

20260529

Jackson Renewed Application

Exhibits

For James Edward White

Petitioner

State of Michigan

Respondent

RE: "Motion for Leave to File Original Action Under Article III..."

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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
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Petitioner

QUESTION PRESENTED¹

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365597; James Edward White v. State of Michigan, Supreme Court of Michigan, and Clerk of the Court (Larry Royster): Unpublished per curiam May 16, 2024; reconsideration denied June 20, 2024

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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
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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.

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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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 demand 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

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 contract. 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.

20241011 Supreme Court Clerk Reply to Original Motion

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

October 11, 2024

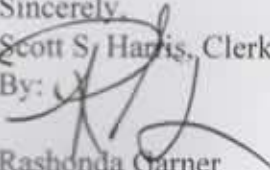
James Edward White
4107 Breakwater Dr.
Okemos, MI 48864

RE: "Motion for Leave to File Original Action Under Article III..."
James Edward White v. Michigan

Dear Mr. White:

Your motion for leave to file an original proceeding under Article III of the Constitution was received September 27, 2024 and is hereby returned for the following reason(s):

The original jurisdiction of this Court does not extend to a suit by an individual against a State. The original jurisdiction of this Court generally extends only to cases or controversies between two or more states or between the United States and one or more states. See 28 U.S.C. 1251 and Rule 17 of the Rules of this Court. The Eleventh Amendment amends the language of the Constitution and holds that the Judicial Power of the United States does not extend to any suit commenced or prosecuted against a state by a citizen of another state. The Supreme Court has subsequently held numerous times that states cannot be sued without their consent and that the Eleventh amendment bars suits brought against a state by citizens of that state. *Hans v. Louisiana*, 134 U.S. 1 (1890).

Sincerely,
Scott S. Harris, Clerk
By: 
Rashonda Garner
(202) 479-3025

Enclosures

20250206 Spiffed-up Rebuttal to Supreme Court Clerk Hans Cite

***Hans v. Louisiana* Carefully Examined**

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PRE *HANS V LOUISIANA*¹ PER THE SUPREME COURT WEBSITE

A study of Congress' Constitution Annotated: ArtIII.S2.C2.2 Supreme Court Original Jurisdiction page (https://constitution.congress.gov/browse/essay/artIII-S2-C2-2/ALDE_00001220/) is a good place to start. It notes that in the *Georgia v.*

Brailsford, 2 U.S. (2 Dall.) 402 (1792)

[https://scholar.google.com/scholar_case?case=4621632159989202714&q=Georgia+v.+Brailsford,+2+U.S.+\(2+Dall.\)+402+\(1792\)](https://scholar.google.com/scholar_case?case=4621632159989202714&q=Georgia+v.+Brailsford,+2+U.S.+(2+Dall.)+402+(1792)) case the Supreme Court took action

without any need to debate the Constitution Article III, § 2, Cl. 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 that case Georgia, a State, was the Plaintiff while the Defendant was British and had won a suit in the Circuit court against a Defendant Spalding. Georgia tried to place themselves in the case in the Circuit court but were rebuffed on grounds that Georgia, i.e., a State as a party, could exclusively (the Circuit [and Iredell] misconstruing “original” as “exclusive”) go to the Supreme Court, which Georgia then did in order to get an injunction which was granted so that the case could be properly tried with Georgia as a party. After hearing and debate Georgia lost on the

¹ First I observe that I find at least three distinct versions of Hans v. Louisiana: 1) <https://tile.loc.gov/storage-services/service/ll/usrep/usrep134/usrep134001/usrep134001.pdf> (ref: *Hans Full*) and 2) https://scholar.google.com/scholar_case?case=16406566451636682555 (ref: *Hans*) and 3) <https://www.law.cornell.edu/supremecourt/text/134/1> The first and third including much more information on the case but not differing substantively in the opinion.

grounds the act it was using to support the Georgia claim resulted in sequestration, not confiscation.²

Then in the *Chisholm v. Georgia*, 2 U.S. (2 Dall.) 419, 431–32 (1793) or (<https://tile.loc.gov/storage-services/service/ll/usrep/usrep002/usrep002419/usrep002419.pdf>) case the State of Georgia pretended that the Constitution permitted them, as a Defendant State, not to be callable before the Supreme Court. But the Supreme Court, with two Justices that participated in the Constitutional Convention and two that had argued hard for ratification of the Constitution decided four to one that Georgia (whether plaintiff or defendant) was obligated to appear in the Supreme court or perchance *lose by default*. The lone Justice (Iredell) that decided against falsely insisted that Congress needed to enact a law to support the Constitution's plain words³ and that

² See: <https://tile.loc.gov/storage-services/service/ll/usrep/usrep002/usrep002402b/usrep002402b.pdf>, <https://tile.loc.gov/storage-services/service/ll/usrep/usrep002/usrep002415a/usrep002415a.pdf>, and <https://tile.loc.gov/storage-services/service/ll/usrep/usrep003/usrep003001/usrep003001.pdf>

³ Interestingly Iredell actually quotes the law he proceeds to falsely announce does not exist:

Sect. 13. "That the Supreme Court shall have exclusive jurisdiction of all controversies of a civil nature, where a State is a party, except between a State and its citizens; ***and except also, between a State and citizens of other States, or aliens, in which latter case it shall have original, but not exclusive jurisdiction.*** And shall have, exclusively, all jurisdiction of suits or proceedings against Ambassadors, or other public Ministers, or their domestics, or domestic servants, as a court of law can have or exercise consistently with the law of nations; and original, but not exclusive jurisdiction of all suits brought by Ambassadors, or other public Ministers, or in which a Consul, or Vice-Consul, shall be a party."

And: The 14th sect. of the judicial act, provides in the following words: "All the before mentioned Courts of the United States, shall have power to issue writs of scire facias, habeas corpus, and all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law."

sovereignty precedent mandated that a State could not be “sued” due to its likeness to a King (who in England *could* be sued and/or Petitioned and who would pass such suits/Petitions to courts to “do right”⁴) and ignoring that “the people” were sovereign in the State of Georgia and could be, per the Constitution, collectively sued by other States, foreign governments, etc.⁵

To quote exactly the words of the Constitution that are relevant:

Article III, § 2, Cl. 1: ***The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, ... to Controversies between two or more States;— between a State and Citizens of another State;— between Citizens of different States ...***

Article III, § 2, Cl. 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.***

⁴ See Notre Dame Law School; NDLScholarship; Journal Articles Publications; 2022; A New Report of Entick v. Carrington (1765); Christian Burset, Notre Dame Law School; T. T. Arvind, York Law School

(https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=2435&context=law_faculty_scholarship)

⁵ Interestingly this Justice was the same one that misconstrued “original” as “exclusive” in the *Brailsford* cases but in *Chisholm* Iredell clearly notes the opposite:

For, besides what I noticed before as to an express reference to principles and usages of law as the guide of our proceeding, it is observable that in instances like this before the Court, this Court hath a ***concurrent jurisdiction only***; the present being one of those cases where by the judicial act this Court hath original but not exclusive jurisdiction.

And now Iredell is on to something as will be shown subsequently by quotes from the Federalist Papers and from the *Hans Full* case itself. Unfortunately Iredell wasn’t convincingly clear on the point.

The Journal of American History, Vol. 54, No. 1 (June, 1967), pp. 19-29, Doyle Mathis <https://www-jstor-org.proxy2.cl.msu.edu/stable/1900316> notes that the case was continued in the Georgia Legislature and eventually the Legislature authorized a payment in 1847. The article does not note whether it was finally paid or not but presumably it was.

The fact that a case of a supposed debt of a State was filed in the Supreme Court raised some immediate backlash and Amendment XI was proposed then ratified in 1795. That amendment reads:

Amendment XI: The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against ***one of the United States by Citizens of another State***, or by Citizens or Subjects of any Foreign State.

Observe clearly that the above amendment *does not remove the right of a citizen of a State to sue their own State*. The *Hans v. Louisiana* case makes this clear itself:

It is true, the amendment does so read and if there were no other reason or ground for abating his suit, it might be maintainable, and then we should have this anomalous result, ‘that in cases arising under the Constitution or laws of the United States, a State may be sued in the federal courts by its own citizens, though it cannot be sued for a like cause of action by the citizens of other States, or of a foreign state’⁶ and may be thus sued in the federal courts, although not allowing itself to be sued in its own courts.

But the Court is quite wrong if it be declaring that a citizen of a State may not sue their own State in federal court is an “anomalous result” as will be shown in extensive quotes from *Hans* below where the Court simply ignored clear meaning of others’ statements and often removed them from their context. But first a quote from Federalist No. 15 of exactly why the Framers made States suable in Federal courts:

⁶ I have taken the liberty of adding apostrophes to delineate the “this anomalous result” from the Court’s following correct statement of the law, i.e., a State can decline to be sued in its own courts but *cannot* decline to be sued in “federal courts” for a Constitutional violation. But supposing the “and may be thus sued in the federal courts...” was part of “the anomalous result,” that would be blatant disregard for the two tier (State and Federal) governments of the Union intended to keep a Federal check on “supreme Law of the Land” violations by States for federal questions.

In addition to all this, there 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 sovereignties⁷, 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 members⁸ 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.

States, including their Executive, Legislative, and Judicial branches, not held in check by the “supreme Law of the Land” would soon enough have the United States back to an uncontrolled Confederacy where the citizens would have no federally protected rights whatsoever nor would the States suffer any control from the Union. Both States and the Supreme Court are “subordinate or inferior orbs” in regards to the above quote.

THE HANS CASE

The Circuit Court in *Hans Full* ruled merely that “this court is without jurisdiction *ratione personae*,” i.e., merely on “by reason of the person” or “because of the nature or position of the relevant person” Louisiana saying only that “[p]laintiff

⁷ I.e., States.

⁸ I.e., States.

cannot sue the state without its permission, the constitution and laws do 'not give this honorable court jurisdiction.”⁹ The Circuit Court accepted that reasoning and dismissed the suit. The “permission” assertion is possibly correct within a State court but (as discussed below and the Federalist No. 15 quote above shows) not necessarily as to a federal court, and “the constitution and laws” portion is clearly false from the plain words of the Constitution Art. VI, Cl. 2, from the intent of the Framers for a supreme Union Judiciary to enforce “the supreme Law of the Land,” and from Justice Marshall’s clear reasoning in *Cohens v. Virginia*, 6 Wheat. 264, 410 (1821). In joining the Union a State gave up sovereignty with regard to at least federal issues presented in the Supreme Court of the United States. But, the Circuit court, according to the reading of the summary in *Hans Full* could be correct either on the grounds that Louisiana could refuse being sued in a federal *Circuit* (by *ratione personae*) Court (though presumably not the Supreme Court with “original Jurisdiction”) or it could be that the *Louisiana law/constitution was effectively not a contract but a State payment delay issue and thus not a Constitutional issue* (the latter was the *Hans* Supreme Court final decision). The summary text (author unknown) in *Hans Full* says:

A State cannot, *without its consent*, be sued in a *Circuit* Court of the United States by one of its own citizens, *upon a suggestion* that the case is one that arises under the Constitution and laws of the United States.

The *Hans* opinion by the Supreme Court started as stated in *Hans Full* with:

⁹ Hans Full p3

The question is presented, *whether a State can be sued in a Circuit Court of the United States* by one of its own citizens *upon a suggestion*¹⁰ *that the case is one that arises under the Constitution* or laws of the United States.

The *Hans* opinion continues with the following which garbles but does not really change the question:

It is conceded that where the jurisdiction depends alone upon the character of the parties, a controversy between a State and its own citizens is not embraced within it; but it is contended that though jurisdiction does not exist on that ground, *it nevertheless does exist if the case itself is one which necessarily involves a federal question*; and with regard to ordinary parties this is undoubtedly true. *The question now to be decided is, whether it is true where one of the parties is a State, and is sued as a defendant by one of its own citizens.*

And *Hans* ended with this next to last and last sentence:

The legislative department of a State represents its polity and its will; and is called upon by the highest demands of natural and political law to preserve justice and judgment, and *to hold inviolate the public obligations*. Any departure from this rule, except for reasons most cogent, (of which the legislature, and not the courts, is the judge,) never fails in the end to incur the odium of the world, and to bring lasting injury upon the State itself. But *to deprive the legislature of the power of judging what the honor and safety of the State may require, even at the expense of a temporary failure to discharge the public debts, would be attended with greater evils than such failure can cause.*

The judgment of the Circuit Court is Affirmed.

So, first the question was to a suit in a FEDERAL CIRCUIT court, not the U.S.

Supreme Court *per se*, and second the Louisiana Legislature's decision for the State

¹⁰ “[U]pon a suggestion” being the clear operative part since *Hans* was *not* one that arose “under the Constitution but instead was under a legitimate State law (and/or State constitution?). I.e., a Louisiana Legislature enacted pause in paying the state's debts.

of Louisiana to (at least temporarily) abate its financial obligations was a State's Legislature's sovereign right (though those words are not used) and therefore ***the issue was not a Constitutional one suitable for commencing in the U.S. Courts*** which is why the Supreme Court "affirmed" the Circuit Court's decision to *dismiss*. In other words, the rationale that decided the case had nothing to do with a federal question, did not reject the right of a Citizen of a State to sue their State in federal court for (at least) Constitutional questions, but instead upheld the right of a State to take its chances against their own honor regarding the States' obligations. Clearly in reviewing the case the Supreme Court made it clear by doing so that it could take a case "upon a suggestion that the case is one that arises under the Constitution" and in their decision that the Circuit Court could have dismissed the case on the grounds that *there was no federal question under the Constitution*.

And I could stop here; *Hans* clearly does not address a federal question for "[i]n all cases ... in which a State shall be party" nor add "or by a citizen of a state against that state" to Amendment XI.

EXTRA HANS DISCUSSION NOT IMPACTING THE DECISION

Some clues as to how *Hans* could have gotten perverted to blocking a citizen of a State from suing his own State in federal court regarding a State violation of the Constitution can be found in the following extraordinarily long quote from *Hans* with bold italic emphasis of the key statements that negate the Court's current *Hans* (mis)interpretation. Be aware that *Hans* had no footnotes, all the footnote

references embedded below are to my argument and explanations of material in the *Hans* opinion.

But, on the succeeding day, the court delivered a unanimous opinion, "that the amendment being constitutionally adopted, there could not be exercised any jurisdiction, in any case, past or future, in which ***a State was sued by the citizens of another State***, or by citizens or subjects of any foreign state."

This view of the force and meaning of the amendment is important. It shows that, on this question of the suability of the States by individuals, the highest authority of this country was in accord rather with the minority than with the majority of the court in the decision of the case of *Chisholm v. Georgia*; and this fact lends additional interest to the able opinion of Mr. Justice Iredell on that occasion¹¹. The other justices were more swayed by a close observance of the letter of the Constitution, without regard to former experience and usage; and because the letter said that the judicial power shall extend to controversies "between a State and citizens of another State;" and "between a State and foreign states, citizens or subjects," they felt constrained to see in this language a power to enable the individual citizens of one State, or of a foreign state, to sue another State of the Union in the federal courts (or, at least, the Supreme Court). Justice Iredell, on the contrary, contended that it was not the intention to create new and unheard of remedies¹², by subjecting sovereign States to actions at the suit of individuals, (which he conclusively showed was never done before,¹³) but only, by proper legislation¹⁴, to invest the federal courts with jurisdiction to hear and determine controversies and cases, between the parties designated, that were properly susceptible of litigation in courts.

Looking back from our present standpoint at the decision in *Chisholm v. Georgia*, we do not greatly wonder at the effect which it had upon the

¹¹ Well, no, it only shows that the current Court at the time of the amendment accepted Amendment XI, not that they now agreed that the Court was wrong in *Chisholm v. Georgia*.

¹² Iredell did *not* suggest the Constitution created "new and unheard of remedies." He, in fact followed Blackstone in noting that one did not label one's case against the King as a suit but as a Petition, i.e., with a less aggressive name.

¹³ Actually Iredell didn't conclusively show any such thing and it was clear that the Framers knew they were ridding themselves of a King and to some extent governments that could not be held accountable.

¹⁴ First, "proper legislation," is in no way relevant to the Amendment XI and second, it was clearly not relevant in *Chisholm v. Georgia* as 4 other Justices clearly showed and stated though at the time the limitations (or not) of the concurrence business was clearly not well understood.

country. Any such power as that of authorizing the federal judiciary to entertain suits by individuals against the States, had been expressly disclaimed¹⁵, and even resented, by the great defenders of the Constitution whilst it was on its trial before the American people¹⁶. As some of their utterances are directly pertinent to the question now under consideration, we deem it proper to quote them.

The eighty-first number of the Federalist, written by Hamilton, has the following profound remarks¹⁷:

"It has been suggested that an ***assignment of the public securities of one State to the citizens of another, would enable them to prosecute that State in the federal courts*** for the amount of those securities; a suggestion which the following considerations prove to be without foundation.

"It is inherent in the nature of sovereignty not to be amenable to the suit of an individual *without its consent*. This is the general sense and the general practice of mankind; and the exemption, as one of the attributes of sovereignty, is now enjoyed by the government of every State in the Union. ***Unless, therefore, there is a surrender of this immunity in the plan of the convention***¹⁸, it will remain with the States, and the danger intimated must be merely ideal. The circumstances which are necessary to produce an alienation of state sovereignty were discussed in considering the article of taxation, and need not be repeated here. *A recurrence to the principles*¹⁹ *there established will satisfy us, that there is no color to pretend that the state governments would, by the adoption of that plan, be divested of the privilege of **paying their own debts in their own way, free from every constraint but that which flows from the obligations of good faith.***

¹⁵ This is so clearly a false statement it needs no argument other than the clear Constitutional words relied on by 4 of the 5 *Chisholm* Justices.

¹⁶ This is false as will be shown from the very quotes that the Court uses and as should be obvious from the quote of Iredell in Footnote 3.

¹⁷ The subsequent footnote 20 will show how badly out of context the *Hans* author took the remarks.

¹⁸ There was, to the Constitutional "supreme Law of the Land" and Supreme Court "original Jurisdiction" for *Constitutional* issues but not for State debt issues of this quoted digression.

¹⁹ Essentially concurrent jurisdiction unless expressly removed by the Constitution:

Federalist No. 33: The inference from the whole is, that the individual States would, under the proposed Constitution, retain an independent and uncontrollable authority to raise revenue to any extent of which they may stand in need, by every kind of taxation, except duties on imports and exports. It will be shown in the next paper that this CONCURRENT JURISDICTION in the article of taxation was the only admissible substitute for an entire subordination, in respect to this branch of power, of the State authority to that of the Union.

The contracts between a nation and individuals are only binding on the conscience of the sovereign, and have no pretension to a compulsive force. They confer no right of action independent of the sovereign will. ***To what purpose would it be to authorize suits against States for the debts they owe? How could recoveries be enforced? It is evident that it could not be done without waging war against the contracting State; and to ascribe to the federal courts by mere implication, and in destruction of a pre-existing right of the state governments, a power which would involve such a consequence, would be altogether forced and unwarrantable.***"²⁰

²⁰ But, if the Court had included the prior paragraphs of Hamilton then continued their quote from Federalist No. 81 they would have seen that the above quote was a digression specific to a State's "securities" to "citizens of another [State]" (i.e., obligations):

Preceding ¶¶: ***The Supreme Court is to be invested with original jurisdiction, only "in cases affecting ambassadors, other public ministers, and consuls, and those in which A STATE shall be a party."*** Public ministers of every class are the immediate representatives of their sovereigns. All questions in which they are concerned are so directly connected with the public peace, that, as well for the preservation of this, as out of respect to the sovereignties they represent, it is both expedient and proper that such questions should be submitted in the first instance to the ***highest judicatory of the nation***. Though consuls have not in strictness a diplomatic character, yet as they are the public agents of the nations to which they belong, the same observation is in a great measure applicable to them. ***In cases in which a State might happen to be a party, it would ill suit its dignity to be turned over to an inferior tribunal.*** [In essence a State could refuse (or accept, its choice) summons, when concurrence applied, to a federal Circuit Court but not refuse "original Jurisdiction" summons to the U.S. Supreme Court. My comment.]

Though it may rather be a digression from the immediate subject of this paper, I shall take occasion to mention here a supposition which has excited some alarm upon very mistaken grounds. [*Hans* omits that sentence! The *Hans* quote starts with:] It has been suggested that an ***assignment of the public securities of one State to the citizens of another***, would enable them to prosecute that State in the federal courts for the amount of those securities; a suggestion which the following considerations prove to be without foundation.

Following ¶: Let us resume the train of our observations. We have seen that the original jurisdiction of the Supreme Court would be confined to two classes of causes, and those of a nature rarely to occur. In all other cases of federal cognizance, the original jurisdiction would appertain to the inferior tribunals; and the Supreme Court would have nothing more than an appellate jurisdiction, "with such exceptions and under such regulations as the Congress shall make."

I.e., States are normally expected to be suable (or Petitionable) within themselves, are expected to correctly decide Constitutional issues within their own ("concurrent") courts, and when that proves to not be the case or there is a Constitutional or Federal Law issue failure then direct to the Supreme Court is available (but Federal Circuit Court works too ***if*** a State accepts the call).

The obnoxious clause to which Hamilton's argument was directed, and which was the ground of the objections which he so forcibly met, was that which declared that "the judicial power shall extend to all ... controversies between a State and citizens of another State, ... and between a State and foreign states, citizens or subjects." It was argued by the opponents of the Constitution that this clause would authorize jurisdiction to be given to the federal courts to entertain suits against a State brought by the citizens of another State, or of a foreign state. ***Adhering to the mere letter, it might be so; and so, in fact, the Supreme Court held in Chisholm v. Georgia;*** but looking at the subject as Hamilton did²¹, and as Mr. Justice Iredell did, in the light of history and experience and the established order of things, the views of the latter were clearly right, as the people of the United States in their sovereign capacity subsequently decided.²²

But Hamilton was not alone in protesting against the construction put upon the Constitution by its opponents. In the Virginia convention the same objections were raised by George Mason and Patrick Henry, and were met by Madison and Marshall as follows²³. Madison said: "Its jurisdiction [the federal jurisdiction] in controversies between a State and citizens of another State is much objected to, and perhaps without reason. It is not in the power of individuals to call any State into court. The only operation it can have is

²¹ No, see above, Hamilton presumably would *not* have supported Iredell's position that a State could *not* be sued without its permission (a state gave that permission by its ratification of the Constitution for federal question suits) but rather would have seen the Supreme Court kick the non "federal question" case to the Georgia courts — concurrence not being applicable. Particularly see footnote 20. (Essentially a State remains totally responsible for its own payment obligations, they are *not* a Constitutional issue.)

²² Actually it was the State governments, not the people that ratified Amendment XI so the State governments' interest in reducing suits against themselves and out of any control of themselves should be a clue as to why such an unwise amendment was so readily passed. The thing overlooked is that per the Constitution States had concurrent responsibility for enforcing the Constitution (Art. VI Cl. 2) so that, should a State violate that, then Supreme Court (and perhaps subordinate federal courts) could or must address such Constitution issues. Iredell's reasoning did not change that.

²³ It must be remembered that the remarks by Madison and Marshall are on a logically intricate issue and were made off the cuff such that they were likely thinking furiously as they spoke whereby later remarks are more likely to be what they intended to say than earlier ones. Also it is *not* correct to say that the states ratified the Constitution based on these remarks or even Hamilton's Federalist No. 81. As pointed out in Susan Randall, *Sovereign Immunity and the Uses of History*, 81 Nebraska Law Review (2002):

It is also problematic to rely on Madison's, Hamilton's, and Marshall's statements as possibly "essential" to ratification of the Constitution, as the Supreme Court has done. By the time Hamilton's statements in The Federalist No. 81 appeared, eight states had already ratified. One day after Marshall and Madison spoke at the Virginia convention, the count rose to nine with New Hampshire's ratification. Thus, the Constitution became official without reliance on Madison's and Marshall's statements.

that, if a State should wish to bring a suit against a citizen, it must be brought before the federal court²⁴. This will give satisfaction to individuals, as it will prevent citizens on whom a State may have a claim being dissatisfied with the state courts... . It appears to me that this [clause] can have no operation but this — ***to give a citizen a right to be heard in the federal courts; and if a State should condescend to be a party, this court may take cognizance of it***²⁵." 3 Elliott's Debates, 2d ed. 533.

Marshall, in answer to the same objection, said: "With respect to disputes between a State and the citizens of another State, its jurisdiction has been decried with unusual vehemence. I hope that no gentleman will think that a State will be called at the bar of the federal court... . It is not rational to suppose that the sovereign power should be ***dragged***²⁶ before a court. The intent is to enable States to recover claims of individuals residing in other States... . But, say they, 'there will be partiality in it if a State cannot be defendant — if an individual cannot proceed to obtain judgment against a State, though he may be sued by a State. It is necessary to be so, and cannot be avoided.'²⁷ ***I see a difficulty in making a State defendant which does not prevent its being plaintiff.***" *Ib.* 555.²⁸

²⁴ This sentence clearly is not true and, as far as I can see, is not even remotely the way things are or were done. The bolded material later in the quote clearly only at most gives a State a right to not show up when sued, the Supreme Court still "hears" the case and reaches a decision.

²⁵ "it" being the State which otherwise would not be heard but could be decided for or against based solely on the facts and arguments of the filer — at least at the Supreme Court level.

²⁶ But they can appear voluntarily and as *Chisholm* clearly showed, if they opt out it does not mean the suit does not proceed. In the end, should the State be decided against it is only the State's desire for "peace and harmony" (per Madison's notes at the Constitutional Convention) or desire not to appear morally repugnant or lacking conscience to "the People" that will gain the State's compliance.

²⁷ I've added the apostrophes to clearly delineate what "say they" and I believe the following bolded italic portion, which is prone to errors not uncommon in spoken language or rapid note taking, was intended to mean essentially what is good for the goose is good for the gander or "if a State can be a Plaintiff it can be a Defendant." When thinking on one's feet the latest statement is most likely to be close to the actual intended meaning of the discourse.

²⁸ Marshall went on to say:

If this be only what cannot be avoided, why object to the system on that account? If an individual has a just claim against any particular state, ***is it to be presumed that, on application to its legislature, he will not obtain satisfaction?*** But how could a state recover any claim from a citizen of another state, without the establishment of these tribunals?

I.e., an individual plaintiff takes a State to court in the States own courts and the State having the power to win regardless of fact or law in its own tribunals the Constitution thus created federal tribunals to which plaintiff could appeal. The statement clearly shows that the Founders fully generally expected citizens to recover from a State's delayed meeting of its obligations via the State Legislature rather than court. States, including Michigan, have long since turned such Legislature

It seems to us that these views of those great advocates and defenders of the Constitution were most sensible and just; and they apply equally to the present case as to that then under discussion. The letter is appealed to now, as it was then, as a ground for sustaining a suit brought by an individual against a State. The reason against it is as strong in this case as it was in that. It is an attempt to strain the Constitution and the law to a construction never imagined or dreamed of. Can we suppose that, when the Eleventh Amendment was adopted, it was understood to be left open for citizens of a State to sue their own state in the federal courts, whilst the idea of suits by citizens of other states, or of foreign states, was indignantly repelled?²⁹ ***Suppose that Congress, when proposing the Eleventh Amendment, had appended to it a proviso that nothing therein contained should prevent a State from being sued by its own citizens in cases arising under the Constitution or laws of the United States: can we imagine that it would have been adopted by the States? The supposition that it would is almost an absurdity on its face.***³⁰

Apologies for that extremely long quote and my necessary footnotes to explain the issues. Again, the quoted material *did not* decide the case.

HANS CONCLUSIONS

Further along in the *Hans* case this very clear statement is made:

"It may be accepted as a point of departure unquestioned," said Mr. Justice Miller, in *Cunningham v. Macon & Brunswick Railroad*, 109 U.S. 446, 451, "that neither a State nor the United States can be sued as defendant in any court in this country without their consent, ***except in the limited class of cases in which a State may be made a party in the Supreme Court of the United States by virtue of the original jurisdiction conferred on this court by the Constitution.***"

responsibilities over to (often special) courts. States must be answerable in Federal courts to Constitution violations and via their acceptance of the Constitution States have accepted that.

²⁹ Yes, we can. And the next two sentences in the quote clearly state that States would **NOT** block their citizens from exercising their rights before an honest government in their own states that adhere to the Constitution. Anything less and the Constitution is not the "supreme Law of the Land."

³⁰ These last two sentences are ambiguous at best (in the State's own court under concurrency or only in the federal courts?). The readiness of the ratification of Amendment XI would speak to the supposition that States would readily accept escape from their legal obligations, not accept them.

And while there are errors of omission in that statement the emphasized part is very clear and correct on its State accepted Constitutional exception. Given the immediately above quote, it is clear the “suggestion that the case is one that arises under the Constitution” did get the case into the Supreme Court even though the next to last sentence of the case³¹ clearly concluded the case was *not* Constitutional but a State prerogative to delay payment of its obligations. Again, what more is needed to know that a cite of *Hans* does *not* preclude Supreme Court “original Jurisdiction” review of *Constitutional* cases against a State by a citizen of the same State? A State violation of Amendment VII is clearly Constitutional.

And finally re *Hans* we can look at Justice Harlan’s concurrence:

I concur with the court in holding that a ***suit directly against a State by one of its own citizens is not one to which the judicial power of the United States extends, unless the State itself consents to be sued.***³² Upon this ground alone I assent to the judgment. But I cannot give my assent to many things said in the opinion. The comments made upon the decision in *Chisholm v Georgia* do not meet my approval. They are not necessary to the determination of the present case. Besides, I am of opinion that the decision in that case was based upon a sound interpretation of the Constitution as that instrument then was.

CONCLUSION

Further we can look to the plain words of Federalist No. 80:

Still less need be said in regard to the third point. Controversies between the nation and its members or citizens, can only be properly referred to the

³¹ Quoted above in the “The *Hans* Case” section of this document.

³² Notably “directly” clearly meaning “on a *State* (i.e., non-federal) issue” which is what the case was decided on. Clearly treating Harlan’s concurrence as additionally adding (or misreading in) “States can choose not to consent even on a federal question” (thus disregarding the State’s Constitution acceptance) could lead to a gross misinterpretation of the case result.

national tribunals. Any other plan would be contrary to reason, to precedent, and to decorum.

The reasonableness of the agency of the national courts in cases in which the State tribunals cannot be supposed to be impartial, speaks for itself. No man ought certainly to be a judge in his own cause, or in any cause in respect to which he has the least interest or bias.

It should be noted that in every instance in the Constitution the Supreme Court was aimed toward Justice, not narrow, clever word interpretations. I again refer to Federalist No. 15 (Hamilton) quoted above regarding States vs Union and how that quote catches even the Supreme Court as an “orb” trying to gather power to itself. If *Hans* is used by the Supreme Court to deny certiorari for a case of a citizen of a State vs their State on a Constitutional question the Court is grabbing unConstitutional power to decline its Constitutionally assigned “original Jurisdiction.” Neither Amendment XI nor *Hans* removed that “original Jurisdiction” or the Supreme Court’s power to move a Constitutional case to a lower federal court first. Or kick the case to a State court if it belongs there. The Supreme Court in 1925 unConstitutionally finagled Congress into letting the Supreme Court deny certiorari even when a writ of error was applicable but it is very clear that Congress itself has absolutely no right to unilaterally alter the Constitution. The Supreme Court doesn’t either.

It is true that Sec. 28 USC 1251 does not specifically mention a citizen of a State vs. a State but § 1251 cannot, as a subordinate to the Constitution law, change the Constitution to effectively remove the plain meaning of Article III, § 2, Cl. 2 “In all

Cases ... in which a State shall be Party, the supreme Court shall have original Jurisdiction.”

State courts are Constitutionally responsible for adhering to and upholding the U.S. Constitution (Art. VI, Cl. 2). But when they fail to do so the Constitution clearly gives redress powers to the Supreme Court in order to keep the States in check. States neither have “sovereign immunity” nor any other escape from Constitutional questions (at least at the Supreme Court level).

In the papers of Erwin Chemerinsky, *Against Sovereign Immunity*, Stanford Law Review Vol. 53 (May 2001) and Susan Randall, *Sovereign Immunity and the Uses of History*, 81 Nebraska Law Review (2002) there are 139 pages of facts and reasoning *against* asserting that the Founders recognized “sovereign immunity” as a valid “government cannot be held accountable” rationale. The Founders well remembered suffering under a King and a Parliament and various governors that they could not hold accountable.

20250214 Supreme Court Clerk Reply to Rebuttal of Hans

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

February 14, 2025

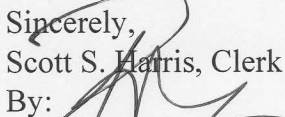
James Edward White
4107 Breakwater Dr.
Okemos, MI 48864

RE: "Motion for Leave to File Original Action Under Article III..."
James Edward White v. Michigan

Dear Mr. White:

Your Motion for leave to file an original action under Article III of the Constitution of the United States and notice of constitutional question was received again on February 11, 2025 and is hereby returned for the following reason(s):

The documents are returned for the reasons stated in the Clerk's letter dated January 21, 2025.

Sincerely,
Scott S. Harris, Clerk
By: 

Rashonda Garner
(202) 479-3025

Enclosures

20250306 Kavanaugh Rule 22 Application

March 6, 2025

Justice Brett M. Kavanaugh
Attn: SCOTUS Clerk
1 First Street, N. E.
Washington, DC 20543

Dear Justice Kavanaugh:

This is addressed to you under Supreme Court Rule 22 and your obligation to adhere to the Constitution of the United States, in particular Article III, Section 2, Clause 2 (quoted in a subsequent paragraph). This is an application for proper “original Jurisdiction” handling of Constitutional issues.

The accompanying material is a filing of myself, a citizen of Michigan, against the State of Michigan and their ignoring of Constitution Article VI, Clause 2 “the supreme Law of the Land” and its Amendment 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.

I have twice been told by clerk Rashonda Garner that the Supreme Court cannot take this case because it is against the United States; the case is against the State of Michigan of which I am a citizen. The same clerk has also insisted that *Hans v. Louisiana* somehow overrides the Constitution in spite of the plain words of Article III, Section 2, Clause 2 “[i]n all Cases ... in which a State shall be Party, the supreme Court shall have original Jurisdiction ...” and it “arises under [the] Constitution” per Article III, Section 2, Clause 1.

The dispute is a civil case for which under the Constitution I demanded a Jury trial and requested common law damages compensation for the effort the State of Michigan was making me go through to get the State of Michigan to obey its own laws.

I’ve done a detailed review (enclosed) of the *Hans* case and it is very clear that that case was *not* a Constitutional case but a state sovereignty case of a State simply controlling scheduling of its own payment obligations. I.e., *Hans* was not a Constitutional issue or even a federal law or treaty issue and therefor the United States Supreme Court did not have any Constitutional requirement of “original Jurisdiction.” The *Hans* case and my review also clearly note that Amendment XI of the Constitution does *not* remove the right of a citizen of a State to invoke “the Judicial power of the United States” against their own State though it does revoke such power (perhaps unwisely?) in the case of a suit “commenced or prosecuted against one of the United States by Citizens of another State.”

This case has arisen out of a series of cases and their appeals that has been taken through the courts of the State of Michigan and in which the State of Michigan has shown absolutely no interest in obeying its own laws or the Constitution of the United States and hence this deliberate filing under the “original Jurisdiction” of the United States Supreme Court. To not accept this case violates the fundamental United States government structure of Federal/State where each holds the other in check and the legal fundamental of “a party shall not be [final] judge in its own case.”

My apologies that it has come to this but the State of Michigan doesn't even take any responsibility to obey its own laws. Whether that runs afoul of the Constitution's Article IV, Section 4 statement that “[t]he United States shall guarantee to every State in this Union a Republican Form of Government” I don't know but your assistance in getting this case reviewed in the United State Supreme Court and outside of the biased control of the State of Michigan is much appreciated.

I would also appreciate it tremendously if you would properly induce the Supreme Court to reconsider 22-387. The State of Michigan, through its employees and courts seems to believe that correct arithmetic, valid logic, and law understanding in plain English are not guaranteed under Amendment IX even though those factors were given as standard in Blackstone. I do not believe the general public would find ignoring the rights to those things acceptable.

The accompanying review of the *Hans* case includes some minor clarifications and typo and grammar corrections along with more substantial reformatting to include double spacing, section headings, a table of contents, and a table of authorities. If you need an electronic copy with enabled links, my email address is below. If you need anything else, please let me know.

Sincerely,

James E. White, *pro se*
4107 Breakwater Dr.
Okemos, MI 48864
(517) 381-1960
james-e-white@idearights.com

20250506 Kavanaugh Follow-up Query

May 6, 2025 (original March 6, 2025)

Justice Brett M. Kavanaugh
Attn: SCOTUS Clerk
1 First Street, N. E.
Washington, DC 20543

Dear Justice Kavanaugh:

The below is a repeat of my prior March 6, 2025 letter which was accompanied by copies of my prior exchanges with a SCOTUS clerk and the required 40+ copies of a properly formatted and bound Petition. This follow-up is just a reminder. I understand you've been burdened by some "emergency" cases recently.

This is addressed to you under Supreme Court Rule 22 and your obligation to adhere to the Constitution of the United States, in particular Article III, Section 2, Clause 2 (quoted in a subsequent paragraph). This is an application for proper "original Jurisdiction" handling of Constitutional issues.

The accompanying material is a filing of myself, a citizen of Michigan, against the State of Michigan and their ignoring of Constitution Article VI, Clause 2 "the supreme Law of the Land" and its Amendment VII:

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Sincerely,

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james-e-white@idearights.com

20260126 Supreme Court Clerk Reply

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

February 14, 2025

James Edward White
4107 Breakwater Dr.
Okemos, MI 48864

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