Art. III, § 2 1 "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution… ." Additionally, as the "supreme Law of the Land" clause of U.S. Const. Art. VI makes clear, U.S. Const. Amend. VII must take priority over MCL 600.6443 which attempts to create State of Michigan law "Contrary" to the U.S. Constitution, i.e., "heard by the judge *without a jury*."

STATEMENT OF NOTIFICATION

Per Supreme Court Rule 14.1(e)(v) Statement of Notifications per Supreme Court Rule 29.4(c): this case is about the unconstitutional MCL 600.6443 which (without so saying) the State of Michigan apparently has used to deny Plaintiff's U.S. Const. Amend. VII right to a Jury Trial. The paper raising the question is presumably the November 1, 2022 (Appendix B) Deputy Clerk return of a check demanding a jury trial but it could also be either of the Court of Claims or Court of Appeals responses (Appendix C or Appendix D). The Attorney General and the Governor of Michigan have been notified.

CONSTITUTIONAL, ETC., PROVISIONS

U.S. Const. pmbl. (Appendix E)

U.S. Const. Art. III, § 2 (Appendix F)

U.S. Const. Art. VI 2 & 3 (Appendix G)

U.S. Const. Amend. VII (Appendix H)

U.S. Const. Amend. IX (Appendix I)

Michigan Const. of 1963 Art. 11, § 1, Appendix K (Oath of Office)

MCL 421.31 (Appendix L)

MCL 421.48(2), (Appendix M)

MCL 600.6404 (Appendix N)

MCL 600.6419 (Appendix O)

MCL 600.6421 (Appendix P)

MCL 600.6440 (Appendix Q)

MCL 600.6443 (Appendix R)

STATEMENT OF THE CASE

This case started from another very simple case, Plaintiff was laid off, deemed eligible for unemployment benefits, then denied those benefits for one week due to a scheme in violation of Michigan law cooked up for paying out employee's vested vacation earnings outside both the law and union contract in order that Michigan State University could transfer their unemployment obligation for one or more weeks onto the back of the Petitioner. The plain wording, in the English language, of the law "However, payments for a vacation or holiday, or the right to which has irrevocably vested, … shall not be considered wages or remuneration…" (MCL 421.48(2), Appendix M).

To date, the courts of Michigan have not addressed that simple statement of law even though it has been presented first to the UIA (Appendix S) then all the way through the Michigan Supreme Court and the U.S. Supreme Court (22-387).

If the State of Michigan had paid attention to Plaintiff's first notice of an issue (Appendix S) and actually looked at the MCL 421.48(2) "However" sentence the long subsequent sequence of events leading to this case would not have occurred. Plaintiff contends that that failure is where review should commence because without it the failure of the next paragraph and attendant damages would not have occurred for Plaintiff. Appendix T and Appendix U provide further (though minimal) evidence that the ALJ failed in his review thus establishing the lazy pattern that subsequent judiciary review would follow.

In fact, the State of Michigan further insisted via clerical action (Appendix B), which gave rise to this case, that U.S. Const. Amend. VII need not be followed by the State of Michigan. The Judiciary of Michigan (Appendix C and Appendix D) simply accepted the clerical action and never addressed Plaintiff's demand for a jury trial (Appendix A) nor noted MCL 600.6443 (Appendix R) which appears to conflict with both MCL 600.6421(1) (Appendix P) and U.S. Const. Amend. VII. The Michigan Judiciary, while apparently recognizing the damage to Plaintiff due to the State of Michigan not obeying MCL 421.31 (Appendix L) then went on to insist Plaintiff (the State's victim) was somehow responsible for not avoiding the harm done and besides, Michigan has no explicit law re damages for

the specifics the State did in this case. The long history of common law damages for State abuses predating even the United States apparently being treated as irrelevant in spite of U.S. Const. Amend. IX (Appendix I).

Plaintiff filed the case with the Michigan Court of Claims in its exclusive jurisdiction as an MCL 600.6419 (Appendix O) demand for monetary and equitable relief against the state and to avoid the extra step of MCL 600.6404(3) (Appendix N). Plaintiff had no reason to believe MCL 600.6440 (Appendix Q) was or would be applicable at that time.

As Plaintiff understands it, the hierarchy of the law overriding from highest to lowest is:

Fundamental rights and employee, lawyer, and judicial ethics

Due process including law as written, clarify ambiguity, and error correction

Constitution (which references but does not define due process)

United States Laws

Michigan Constitution of 1963

Michigan Laws

Michigan Administrative Rules Authorized by Michigan Law

Federal and State Judicial Doctrine applicable to Justice

Applicable Precedent

Judicial Procedural Rules applied with Justice in mind

CLAIM

1. In the present case, and since there is no ambiguity in U.S. Const. Amend. VII, its application must trump all the items below it and in particular MCL 600.6443. A jury would clearly see that the State of Michigan indeed did damage Plaintiff to the amount of at least $22.50 (after refunds, see Appendix C Appendix D) in charges that would not have occurred if there were a proper MCL 421.31 $0.00 option for filing MCL 421 cases in the MiFILE system. A jury, unlike the Michigan judiciary, would not take the State's side. The jury would fully understand the mischief the State exposes MCL 421 violation victims to in presenting its $386.25 MiFILE filing charge when the correct amount by law should be $0.00.[2] In other words, a Jury would see the State Executive and Judiciary branches were doing exactly the opposite of the intent of the Michigan Legislature.

RELIEF DEMANDED

1. $22.50 for the non-refunded initial electronic filing system fees.

2. $180.25 refund for the Court of Claims Complaint filing fee and servicing fee for the filing and their $5.25 electronic fee.

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[2] If this claim should more properly be two claims Plaintiff respectfully asks the court to so state. 1) State of Michigan negligence for no MCL 421.31 MiFILE $0.00 option and 2) State of Michigan violation of U.S. Const. Amend. VII.

3. $10 for the signature before an officer authorized to administer oaths.

4. $3,000 for the time, energy, aggravation, hassles, pain and suffering, etc. in paying the illegally collected fees in the first place and for the ongoing effort to get them back.

5. $6,000,000 in punitive damages for an MiFILE system that appears to be intentionally built and maintained by the State of Michigan to violate the law (MCL 421.31) and to actively discourage citizens of the State of Michigan from claiming their due and just unemployment claims through the State of Michigan and its courts.

6. $20.60 for the Motion for Reconsideration in the Court of Claims

7. $386.25 for the Appeal filing in the Court of Appeals and its service fee

8. $25.75 for the notice filing to the Court of Claims and its service fee

9. Any additional fees and/or costs related to this case before the United States Supreme Court.

CONCLUSION

For the above and foregoing reasons, Petitioner requests the Supreme Court take up its U.S. Const. Art. III, § 2 2. "original Jurisdiction" obligation regarding a State as a party where said State is disregarding at least "Equity" "under [the] Constitution."

What we see in this case are clearly two things that Alexander Hamilton warned about in the

Federalist Papers of 1787 and 1788. The first is that States are likely to choose to disregard their obligations (Federalist No. 15, Appendix V) under the "supreme Law of the Land" (U.S. Const. Art. VI, Appendix G), in this case at least disregarding U.S. Const. Amend. VII, and more specifically in that judges not watched over by juries in civil cases are likely to be corrupted by their own power (Federalist No. 83, Appendix W).

Respectfully,

/s/ James Edward White
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Okemos, MI 48864
(517) 381-1960

APPENDICES

Rule 14.1(i)(i) Opinion and Order (Plus)

APPENDIX A
STATE OF MICHIGAN, COURT OF CLAIMS
PLAINTIFF JURY DEMAND

October 27, 2022 Re. No. 22-00153-MZ

JAMES EDWARD WHITE, Plaintiff,

v.

STATE OF MICHIGAN, SUPREME COURT OF MICHIGAN, AND CLERK OF THE COURT (LARRY ROYSTER), Defendants

Jury Demand

I demand a jury trial per United States Constitution Amendment VII, Michigan Constitution of 1963 Article 1 § 14, MCL 600.857(3), MCL 600.5738, and perhaps in part MCR 2.508(B)(1). If the electronic filing system has no obvious option for payment of the MCL 600.857 $30 fee, or too high a card charge, the fee will be sent by USPS First Class mail to Court of Claims, P.O. Box 30022, Lansing, MI 48909-7522.

/s/ James E. White October 27, 2022

APPENDIX B
STATE OF MICHIGAN, COURT OF CLAIMS CLERICAL DENIAL OF JURY DEMAND

November 1, 2022 [Re. No. 22-00153-MZ]

Dear James White:

The Court is in receipt of your check #1797 in the amount of $30 for a jury deman in case #22-000153-MZ. Please note that although the Court of Claims functions like any trial court, there is no right to a jury trial in the Court of Claims. Therefore, your check is being returned unprocessed.

Sincerely,
[/s/ Angela M. Davis]
Angela M. Davis
Deputy Clerk

AMD/
return log

APPENDIX C
STATE OF MICHIGAN, COURT OF CLAIMS OPINION AND ORDER GRANTING DEFENDANT' MOTION FOR SUMMARY DISPOSITION

January 20, 2023 Case No. 22-000153-MZ

JAMES EDWARD WHITE, Plaintiff,

v.

STATE OF MICHIGAN, SUPREME COURT OF MICHIGAN, AND CLERK OF THE COURT (LARRY ROYSTER), Defendants

Hon. Brock A. Swartzle

OPINION AND ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

Pending before this Court in this action is defendants' motion for summary disposition under MCR 2.116(C)(7) and (C)(8). Defendants argue that plaintiff has failed to state a claim upon which relief can be granted and that plaintiff's claims are barred on the basis of governmental immunity. Because this Court finds that plaintiff has not presented a cognizable claim against defendants, this Court GRANTS defendants' motion for summary disposition. This matter is being decided without oral argument as allowed by Local Rule 2.119(A)(6).

At issue in this action is plaintiff's suit for the return of fees he paid in September 2021 to file two appeals with the Michigan Supreme Court concerning the denial of plaintiff's unemployment claims. Plaintiff was acting in pro per in both cases and chose to file his claims electronically using the MiFILE system. Plaintiff paid $375 for each case and incurred an additional credit card service fee of $11.25 under MCL 600.1986(5). Under MCL 421.31 of the Michigan Employment Security Act, MCL 421.1 et seq., plaintiff was not required to pay a filing fee to challenge the denial of these benefits. Accordingly, the Supreme Court refunded the $375 filing fee for each appeal. The two credit card service fees were, however, not refunded. Plaintiff has subsequently sued in this Court to recover these fees. He also seeks additional damages including $1,000 for the "time, aggravation, hassles, and pain in suffering" for the effort to recover the credit card services fee

and $6,000,000 in punitive damages. Defendants have argued that this fee is nonrefundable, that the fee is charged by the credit card merchant, and that plaintiff was informed of this when he registered to use the MiFILE system. In support, defendants present the MiFILE's End User Licensing Agreement and Terms of Use which, in pertinent part provides the following:

> 7. Notice about Refunds:
>
> If a payment charged for a filing is refunded by the court, the credit card service fee is nonrefundable.

Defendants also note that the "Answers to Common Filer Questions" in the help section of MiFILE also clearly informs those who use the system, "If the court refunds a payment charged for a filing, the credit card fee is not refunded."

Defendants argue that plaintiff has not presented a cognizable claim for recovery and, therefore, this Court should grant their motion for summary disposition under MCR 2.116(C)(8).

A motion under MCR 2.116(C)(8) tests the legal sufficiency of the complaint on the allegations of the pleadings alone. *Feyz v Mercy Mem Hosp*, 475 Mich 663, 672; 719 NW2d 1 (2006). The Court must accept all well-pleaded factual allegations as true and construe them in a light most favorable to the nonmoving party. *Cummins v Robinson Twp*, 283 Mich App 677, 689; 770 NW2d 421 (2009). The motion should be granted when the claim is so clearly unenforceable as a matter of law that no factual development could justify recovery. *Feyz, 475*

Mich at 672; *Dalley v Dykema Gossett PLLC*, 287 Mich App 296, 305; 788 NW2d 679 (2010).

In this case, plaintiff has not provided a specific description of his claim. He relies instead on MCL 421.31 and MCL 600.1990. Neither statute presents a specific claim for recovery. MCL 421.31 provides in pertinent part, "No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the commission or its representatives or by any court or any officer thereof." The provision does not, however, specifically provide for a private right of action to recover fees allegedly paid in violation of the statute. As for MCL 600.1990, this section provides only that "[a]ny electronic filing system fee paid by a party is a recoverable taxable cost."

Defendants request that this Court dismiss plaintiff's claims under MCR 2.111(A)(1) and (B)(1). Defendants' position is not without merit. This Court can, however, "disregard the labels given to the claims and instead read the complaint as a whole, seeking the gravamen of the claims." *Trowell v Providence Hosp & Med Centers, Inc*, 502 Mich 509, 520; 918 NW2d 645 (2018). Plaintiff's underlying claim is for the recovery of money given to the Court in error where some of the money received was wrongfully retained. This is akin to a claim for conversion.

"Conversion, both at common law and under the statute, is defined as any distinct act of domain wrongfully exerted over another's personal property in denial of or inconsistent with the rights therein." *Magley v M & W Inc,* 325 Mich App 307, 315; 926 NW2d 1 (2018) (quotation omitted). Even analyzing

plaintiff's claim under this framework, however, plaintiff's arguments contain a fatal flaw. Defendants have not retained any funds. The funds that plaintiff claims have been wrongfully retained have instead been retained by the credit servicing company, as a user was informed would happen under the terms of MiFILE's End User Licensing Agreement and Terms of Use. The servicing company is not a party to this action.

Even if this Court were to find that plaintiff may maintain a cause of action under the language of MCL 421.31 itself, this would not change the result. MCL 421.31 does not require the return of these fees by the credit servicing company. This section only prevents the charging of fees by the unemployment commission or "by any court or any officer thereof". This statute does not govern the charging of fees by credit card servicing companies. Nor will this Court read such into the language of the statute. *Alvan Motor Freight, Inc v Dept of Treasury*, 281 Mich App 35, 39; 761 NW2d 269 (2008). Plaintiff has not even argued that the credit servicing company is an agent of the Court, much less presented anything to support such a claim. Nor was plaintiff required to use the MiFILE system. He could have instead filed his appeals in person or mailed them to the Court. Although the Court initially erred in accepting the fee, it then reimbursed plaintiff. Plaintiff thus cannot rely on the language of MCL 421.31 to support a claim against defendants.

MCL 600.1990 is inapplicable under these circumstances. It only provides an avenue to recover electronic filing fees as a cost when a party otherwise prevails on his claims. See MCR

2.625(A)(1); see also *Beach v. State Farm Mut Auto Ins Co.*, 216 Mich App 612, 622; 550 NW2d 580 (1996).

For these reasons, defendants have shown that they are entitled to summary disposition under MCR 2.116(C)(8). Even if the facts are as plaintiff presents them, the claim is unenforceable as a matter of law such that no factual development could justify recovery.

Given that plaintiff cannot maintain a cause of action against defendants for the return of the credit servicing fee, this Court need not address governmental immunity.

Accordingly, for these reasons, the Court orders as follows:

IT IS ORDERED that defendants' motion for summary disposition is GRANTED.

IT IS SO ORDERED.

This is a final order that resolves the final claim and closes the case.

Date: January 20, 2023 Brock A. Swartzle
Judge, Court of Claims

APPENDIX D
STATE OF MICHIGAN, COURT OF APPEALS
PER CURIAM
AFFIRMING COURT OF CLAIMS

May 16, 2024 No. 365597
LC No. 22-000153-MZ

JAMES EDWARD WHITE, Plaintiff,

v.

STATE OF MICHIGAN, SUPREME COURT OF MICHIGAN, AND CLERK OF THE COURT (LARRY ROYSTER), Defendants

Before: Jansen, P.J., and Murray and O[Brien, JJ.

Per Curiam

Plaintiff appeals by right the order granting summary disposition in favor of defendants, and dismissing plaintiff's claims pursuant to MCR 2.116(C)(8). We affirm.

This case arises from plaintiff's desire to recover certain credit-card processing fees related to plaintiff (acting in propria persona) electronically filing through the MiFILE electronic filing system separate applications in the Supreme Court for leave to appeal orders relating to his claims for unemployment benefits. The MiFILE system charged plaintiff $386.25 for each case filing in Docket Nos. 163548 and 163562, respectively. For each, $375 was the Court's filing fee, and $11.25 was a credit-card service fee charged by a third-party credit-card vendor. Plaintiff wrote a letter to the Clerk of the Supreme Court asserting that, in light of MCL 421.31, he was "being charged fees that the Supreme Court should not be charging," and that "there [was] no option for the MCL 421 cases that avoid[ed] the charges" when using the MiFILE system.[1] Plaintiff's letter included quoted language from the Michigan Employment Security Act, MCL 421.1 *et seq.*, stating that "[n]o individual claiming benefits shall be charged fees of any kind in any

proceeding under this act by the commission or its representatives or by any court or any officer thereof." MCL 421.31. On October 19, 2021, defendants directed MiFILE to refund plaintiff a total of $750, which covered the two $375 filing fees, but the two credit-card service fees, totaling $22.50, were not refunded.

Plaintiff commenced this action in the Court of Claims alleging that, pursuant to MCL 421.31 and MCL 600.1990, defendants were required to reimburse him for the credit-card servicing fees of $11.25 for each of the two applications he filed using the MiFILE system. Plaintiff also sought damages of "$1,000 for the time, energy, aggravation, hassles, pain and suffering, etc." for plaintiff's "ongoing effort" to recover these credit-card service fees, along with "$6,000,000 in punitive damages for a system that appears to be intentionally built and maintained to violate the law (MCL 421.31) and actively discourage citizens of the State of Michigan from claiming their due and just unemployment claims."

Defendants moved to dismiss plaintiff's claim pursuant to MCR 2.116(C)(7) (immunity granted by law) and (C)(8) (failure to state a claim). The Court of Claims agreed with defendants that plaintiff failed to present a cognizable claim, because neither statute cited by plaintiff provided plaintiff with a private claim of recovery, nor required courts to return service fees charged by the credit-card merchant for electronic filing. The court further stated that, in light of its decision to grant defendants' motion for summary disposition on the ground that plaintiff failed to present a valid claim,

the court did not need to reach and decide the question of defendants' governmental immunity.

On appeal, plaintiff argues that, under MCL 421.31, defendants, through the MiFILE system, erroneously charged him filing fees for the initiation of his two appeals, and thus were also required to refund any attendant credit-card fees. Moreover, plaintiff characterizes himself as a "prevailing party" for having obtained a refund of $750 from defendants for his erroneously charged filings fees, and asserts that he is also entitled to be refunded the attendant $22.50 in credit-card service fees pursuant to MCL 600.1990. Finally, plaintiff argues that the court erroneously ignored his request for a jury trial in violation of both the state and federal Constitutions.

We review a trial court's decision on a motion for summary disposition de novo. *Marchyok v Ann Arbor*, 260 Mich App 684, 686; 679 NW2d 703 (2004). Summary disposition under MCR 2.116(C)(8) is appropriate if the opposing party fails to state a claim upon which relief may be granted. *Henry v Dow Chem Co*, 473 Mich 63, 71; 701 NW2d 684 (2005). This occurs "when a claim is so clearly unenforceable as a matter of law that no factual development could possibly justify recovery." *Gorman v Am Honda Motor Co, Inc*, 302 Mich App 113, 131-132; 839 NW2d 223 (2013). "A motion for summary disposition under MCR 2.116(C)(8) tests the legal sufficiency of the complaint and allows consideration of only the pleadings." *MacDonald v PKT, Inc*, 464 Mich 322, 332; 628 NW2d 33 (2001). "For purposes of reviewing a motion for summary disposition under MCR 2.116(C)(8), all well-pleaded

factual allegations are accepted as true and construed in a light most favorable to the nonmovant." *Ernsting v Ave Maria College*, 274 Mich App 506, 509; 736 NW2d 574 (2007). "However, the mere statement of a pleader's conclusions, unsupported by allegations of fact, will not suffice to state a cause of action." *ETT Ambulance Serv Corp v Rockford Ambulance, Inc*, 204 Mich App 392, 395-396; 516 NW2d 498 (1994).

MCL 600.1986 provides the following in relevant part:

> (1) Beginning March 1, 2016, if a fee for commencing a civil action is authorized or required by law, in addition to that fee, the clerk shall also collect an electronic filing system fee, subject to section 1993, as follows:
>
> * * *
>
> (5) The clerk may accept automated payment of any fee being paid to the court. If the bank or other electronic commerce business charges the court or court funding unit a merchant transaction fee, the clerk may charge the person paying the fee an additional automated payment service fee as authorized by the state court administrative office.

MCL 421.31 provides the following in relevant part:

> No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the commission or its representatives or by any court or any officer

> thereof. Any individual claiming benefits in any proceeding before the commission or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the commission.

MCL 600.1990 states that "[a]ny electronic filing system fee paid by a party is a recoverable taxable cost."

Plaintiff argues that MCL 421.31, when read in conjunction with MCL 600.1990, requires defendants to reimburse him for the credit-card service fees of $22.50 that were charged when he used the MiFILE system to file his two applications in the Supreme Court. Plaintiff reasons that he never would have been charged the credit-card service fees if the MiFILE system did not erroneously charge plaintiff $375 for each of the appeals he filed, and asserts that, when defendants "break[] the law resulting in additional charges to its victim, equity demands compensation." Plaintiff maintains that it was defendants' legal duty under MCL 421.31 not to charge plaintiff for his filings, and thus that defendants should reimburse "the erroneously paid credit card service fees." Plaintiff additionally argues that the electronic filing system is "built and continued with gross negligence" resulting in the erroneous charging of filing and credit-card service fees, and that defendants should be responsible for ensuring that "those costs are undone." According to plaintiff, because MiFILE advertises that there are three kinds of cases for which there is no initiation fee, it thus could "obviously have a $0.00 case

initiation option for MCL 421.31 cases," but defendants have nonetheless failed to ensure that the system would not charge any fees for the initiation of actions under MCL 421.31.

However, a third-party vendor, not defendants, charged plaintiff the credit-card servicing fees of $22.50. The plain language of MCL 421.31 and MCL 600.1990 neither requires defendants to reimburse plaintiff for credit-card service fees he was charged when he paid unnecessary filing fees for his appeals through the MiFILE system, let alone authorizes a claim for recovery of such fees.[2] MCL 421.31 only prevents the charging of fees by the Unemployment Compensation Review Commission or "by any court or any officer thereof." It does not govern the charging of fees by third-party credit-card servicing companies. Here, it was neither the Supreme Court nor any officer thereof who charged the credit-card service fees to plaintiff, but rather, as noted, a third-party vendor. The plain language of MCL 421.31 does not preclude credit-card servicing companies from charging fees for processing payments remitted through MiFILE, nor does it require those companies to refund such fees in any situation.

Further, the plain language of MCL 600.1990 provides only that "[a]ny electronic filing system fee paid by a party is a recoverable taxable cost." Pursuant to MCR 2.625(A)(1), "[c]osts will be allowed to the prevailing party in an action, unless prohibited by statute or by these rules or unless the court directs otherwise, for reasons stated in writing and filed in the action." Thus, MCL 600.1990 provides an avenue to recover electronic filing fees as a cost only when a party has prevailed in litigation.

Beach v State Farm Mut Auto Ins Co, 216 Mich App 612, 622; 550 NW2d 580 (1996). Plaintiff asserts that by refunding his $750 in filing fees, defendants understood that the filing fees should not have been charged pursuant to MCL 421.31, and thus that he had in fact "prevailed in the refund request" for purposes of MCL 600.1990. However, plaintiff did not prevail in any litigation against defendants, and thus MCL 600.1990 does not support plaintiff's claim that MCL 421.31 requires defendants to reimburse him for the credit-card service fees. Because the words of MCL 421.31 and MCL 600.1990 provide the most reliable evidence of the Legislature's intent, we will not entertain plaintiff's speculation regarding intent beyond those words. Because plaintiff failed to present any facts or law demonstrating that the Legislature intended MCL 421.31 and MCL 600.1990 to provide a private cause of action for recovering credit-card servicing fees, we decline the invitation to infer a private cause of action under either statute.

The trial court properly determined that it could "disregard the labels given to [plaintiff's] claims and instead read the complaint as a whole, seeking the gravamen of the claims." See *Trowell v Providence Hosp & Med Ctrs, Inc*, 502 Mich 509, 520; 918 NW2d 645 (2018). In doing this, the court found that plaintiff's underlying claim was for "the recovery of money given to the Court in error where some of the money received was wrongfully retained," and was therefore "akin to a claim for conversion."

"Conversion, both at common law and under a statute, is defined as any distinct act of domain wrongfully exerted over another's personal property

in denial of or inconsistent with the rights therein." *Magley v M & W Inc*, 325 Mich App 307, 315; 926 NW2d 1 (2018) (quotation marks and citation omitted). Here, the trial court correctly found that defendants had not converted any funds, because the funds that plaintiff claimed were wrongfully retained were not retained by defendants, but by the credit-card servicing company, who was not a party to this action. Further, as previously stated, all users of the MiFILE system are informed up front that the credit-card service fees are not reimbursable, even when filing fees are refunded. Plaintiff thus failed to state a claim under a theory of conversion.

Affirmed.

/s/ Kathleen Jansen
/s/ Christopher M. Murray
/s/ Colleen A. O'Brien

[1] The MiFILE electronic filing system is operated and maintained by the third-party company, ImageSoft. Self-represented parties are not required to use electronic filing, but users of the MiFILE system must register for, and create, a MiFILE account before they are permitted to access its services. By registering, users are bound by the TrueFiling End User License Agreement, and the MiFILE Terms of Use. These agreements and terms, as well as the MiFILE Quick Reference Guide, and "Answers to Common Filer Questions" in the "Help" section of MiFILE, all state that if the court refunds a payment charged for a filing, the credit-card merchant processing fees, which are directly paid to, and collected by, the credit-card merchant, are nonrefundable. As the Clerk of the Supreme Court explained, "[t]he credit card merchant charges the

credit card service and processing fees," and the Clerk "does not charge, collect or retain the credit card service or processing fees."

[2] The primary goal of statutory interpretation is to give effect to the Legislature's intent as conveyed by the plain language of the statute. *Kemp v Farm Bureau Gen Ins Co of Mich*, 500 Mich 245, 252; 901 NW2d 534 (2017).

Rule 14.1(v) Relevant Laws and Voluminous Quotes

APPENDIX E
U.S. CONST. PMBL.

We the People of the United States, in Order to form a more perfect Union, ***establish Justice***[3], *insure domestic Tranquility*, provide for the common defence, *promote the general Welfare, and secure the Blessings of Liberty* to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

APPENDIX F
U.S. CONST. ART. III, § 2

1. ***The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution***, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors,

[3] All emphasis in the U.S. Constitution quotes is Petitioner's.

other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State; —between Citizens of different States, —between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

2. ***In all Cases*** affecting Ambassadors, other public Ministers and Consuls, and those ***in which a State shall be Party, the supreme Court shall have original Jurisdiction.*** In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

3. The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

APPENDIX G
U.S. CONST. ART. VI 2 & 3

1. All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

2. ***This Constitution,*** and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, ***shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.***

3. The Senators and Representatives before mentioned, and ***the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution***; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

APPENDIX H
U.S. CONST. AMEND. VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

APPENDIX I
U.S. CONST. AMEND. IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

APPENDIX J
U.S. CONST. AMEND. XIV 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. ***No State*** *shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;* ***nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws***.

APPENDIX K
MICHIGAN CONST. OF 1963 ART. 11, § 1

All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of

..... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

APPENDIX L
MCL 421.31

No agreement by an individual to wave, release, or commute his rights to benefits or any other rights under this act from an employer shall be valid. No agreements by an individual in the employ of any person or concern to pay all or any portion of the contributions of an employer, required under this act from such employer, shall be valid. ***No employer shall directly or indirectly make or require or accept any deduction from the remuneration of any individual in his employ to finance the contributions of the employer*** required from him, or require or accept any waiver of any right hereunder by any individual in his employ.

No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the commission or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the commission or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the commission.

Any employer may be represented in any proceeding before the commission by counsel or other duly authorized agent.

APPENDIX M
MCL 421.48(1) & (2)

(1) An individual shall be considered unemployed for any week during which he or she performs no services and for which remuneration is not payable to the individual, or for any week of less than full-time work if the remuneration payable to the individual is less than 1-1/2 times his or her weekly benefit rate, except that for payable weeks of benefits beginning after the effective date of the amendatory act that added section 15a and before October 1, 2015, an individual is considered unemployed for any week or less of full-time work if the remuneration payable to the individual is less than 1-3/5 times his or her weekly benefit rate. However, any loss of remuneration incurred by an individual during any week resulting from any cause other than the failure of the individual's employing unit to furnish full-time, regular employment shall be included as remuneration earned for purposes of this section and section 27(c). The total amount of remuneration lost shall be determined pursuant to regulations prescribed by the unemployment agency. For the purposes of this act, an individual's weekly benefit rate means the weekly benefit rate determined pursuant to section 27(b).

(2) All amounts paid to a claimant by an employing unit or former employing unit ***for a vacation or a holiday***, and amounts paid in the form of

retroactive pay, pay in lieu of notice, severance payments, salary continuation, or other remuneration intended by the employing unit as continuing wages or other monetary consideration ***as the result of the separation***, excluding SUB payments as described in section 44, shall be considered remuneration in determining whether an individual is unemployed under this section and also in determining his or her benefit payments under section 27(c), for the period designated by the contract or agreement providing for the payment, or if there is no contractual specification of the period to which payments shall be allocated, then for the period designated by the employing unit or former employing unit. ***However, payments for a vacation or holiday, or the right to which has irrevocably vested, after 14 days following a vacation or holiday shall not be considered wages or remuneration within the meaning of this section.***

APPENDIX N
MCL 600.6404

(1) The court of claims consists of 4 court of appeals judges from at least 2 court of appeals districts assigned by the supreme court. A court of appeals judge while sitting as a judge of the court of claims may exercise the jurisdiction of the court of claims as provided by law.

(2) All matters pending in the court of claims as of the effective date of the amendatory act that added

this subsection shall be transferred to the clerk of the court of appeals, acting as the clerk of the court of claims, for assignment to a court of appeals judge sitting as a court of claims judge pursuant to section 6410. The transfer shall be effective on the effective date of the amendatory act that added this subsection.

(3) Beginning on the effective date of the amendatory act that added this subsection, any matter within the jurisdiction of the court of claims described in section 6419(1) pending or later filed in any court must, upon notice of the state or a department or officer of the state, be transferred to the court of claims described in subsection (1). The transfer shall be effective upon the filing of the transfer notice. The state or a department or officer of this state shall file a copy of the transfer notice with the clerk of the court of appeals, who shall act as the clerk of the court of claims, for assignment to a court of appeals judge sitting as a court of claims judge pursuant to section 6410.

(4) If a judge assigned to serve on the court of claims is disabled, disqualified, or otherwise unable to attend to a matter, another judge assigned to sit as a judge of the court of claims may continue, hear, determine, and sign orders and other documents in the matter.

(5) In case a court of appeals judge designated to sit as the judge of the court of claims dies before signing a judgment and after filing a finding of fact or rendering an opinion upon proof submitted and argument of counsel disposing of all or part of the issues in the case involved, a successor as judge of

the court of claims may proceed with that action in a manner consistent with the finding or opinion and the judge is given the same powers as if the finding of fact had been made or the opinion had been rendered by the successor judge.

(6) A judge assigned as a judge of the court of claims shall be assigned for a term of 2 years and may be reassigned at the expiration of that term.

(7) The term of a judge of the court of claims expires on May 1 of each odd-numbered year.

(8) When a judge who is sitting as a judge of the court of claims leaves office or is otherwise unable to serve as a judge of the court of claims, the supreme court may assign a court of appeals judge to serve for the remainder of the judge's term on the court of claims.

(9) The supreme court shall select a chief judge of the court of claims from among the court of appeals judges assigned to the court of claims.

APPENDIX O
MCL 600.6419

(1) Except as provided in sections 6421 and 6440, ***the jurisdiction of the court of claims, as conferred upon it by this chapter, is exclusive***. All actions initiated in the court of claims shall be filed in the court of appeals. The state administrative board is vested with discretionary authority upon the advice of the attorney general to hear, consider, determine, and allow any claim against the state in an amount less than $1,000.00.

Any claim so allowed by the state administrative board shall be paid in the same manner as judgments are paid under section 6458 upon certification of the allowed claim by the secretary of the state administrative board to the clerk of the court of claims. Except as otherwise provided in this section, the court has the following power and jurisdiction:

(a) To hear and determine any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, ***or any demand for monetary, equitable, or declaratory relief*** or any demand for an extraordinary writ against the state or any of its departments or officers notwithstanding another law that confers jurisdiction of the case in the circuit court.

(b) To hear and determine any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ that may be pleaded by way of counterclaim on the part of the state or any of its departments or officers against any claimant who may bring an action in the court of claims. Any claim of the state or any of its departments or officers may be pleaded by way of counterclaim in any action brought against the state or any of its departments or officers.

(c) To appoint and utilize a special master as the court considers necessary.

(d) To hear and determine any action challenging the validity of a notice of transfer described in section 6404(2) or (3).

(2) The judgment entered by the court of claims upon any claim described in subsection (1), either against or in favor of the state or any of its departments or officers, upon becoming final is res judicata of that claim. Upon the trial of any cause in which any demand is made by the state or any of its departments or officers against the claimant either by way of setoff, recoupment, or cross declaration, the court shall hear and determine each claim or demand, and if the court finds a balance due from the claimant to the state, the court shall render judgment in favor of the state for the balance. Writs of execution or garnishment may issue upon the judgment the same as from the circuit court of this state. The judgment entered by the court of claims upon any claim, either for or against the claimant, is final unless appealed from as provided in this chapter.

(3) The court of claims does not have jurisdiction of any claim for compensation under either of the following:

(a) The worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(b) 1937 PA 329, MCL 419.101 to 419.104.

(4) This chapter does not deprive the circuit court of this state of jurisdiction over actions brought by the taxpayer under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, upon the circuit court, or proceedings to review findings as provided in the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, or any other similar tax or employment security proceedings expressly authorized by the statutes of this state.

(5) This chapter does not deprive the circuit court of exclusive jurisdiction over appeals from the district court and administrative agencies as authorized by law.

(6) This chapter does not deprive the circuit court of exclusive jurisdiction to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

(7) As used in this section, "the state or any of its departments or officers" means this state or any state governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of the state, or an officer, employee, or volunteer of this state or any governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of this state, acting, or who reasonably believes that he or she is acting, within the scope of his or her authority while engaged in or discharging a government function in the course of his or her duties.

APPENDIX P
MCL 600.6421

(1) Nothing in this chapter eliminates or creates any right a party may have to a trial by jury, including any right that existed before November 12, 2013. Nothing in this chapter deprives the circuit, district, or probate court of jurisdiction to hear and determine a claim for which there is a right to a trial by jury as otherwise provided by law, including a claim against an individual employee of

this state for which there is a right to a trial by jury as otherwise provided by law. Except as otherwise provided in this section, if a party has the right to a trial by jury and asserts that right as required by law, the claim may be heard and determined by a circuit, district, or probate court in the appropriate venue.

(2) ***For declaratory or equitable relief*** or a demand for extraordinary writ sought by a party within the jurisdiction of the court of claims described in section 6419(1) and arising out of the same transaction or series of transactions with a matter asserted for which a party has the right to a trial by jury under subsection (1), ***unless joined as provided in subsection (3), the court of claims shall retain exclusive jurisdiction over the matter of declaratory or equitable relief*** or a demand for extraordinary writ until a final judgment has been entered, and the matter asserted for which a party has the right to a trial by jury under subsection (1) shall be stayed until final judgment on the matter of declaratory or equitable relief or a demand for extraordinary writ.

(3) With the approval of all parties, any matter within the jurisdiction of the court of claims described in section 6419(1) may be joined for trial with cases arising out of the same transaction or series of transactions that are pending in any of the various trial courts of the state. A case in the court of claims that has been joined with the approval of all parties shall be tried and determined by the judge even though the trial court action with which it may be joined is tried to a jury under the supervision of the same trial judge.

(4) Except as provided in subsection (5), the court of claims' jurisdiction in a matter within its jurisdiction as described in section 6419(1) and pending in any circuit, district, or probate court on November 12, 2013 is as follows:

(a) If the matter is not transferred under section 6404(3), the jurisdiction of the court of claims is not exclusive and the circuit, district, or probate court may continue to exercise jurisdiction over that matter.

(b) If the matter is transferred to the court of claims under section 6404(3), the court of claims has exclusive jurisdiction over the matter, subject to subsection (1).

(5) Subsection (4) does not apply to matters transferred to the court of claims under section 6404(2).

APPENDIX Q
MCL 600.6440

No claimant may be permitted to file claim in said court against the state nor any department, commission, board, institution, arm or agency thereof who has an adequate remedy upon his claim in the federal courts, but it is not necessary in the complaint filed to allege that claimant has no such adequate remedy, but that fact may be put in issue by the answer or motion filed by the state or the department, commission, board, institution, arm or agency thereof.

APPENDIX R
MCL 600.6443

The case shall be heard by the judge without a jury. The court may grant a new trial upon the same terms and under the same conditions and for the same reasons as prevail in the case of the circuit courts of this state, in a case at law without a jury.

APPENDIX S
OCTOBER 9, 2017, UIA SYSTEM, PROTEST DENIAL OF BENEFITS TO UIA (BY PETITIONER)

October 9, 2017 Plaintiff Submission to UIA

The denial of benefits for the week of 30-Sept 2017 is being appealed as incorrect.

The reasons stated in the UIA denial (Letter ID L0040400138) merely noted MES Section 27(c) & 48 and claimed that I received "vacation pay" *for* [emphasis added] the week of September 24, 2017 through September 30, 2017. I have twice requested that the UIA provide me with a copy of the informal rules that they use to determine that I received any "vacation pay" *for* said week and, contrary to Michigan law, the UIA has provided no informal rules at all for reaching their decision. It is true that Michigan State University (contrary to their contract [https://hr.msu.edu/contracts/documents/APA2015-2019.pdf subsection 171] with the Administrative Professionals Association (APA) union) did make a "vacation pay" payment to my

bank account on September 29, 2017 but it was *for* vacation earned and accrued to my vacation account (though not used) over the period of February 1, 2017 through August 30, 2017 (my last day of work).

MES 27(c) "Subject to subsection (f), all of the following apply to eligible individuals: (1) Each eligible individual must be paid a weekly benefit rate with respect to the week *for* [emphasis added] which the individual earns or receives no remuneration."

Or to state it with the clauses belonging to "earns" and "receives" explicitly applied to them respectively: "Subject to subsection (f [pensions]), all of the following apply to eligible individuals: (1) Each eligible individual must be paid a weekly benefit rate ^with respect to the week *for* which the individual^ earns [no remuneration] or [with respect to the week *for* which the individual] receives ^no remuneration^."

The above is a quote of the law the UIA should be following in making their determination though note that I have again emphasized *for* and I have duplicated in brackets ([]) the caret (^) surrounded clauses to make sure they are understood to be correctly applied to "receives" or "earns" respectively and not just for the "earns" or "receives" the clause falls nearest. It would make no sense to include the "or receives" if the whole "for" clause were not to be applied to it and no sense to mean "earns" without the "no remuneration." The "or receives" [*for* which] clearly is intended to cover *non-earned* things

such as severance pay or unearned “vacation”, etc. additionally paid to the employee as [from 48.(2)] “remuneration intended by the employing unit as continuing wages or other monetary *consideration as the result of the separation*[emphasis added][…].” In other words, aside from the fact that MSU should not have made the deposit in my account in the first place, the UIA has cited 27(c) but then not followed it in reaching their determination. The deposit to my bank account was certainly *in* the denied week but not *for* the denied week nor was the deposit *consideration as the result of the separation*. There is no way a layoff week is a vacation, try it sometime and you’ll quickly see.

MES 48 and in particular from (2) “However, payments for a vacation or holiday, or the right to which has irrevocably vested, after 14 days following a vacation or holiday shall not be considered wages or remuneration within the meaning of this section.”

Boiled to its simplest terms, payments for previously earned vacation and vested vacation and earned holiday[s] and vested holiday[s] are not “remuneration” (also see the last word quoted from 27(c) above). “Vesting” in the present case includes earned and “accrue[d] vacation pay credits” as provided in the MSU/APA contact. So it appears to me that the UIA has done the exact opposite of the very law section that it cites for denial of the claim and has provided no rationale for doing so.

I am hoping to receive from the UIA clear statements of their "informal rules" that are being used to override the clear meaning of the law so that I can rebut them too before any hearing that might be scheduled to review the denial.

APPENDIX T
NOVEMBER 29, 2017 ALJ HEARING TRANSCRIPT, NOT CONTRACT, JUST PRACTICE

(Testimony of Ms. McManaman being questioned by Ms. Willenbrecht page R23 lines 10-15:)

Q And as a review of that document pages 52 and 53 no where does it say that the company will take vacation pay and pay it out upon lay off?

A It's not in the contract it's just University practice and we notify the employees of this practice when they're given their layoff letter.

APPENDIX U
NOVEMBER 29, 2017 ALJ HEARING EXHIBITS, VACATION CONTRACT CLAUSES

Exhibits pages R34-35 (page 52 and 53 of the above quote; Petitioner emphasis added below):

-158 Employees accrue vacation pay credits … for each completed month of service.

-159 An Employee may take vacation at any time during the year with permission of the supervisor and in accordance with departmental requirements.

-171 An Employee will receive payment for unused vacation *when terminating employment*.

APPENDIX V
FEDERALIST NO. 15, ALEXANDER HAMILTON, DECEMBER 1, 1787 (DISCUSSING 13 STATES VS A CONFEDERATION)

[T]here is, in the nature of sovereign power, an impatience of control, that disposes those who are invested with the exercise of it, to look with an evil eye upon all external attempts to restrain or direct its operations. From this spirit it happens, that in every political association which is formed upon the principle of uniting in a common interest a number of lesser sovereignties, there will be found a kind of eccentric tendency in the subordinate or inferior orbs, by the operation of which there will be a perpetual effort in each to fly off from the common centre. This tendency is not difficult to be accounted for. It has its origin in the love of power. Power controlled or abridged is almost always the rival and enemy of that power by which it is controlled or abridged. This simple proposition will teach us how little reason there is to expect, that the persons intrusted with the administration of the affairs of the particular members of a confederacy will at all times be ready, with perfect good-humor, and an unbiased

regard to the public weal, to execute the resolutions or decrees of the general authority. The reverse of this results from the constitution of human nature.

APPENDIX W
FEDERALIST NO. 83, ALEXANDER HAMILTON, MAY 28, 1788 (DISCUSSING JURY TRIALS IN CIVIL CASES)

The excellence of the trial by jury in civil cases appears to depend on circumstances foreign to the preservation of liberty. The strongest argument in its favor is, that it is a security against corruption. As there is always more time and better opportunity to tamper with a standing body of magistrates than with a jury summoned for the occasion, there is room to suppose that a corrupt influence would more easily find its way to the former than to the latter. The force of this consideration is, however, diminished by others. The sheriff, who is the summoner of ordinary juries, and the clerks of courts, who have the nomination of special juries, are themselves standing officers, and, acting individually, may be supposed more accessible to the touch of corruption than the judges, who are a collective body. It is not difficult to see, that it would be in the power of those officers to select jurors who would serve the purpose of the party as well as a corrupted bench. In the next place, it may fairly be supposed, that there would be less difficulty in gaining some of the jurors promiscuously taken

from the public mass, than in gaining men who had been chosen by the government for their probity and good character. But making every deduction for these considerations, the trial by jury must still be a valuable check upon corruption. It greatly multiplies the impediments to its success. As matters now stand, it would be necessary to corrupt both court and jury; for where the jury have gone evidently wrong, the court will generally grant a new trial, and it would be in most cases of little use to practice upon the jury, unless the court could be likewise gained. Here then is a double security; and it will readily be perceived that this complicated agency tends to preserve the purity of both institutions. By increasing the obstacles to success, it discourages attempts to seduce the integrity of either. The temptations to prostitution which the judges might have to surmount, must certainly be much fewer, while the co-operation of a jury is necessary, than they might be, if they had themselves the exclusive determination of all causes.