No. 22-387

Supreme Court, U.S.
FILED
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IN THE
SUPREME COURT OF THE UNITED STATES

JAMES EDWARD WHITE,
PETITIONER,

v.

MICHIGAN STATE UNIVERSITY
UNEMPLOYMENT COMPENSATION DIVISION,
MICHIGAN UNEMPLOYMENT INSURANCE
AGENCY,
RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO
THE MICHIGAN SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI

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Petitioner

QUESTIONS PRESENTED

1. Does the Ninth Amendment of the United States Constitution guarantee rights to:
    a. Correction of mistakes as expeditiously as practical after discovery and notice and without undue fuss
    b. Self-defense
    c. Law, rule, contract, etc., in English to be understood in plain English
    d. Law, rule, contract, etc., to be understood by Federal precedent when such should reasonably be applicable
    e. Clear judicial, agency, etc., written decisions, opinions, judgements, etc., regarding any language disambiguation and to publish the same such that it can be nearly as readily found as applicable law, rules, etc., such publication to include the justification thereof (e.g., the case cite)
    f. No decision rules hidden within government agencies (including computer algorithm ones)
    g. No State being a more-equal "person" in litigation
    h. Correct mathematics by everyone
    i. Valid logic by everyone
    j. Damages for violations of one's rights
    k. Correct application of scientific knowledge of chemistry, physics, biology, etc. by everyone
    l. Judges, agency representatives, etc., being held to, and behave consistent with, high ethical standards

m. Expect judges, etc. to honor their oaths to support the U.S. Constitution and at least their State's constitution
n. Expect judges to always bring the law (including constitutional) into all court decisions whether addressed by the litigants or not
o. Expect judges to catch invalid logic even when not caught by litigants
p. Procedure and inconsequential details not getting in the way of "Justice" (thwarting of procedure and details can [but need not] be the cause of reasonable other sanctions though not at the expense of "Justice")
q. Courts doing their job and not allowing nor themselves abusing procedure
r. Appeals in one venue being completed (even if not all options are used) before moving on to the next
s. Courts needing more information for arriving at a conclusion requesting it
t. Appeal courts, agencies, etc., always reviewing laws, rules, cites, etc., de novo, and also decisions, orders, etc., for abuse of discretion and factual error whether asked to or not when they remain in dispute
u. Courts, government agencies, etc., doing their jobs and not forcing or attempting to make individuals use lawyers
v. Courts addressing in opinions, judgements, etc., reasonable

arguments in court, agency, petitioner, plaintiffs, etc., filings.

w. Have obvious Constitutional and/or non-law (e.g., mistake) issues considered first when their result could override results on subordinate grounds
x. Redress of harms resulting from subsequently mooted actions
y. Redress of harms by the State or its actors
z. Courts, agencies, etc., responding under threat of higher authority not escaping sanction by responding before the higher authority does

aa. Judges that are fair and impartial
bb. All communication with judges be plain and convey the same meaning to all parties
cc. Any words conveying essentially the same meaning as "legal magic words" have the same effect
dd. Have the issues raised addressed reviewed without being sidetracked by clever presentation of confusing peripheral issues
ee. Plain language from courts
ff. Court decisions on word meanings in a contract between A and B not being automatically applied to a contract between E and F
gg. All appeals to any appropriate higher authority tolling the clock on any other avenues for appeal

hh. Timelines for rights to appeal or other action whether denied or not in a venue recommence following success in an alternative venue
ii. Common sense understanding of motivations even when they reflect badly on the apparently motivated
jj. Other rights not here enumerated as no finite list can be complete (such rights could perhaps be mined from Blackstone[1] and other sources but still would be incomplete).
kk. Have courts see that public employees, lawyers, judges, etc., are appropriately disciplined for improper actions that become visible to the courts without the victims of those improper actions having to commence actions against the perpetrators of those improper actions

2. Can a State preempt the U.S. Const. Amend. I right to petition for redress by judicial rules.
3. Does the 14th Amendment of the United States Constitution guarantee the States, etc., of the United States must also adhere to the rights guaranteed by the 9th Amendment
4. Does every right that is and should have been handled as being embodied in the 9th Amendment always apply to the States
5. Does the word "Justice" in the preamble of the United States Constitution mean "justice" as understood by common sense and not "fine

[1] Commentaries on the Laws of England, William Blackstone, Esq. 1765 and subsequent editions.(Blackstone)

nuances of word interpretation" to the exclusion of basic principles

6. Are lawyers as a class an allowed "more equal" aristocracy in spite of the United States Constitution Article I Sections 9 and 10
7. Are persons going to court without legal counsel entitled to a judge who "knows the law," adheres to justice, and will not be misled by "fine line" meaning twisting of law, rules, etc., by lawyers or others
8. Are procedures, court rules, etc., a law unto themselves to be enforced overriding the law and justice itself
9. Has the State of Michigan abandoned its "Republican Form of Government" (guaranteed by the United States in the U.S. Const. Art. IV, § 4) by its officers (judicial and otherwise) failing to adhere to Michigan law (established by the people's elected representatives) and said officer's failing to uphold their sworn oaths or affirmations to "support the Constitution of the United States and the constitution of [Michigan]" (Michigan Const. Art. 11, § 1, Appendix FF)
10. What should be done to restore a "Republican Form of Government" to the State of Michigan?

PARTIES TO THE PROCEEDINGS

James Edward White, Petitioner

Michigan State University Unemployment Compensation Division, Michigan Unemployment Insurance Agency, Michigan Unemployment Insurance Appeals Commission (Formerly Michigan Compensation Appellate Commission), State of Michigan, Respondents

CORPORATE DISCLOSURE STATEMENT

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

LIST OF PROCEEDINGS

State of Michigan, Talent Investment Agency, Unemployment Insurance; Case No. 0-010-634-324 for Claim C4781329-0; James White, Claimant, Mich St Univer Unempl Comp Div, Involved Employer; October 9, 2017

Michigan Administrative Hearing System; No 17-024033; James E. White, Claimant, Mich St Univer Unmpl Comp Div, Employer; December 4, 2017; reconsideration denied December 18, 2017

Michigan Compensation Appellate Commission; No 17-024033-255373W; James E. White, Claimant, Michigan State University Unemployment Compensation Division, Claimant; March 7, 2018; rehearing denied February 6, 2019; reopening and further appeal denied April 30, 2020

Michigan 30th Judicial Circuit Court for Ingham County; No. 20-191-AS; In re: James White Complaint for Superintending Control [of Michigan Unemployment Insurance Agency Commission]; May 26 2020; rehearing denied February 2, 2021

Michigan 30th Judicial Circuit for Ingham County; No. 20-301-AE; James Edward White, Appellant, v. Michigan State University Unemployment Compensation Division, Appellee; January 22, 2021; reconsideration denial February 17, 2021 (copy of No. 20-191-AS reconsideration denial)

Michigan Court of Appeals; No. 356364; *In re* James Edward White; June 15, 2021; reconsideration denied August 11, 2021 (AS Superintending Control)

Michigan Court of Appeals; No. 356513; James Edward White v Michigan State Univ Unemployment Compensation Division; June 15, 2021; reconsideration denied August 11, 2021 (AE BENEFIT)

Michigan Supreme Court; No. 163548; James Edward White, Plaintiff-Appellant, v Michigan State University Unemployment Compensation Division, Defendant-Appellee; denied May 3, 2022 (AE BENEFIT)

Michigan Supreme Court; No. 163548; James Edward White, Plaintiff-Appellant, v Michigan State University Unemployment Compensation Division and Unemployment Insurance Agency, Defendants-Appellees; reconsideration of above, denied July 28, 2022 (AE BENEFIT)

Michigan Supreme Court; No. 163562; *In re* James Edward White; James Edward White, Petitioner-Appellant, v Michigan State University and Unemployment Insurance Agency, Respondents-Appellees; denied May 3, 2022; reconsideration denied July 28, 2022 (AS Superintending Control)

The above disputes all arises from a Michigan Unemployment Insurance Agency DENIAL OF BENEFITS for the week ending September 30, 2017 due to a Michigan State University September 29, 2017 payout of an accrued and fully vested vacation account. The September 29, 2017 payout a) should not have been made per law and contract and b) was in the wrong amount and those issues were raised in the dispute series below which is occasionally mentioned in the above dispute series:

Michigan Court of Claims; No. 18-000219-MZ; James Edward White, Plaintiff, v Michigan State University, Defendant; May 15, 2019; reconsideration denied June 26, 2019 (MATH)

Michigan Court of Appeals; No. 349812; James Edward White, Plaintiff-Appellant, v Michigan State University, Defendant-Appellee; September 10, 2020; reconsideration denied October 21, 2020 (MATH)

Michigan Supreme Court; No. 162298; James Edward White, Plaintiff-Appellant, v Michigan State University, Defendant-Appellee; March 30, 2021; reconsideration denied July 6, 2021 (MATH)

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CITATION OF OPINIONS AND ORDERS

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

BASIS FOR JURISDICTION

This Court has jurisdiction of this petition to review the judgment of the Michigan Supreme Court pursuant to 28 U.S. Code § 1257(a). Final reconsideration motions to the Michigan Supreme Court were denied on July 28, 2022. This Court also 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 see the Constitutional, etc., Provisions section below and the related appendices.

The precursor judgements to be reviewed are the January 22, 2021, No. 20-301-AE, Michigan 30th Judicial Circuit Court order and opinion (Appendix A), the May 26 [or 24], 2020 (Appendix C) and February 2, 2021 (Appendix D), No. 20-191-AS, Michigan 30th Judicial Circuit Court order of dismissal and order denying appellant's motion for reconsideration respectively, and the underlying December 4, 2017, No. 17-024033 (Appendix E), Michigan Administrative Hearing System order arising from preceding Michigan Unemployment Insurance Agency actions.

Statement of Notifications per Rule 29.4(b) or (c): No notifications required as this case is about the failure of the agencies and agents of the State of Michigan to adhere to the Constitution of the United States and the laws of Michigan which are not

counter to the U.S. Constitution. *The decisions of the judges are, however, counter to the judges' oaths and obligations to uphold the U.S. Constitution and Michigan law.*

CONSTITUTIONAL, ETC., PROVISIONS

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MCL 421.27(c), See page 51. (MCL = Michigan Compiled Laws; 421 = Employment Security Act)

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Mich. Admin. Code R. 421.302, Appendix OO

STATEMENT OF THE CASE

This is a very simple case, Plaintiff was laid off[2], deemed eligible for unemployment benefits, then denied those benefits for one week due to a scheme 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)) is spelled out in full at page 51. To date, the courts of Michigan have not addressed that simple statement of law even though it has been presented first to the UIA then all the way through the Michigan Supreme Court.

For the same reasons (mainly obviousness) that U.S. Const. Amend. IX is not enumerated, English language understanding (among others) was not explicitly raised, except by quoting the law, in the Michigan courts where the judges have sworn or affirmed they would uphold the U.S. Constitution, including "Justice" (U.S. Const. pmbl.). Indeed, specifically but no less applicable to others, U.S. Const. Amend. XIV 1 and thereby at least U.S. Const. Amend. V, were not for certain violated by the State of Michigan until the Michigan Supreme Court was "not persuaded" to reconsider Petitioner's cases.

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[2] Record and filing locations for facts, etc., may also be found in the Argument section of this petition.

PRELIMINARY FACTS AND EVENTS

July 7, 2017 (plus a day or two) claimant received a layoff letter with first day of layoff designated as August 31, 2017 (R41[3]).

Claimant filed for benefits with Michigan Unemployment Insurance Agency (UIA).

September 6, 2017 claimant was determined eligible for weekly unemployment insurance benefits of $362 (R50).

About September 18, 2017 MSU claimed to the UIA that they "Allocated" $2,356.53[4] of Vacation Pay to 9-3-17 through 9-15-17, 3:00PM to be paid on 9-29-17 (R54).

September 22 [or 25], 2017 claimant received and responded to a UIA Misrepresentation

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[3] "R" preceding a page number indicates it is from the July 2, 2020 JAMES E. WHITE, Appellant, vs. MICHIGAN STATE UNIVERSITY and STATE OF MICHIGAN, DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY (LEO), UNEMPLOYMENT INSURANCE AGENCY, Appellees, C.A. No. 20-000301-AE, Judge Wanda Stokes. (Certified Record)

"A" preceding a page number indicates it is from the July 30, 2020 Appellants Appendix for case 20-301-AE-C30 James Edward White v Mich St Univer Unmpl Comp Div and Michigan Unemployment Insurance Agency.

"E" preceding a page number indicates it is from the August 31, 2020 20-301-AE-C30 Motion for Summary Disposition Appellant Brief Exhibits

"O" preceding a page number indicates it is from the June 8, 2020 Plaintifs Appendix to Opposing Brief to 6/3/2020 UIAC Response to James White's Motion to Reverse or Correct Dismissal (document pages, unfortunately, unnumbered)

[4] To this day Petitioner does not know how this number was computed.

Questionnaire. Presumably this was related to filing a claim for a week the period of MSU's September 18 submission (A127, A130).

September 22 [or 25], 2017 claimant received a questionnaire regarding vacation time for which the first question could not be answered since no vacation pay had issued no date for it was known (A127).

September 29, 2017 MSU paid $2,604.26[5] and deducted 102 hours of accrued and fully vested vacation time (R42, A128). With this payment two MATH/CONTRACT (hereinafter "MATH") issues arose as will be mentioned in Argument below.

October 3, 2017 claimant responded to a UIA Vacation Pay Questionnaire which notably did not provide an opportunity to say "No, I did not take a vacation on layoff" (A127).

On October 9, 2017 claimant received an "ineligible" for BENEFIT notice for week of 30-September-2017 due to September 29 "vacation pay" (R52).

Near October 17, 2017 MSU submitted a UIA questionnaire response that they made a September 29, 2017 vacation payment based on contract or other agreement (R55, A134) but as far as is known no copy of said policy or agreement was provided as

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[5] This number has at least 2 mistakes in it, it ostensibly used 94 hours instead of the 102 removed and its hourly pay rate was incorrect. In any event the MATH errors were taken up first via a grievance to MSU then on through the courts including as Michigan Court of Appeals No. 349812.

the questionnaire asked for. In fact, agreement and policy are the opposite of MSU's practice (R33-39).

November 5, 2017 claimant appealed the BENEFIT error due to MCL 421.27(c) and MCL 421.48(2) issues with the UIA including .27 "*for* the week" and .48 "[h]owever, payment for a vacation or holiday, or the right to which has irrevocably vested... " (R46, A129).

November 15, 2017 a report showing 94 hours of vacation time entered by MSU was submitted by MSU to the ALJ and claimant (R46).

November 29, 2017 there was a hearing with an Administrative Law Judge (ALJ) (R1-42).

FACTS AND CONCLUSIONS BY ALJ DECEMBER 4, 2017

Claimant employed by Michigan State University (MSU) and laid off August 31 to October 26, 2017 (R58-65).

Claimant filed a claim for unemployment benefits and established said claim (R52).

MSU, on their own initiative, paid for claimant's accrued vacation on September 29, 2017. MSU claimed such layoff payouts were a longstanding unwritten practice (R52).

ALJ made explicit his decision related to the BENEFIT issue, not the MATH and contract issues (R52).

The Michigan Unemployment Insurance Agency "*extinguished* claimant's *eligibility* for unemployment benefits for [the September 29]

week." (R52; per Petitioner *emphasized words are not valid law;* reduced benefits to $0 would be proper words but still not a proper action per the law, see Argument below)

MSU vacation payment was not a wage continuation plan (R52). MSU reduced claimant's accrued vacation bank when it made the payment (R52).

ALJ stopped reading re "vacation pay" at first occurrence in MCL 421.48(2) (R52-53).

MSU wanted the "vacation payment" allocated to two weeks but failed to protest UIA processing per "in" week rather than "for" "allocated" weeks (R53).

Order to become "final unless" additional action taken (R53).

FURTHER EVENTS

December 3, 2017 claimant commenced grievance of the September 29, 2017 MATH errors with MSU[6].

December 15, 2017 claimant filed for rehearing or reconsideration by the ALJ noting the MCL 421.48 "However" sentence re the BENEFIT error (R47-49).

December 18, 2018 the ALJ denied rehearing (R66-68).

January 15, 2018 the ALJ BENEFIT decision was appealed to the Michigan Compensation

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[6] Further events in the MATH case are not included in this petition or in the exhibits for this case.

Appellate Commission (MCAC, now UIAC) (R69-80) and was denied March 7, 2018 (R81-82).

Rehear application for claimant without permission or discussion was filed by an attorney for the Michigan Administrative Professionals Association (APA) with no rationale or argument whatsoever on April 2, 2018 (R83) and was denied by the MCAC on February 6, 2019 (R84-85) after a status query was sent (Omitted from Certified Record).

Rehear, Reopen, and/or Further appeal request by claimant was filed on March 6, 2019 (R86-88) within 30 days of UIAC February 6, 2019 decision and within 1 year of March 7, 2018 decision. Rehear and Reopen were in compliance with MCL 421.34(7) (Appendix KK). Further appeal complied with MCL 421.34(8) (Appendix KK) which has no time requirement and Michigan Admin. Code R. 792.11432 (Appendix UU) which only specifies "timely."

On March 15 [or 19], 2019 claimant additionally filed with the MCAC a request for Oral and/or Written Argument (R90-91).

MCAC (now UIAC) did not return a Notice of Request for Reopening or any acknowledgement for either the March 6 or March 15 filings other than automatic fax OKs until April 30 2020, well after a claimant status query on December 23, 2019 (R96) and after a Complaint for Superintending Control to the Michigan 30th Circuit Court on March 19 (and 27), 2020 (R97). Superintending Control became case 20-191-AS (AKA 20-191-AS-C30).

May 19, 2020 UIAC asked claimant to stipulate dismissal of the Complaint for Superintending Control *without costs* to either party (O17).

FACTS AND CONCLUSIONS BY MCAC/UIAC

Accepted ALJ facts and conclusions above (R81).

UIAC denied claimant's rehear, reopen, further appeal request on April 30, 2020 on reopen, no "good cause," grounds only. (R98-99; *The UIAC decision occurred 39 days after the UIAC received the Complaint for Superintending Control.*)

FACTS AND CONCLUSIONS BY 30TH CIRCUIT COURT

May 26, 2020 Superintending Control of the March 6, 2019 UIAC BENEFIT error appeal was denied (incorrectly) because the MATH error against MSU was in the Michigan Court of Appeals as No. 349812 (Appendix C).

YET FURTHER EVENTS

May 26, 2020 claimant filed a Certified Bill of Costs re 20-191-AS with the 30th Circuit Court having *de facto* prevailed (due to the Complaint for Superintending Control) in extracting the April 30, 2020 no "good cause" decision from the UIAC (O19). NO 30TH CIRCUIT COURT RESPONSE YET TO COSTS.

May 29, 2020 claimant filed Claim of Appeal in the 30th Circuit Court re the UIAC April 30, 2020 BENEFIT denial. The claim became case 20-301-AE (AKA 20-301-AE-C30) (O21).

June 1, 2020 claimant filed, in the 30th Circuit Court, a Motion to Reverse or Correct Dismissal of

the Superintending Control Complaint but incorrectly referencing MCL 600.6491 (O37-40). Correction sent June 4, 2020.

June 3, 2020 UIAC requested the 30th Circuit Court decide against claimant's May 26 Costs filing and June 1 Reverse or Correct filing since the UIAC's April 30, 2020 gave claimant the decision that was needed from the UIAC before claimant could file the 20-301-AE-C30 case (O48-53).

June 8, 2020 claimant filed, in the 30th Circuit Court, an opposing brief to UIAC's June 3 request.

July 30, 2020 claimant filed, in the 30th Circuit Court, a brief for 20-301-AE, the BENEFIT case.

August 17, 2020 correspondence from Michigan Attorney General re 20-301-AE (page 32 below).

August 31, 2020 claimant filed in the 30th Circuit Court a motion for summary judgement re 20-301-AE.

MORE FACTS AND CONCLUSIONS BY 30TH CIRCUIT COURT

January 22, 2021 30th Circuit Court denied (Appendix A) petitioner's 20-301-AE BENEFIT suit concluding "[a]ppellant was paid $2,604.26 for his accrued vacation time" and because the UIAC told appellant that appeal in Circuit Court must be made by March 8, 2019 thus the May 29, 2020 Circuit Court appeal was too late and because the court must defer to the no "good cause" UIAC reopen decision. The Court also *declared* UIAC's February 6, 2019 order "final." (Claimants March 6, 2019 appeal to the UIAC being essentially ignored.)

February 2, 2021 the 30th Circuit Court denied the Motion to Reverse or Correct the Superintending Dismissal as a Reconsideration denial on the grounds that UIAC's April 30, 2020 decision *after* the March 19, 2020 Superintending Control filing (20-191-AS), and petitioner's 20-301-AE filing *after* both the UIAC April 30, 2020 decision and claimant's March 19, 2020 Superintending Control filing, meant the original 30th Circuit Court denial on MATH grounds of 20-191-AS was correct. (The fact of the pending March 6, 2019 appeal to the UIAC at the time of the Superintending Control filing being conveniently ignored.)

AND YET FURTHER EVENTS

Events from February 10, 2021 through July 28, 2022 had no meaningful court results and are listed in Appendix RRR and shown in Appendix F through Appendix M .

ARGUMENT

This case should be considered under a corollary or parallel to Supreme Court Rule 10(c) since the Courts and tribunals and agencies of Michigan have completely ignored U.S. Constitutional rights, particularly those intended by the U.S. Const. Amend. XIV, and U.S. Const. Amend. IX. The framers of the U.S. Const. Amend. IX would have been particularly aghast at the Star Chamber like rulings of the Courts of Michigan which are arbitrarily ignoring the intended meaning of the English language laws of Michigan. Additionally Michigan Judges and other officers are completely ignoring U.S. Const. Art., VI 2 & 3 which specifically do not append the words "if asked" to the Judge and

other officials U.S. Constitution support. In this light said Michigan Courts, Tribunals, etc., have nearly decimated the United States Constitution itself and that Constitution's guarantee of "republican" government in Michigan.

"Star Chamber" is not said lightly. It should be observed that the Courts, Tribunals, etc., throughout this case and similar ones have never provided any interpretation for the second sentence, re Appendix E page 54, of MCL 421.48(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.

As will be shown, ALJ's and the MCAC/UIAC have interpreted it both to (incorrectly) include and (correctly) exclude prior earned and vested vacation from reducing unemployment benefit payments but no Court precedent covers either way leaving the UIA, ALJs and the UIAC free to choose whichever they want for or against whoever they want. And they do.

Petitioner (and Michigan Unemployment Insurance benefit claimant) has unfortunately not anticipated from day one of a layoff notice that wordings and interpretations were going to be such a challenge to simple justice under the law, MSU/APA contract, and MSU policy as plainly written.

The following arguments will be presented in a logical order as applicable rather than in the order they were introduced during the cases that arose.

July 7, 2017 Layoff letter from Michigan State University (R41, Appendix BBB) "may render you ineligible." Petitioner essentially forgot receiving that statement until reminded of it by MSU's submission of the layoff letter to the ALJ. That statement seems best handled by a "wait and see" plan.

September 25, 2017 Vacation Questionnaire initial response. (Omitted[7] from Certified Record. "[L]ay off is not termination," see Appendix CCC)

October 3, 2017 Vacation Questionnaire responses (Appendix DDD omitted from Certified Record). The "contract or other agreement" question Petitioner answered "No." MSU apparently had the same question but around October 17, 2017 (R55, A134) answered it "Yes" though, as far as is known MSU did not provide the requested copy. As noted above Petitioner had forgotten the "written notice" of the layoff letter and answered this question "No." But it doesn't matter, the law, the APA (union) contract, and written MSU policy as shown subsequently are all against notice being needed, such notice does not create law or add rights to MSU to get out of their unemployment obligations on the backs of those laid off who happen to have vacation earnings available.

October 3, 2017 follow-up (Omitted from Certified Record, see Appendix EEE).

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[7] Such identified omissions are omissions by the UIA in their preparation of the July 2, 2020 Certified Record.

October 9, 2017 Notice of Redetermination (R52, Appendix S "You are *ineligible* (Petitioner's emphasis) could be a place where the ALJ is misdirected by the UIA since the applicable part, per Appendix E page 51, of MCL 421.27(c) is "(2) The weekly benefit rate is reduced..." but that does not apply due to the Appendix E page 54 "shall be considered remuneration" of MCL 421.48(2) *which is negated* by the "However..." sentence's "shall not be considered wages or remuneration." If the UIA wanted to correctly declare ineligibility they would have needed to reference something in MCL 421.28. MCL 421.28 is not included in this petition but can be found at A121-123. A short list of the eligibility requirements can be found at A125.

Additionally the "ineligible" term likely misled the ALJ (as declared at R6 line 17) into *not* recognizing that "Vacation Pay" is considered by the UIA to be a "Special Payment." The UIA "Special Payments" document (A120 and discussed in Appellant's Brief at page 20) notes:

> Proof at the Hearing: The *employer* has the burden to prove that a particular kind of special payment was made, and that the payment meets the requirements of the law and the Administrative Rule, in order to reduce unemployment benefits. (*Petitioner emphasis*)

The vague "Administrative Rule" in the above is Mich. Admin. Code R. 421.302 Vacation pay (Appendix OO) which clearly begins: "[w]hen an employer is entitled to designate."

October 9 & 10, 2017 Informal Rules Request and UIA Response (Omitted from Certified Record, see Appendix FFF and Appendix HHH). In short, the UIA replies that it has no informal rules. And its response is wholly inadequate to specifically identify why Plaintiff was denied benefits. The UIA response did reference the above noted Special Payments fact sheet.

Plaintiff also sent separate FOIA requests for the informal rules and it was continually denied that any such existed. How the UIA handles the question of "How does the UIA decide cases when the employer and laid off employee differ on their answers to the 'agreement or contract?'" questionnaire question of October 3 remains unexplained. (This "How" question appears in the March 6, 2019 request to the MCAC for Reopening, Rehearing and/or Further Appeal at item 5 of R87.)

Further, Appendix E page 51 shows MCL 421.27(c)(1) clearly indicating with "[e]ach eligible individual" and (2) with "an eligible individual's" are very clear that reducing, even to $0, a benefit payment can only happen for an "eligible" individual, any allowed reduction does not make the individual "ineligible." The UIA's use of the term "ineligible" is grossly in error and misleading.

As will be shown below in discussions of MCL 421.48(2) (page 54 in Appendix E) an employer is not entitled to allocate vested vacation pay because of the "However..." sentence.

October 9, 2017 Protest to UIA of Denial of Benefits (R46, Appendix GGG A129) Plaintiff

believed all of Plaintiff's above inputs (and MSU's) to the UIA system would be provided to the ALJ but maybe only the immediately above one was since it is shown at R46. MCL 421.33(1) (Appendix JJ) led Petitioner to believe the ALJ would have the complete UIA record but the UIA probably did not adhere to the law:

> ...all matters pertinent to the claimant's benefit rights or to the liability of the employing unit under this act shall be referred to the administrative law judge.

MSU exhibits R54-55 show MSU somehow expected the UIA omissions.

November 29, 2017, ALJ Hearing Certified Record:

1. Ms. McManaman testifies "not in the contract it's just University practice" (R23, Appendix III)
2. APA Vacation Pay clauses, exhibits pages R34-35 (Appendix JJJ).
3. MSU written Policy, exhibits pages R36-39 (Appendix KKK).
4. Ms. McManaman testifies re "allocation" pages R25-29 (Appendix LLL)
5. Allocation exhibit R54 shows "Allocated" hand modification of the form (Appendix MMM)
6. Petitioner's September 29, 2017 Pay Statement exhibit R42 (or A128, not reformatted into Appendices) shows Gross Pay of 2,604.26, Vacation Starting Balance of 102 and Ending balance of 0 with a September Accrual of 0.

The contract paragraphs -158 and -159 (R34, Appendix JJJ) leave no doubt that, since a laid off employee has no supervisor and there are clearly no departmental requirements, the laid off employee's vacation time is irrevocably vested. Additionally pages R36-39 show MSU's written policy is to pay unused vacation on termination, but not layoff.

MCL 421.48(2) in Appendix E page 54 does, in its first sentence where it is talking about vacation given by the employer "as continuing wages ... as the result of the separation" use the word "allocated" but the second sentence, the "However..." sentence, makes very clear that earned and "vested" vacation pay, which is not "as the result of the separation," i.e., normal earnings, "shall *not* be considered wages or remuneration" (*Petitioner emphasis)* and therefore the "allocated" of the first sentence cannot be applied. It should be clear that MSU's deliberate language in the layoff letter of "continued on the payroll" and "may render you ineligible" and their "allocated" subterfuge to the UIA is only intended to thwart the "However" of the second sentence with the obvious result of reducing MSU's unemployment obligations at the expense of the employee and counter to the intent of the law. MSU's intent in this case was $724 of savings though they only got away with $362.

December 15, 2017 Request for Rehearing (or Reconsideration) (R47, Appendix PPP) Shows Plaintiff's simplified version of MCL 421.48(2) with only the relevant parts for MSU's vacation payment. A parsed version of MCL 421.48(2) appeared at A118 and is shown in Appendix QQQ . It should also be clear that payment within 14 days of vesting, or even

newly granted vacation or holiday which irrevocably vest immediately, is required since the "or the right to which has irrevocably vested" clause subsumes into "vacation or holiday" word pair. In Petitioner's case the last 4 hours of vacation earned irrevocably vested at the latest on September 1, 2017 and MSU paid well over 14 days later on September 29, 2017 disregarding that they (approximately) paid for 94 instead of 102 hours (R42, A128).

November 29, 2017, ALJ Hearing Regarding Another MSU Employee's Vacation Pay on Layoff (R29-31, particularly R30 lines 22-24, Appendix NNN See Appendix OOO for the ALJ conclusions in the other case.) Petitioner has only seen a partial record of another employee's 17-012285-253658 June 30, 2017 case (E33-43, particularly E37, Appendix OOO) in which the case's ALJ concluded and the MCAC affirmed exactly the opposite of the conclusion in Petitioner's case. Whether the ALJ in Petitioner's case looked up the above case or not is unknown. However, while the ALJ in the 17-012285-253658 case is correct with the first sentence in his Reasoning and Conclusions of Law section, the case appears to leave a hole where an employer can simply declare "continuing wages" then pay and "allocate" prior earned and vested vacation. I.e., employers can attempt language to negate the law's:

> However, payments for a vacation or holiday, or the right to which has irrevocably vested... (MCL 421.48(2))

Clearly the legislature generally intended the above language to prevent employers from

using an employee's earned vacation to reduce the employer's unemployment insurance obligations or to delay payment. It appeared to Petitioner that MSU was trying to feel its way to the magic words that the ALJ and MCAC would accept for transferring MSU's unemployment burden to an employee's earned vacation. The legislature left allocation to the employer only when there are contractual terms for it or when new vacation "as the result of the separation" is provided by the employer. The latter being a common practice as the legislature fully understood. MSU's payments for earned and fully vested vacation earnings cannot be "allocated" by them under any pretense. MSU interestingly did not appeal their loss in the 17-012285-253658 case to the courts to get the question resolved.

Further, while "continuing wages" and "allocate" are indeed in the law there is nothing in the law about "providing a statement" re "allocation" or "continuing wages" to an employee being laid off. That is a fictitious hoop created by the UIA and MCAC/UIAC to create "law" outside the legislature and intentionally or not gives a leg up to employers by suggesting words the UIA will accept to trump the legislated law. That violates MCL 421.4(1)[8]:

> The bureau may promulgate rules and regulations that it determines necessary, and that are *not inconsistent* with this act, to carry out this act. (*Petitioner's emphasis*)

[8] Petitioner quoted this MCL 421.4(1) section of the law in Petitioner's 30th Circuit Court December 1, 2020 Appellant Reply to Appellee's Brief on Appeal

It is true that Mich. Admin. Code R. 421.302 (Appendix OO) contains the words "may render the employee ineligible" but it was never cited against Petitioner presumably because it begins with the words "[w]hen an employer is entitled to designate," which simply was not true due to the MCL 421.48(2) "However..." sentence. The UIAC on April 22, 2020 (E174) considered citing it but lacked the courage and went with "good cause" (the lowest energy escape).

Also observable from the referenced 17-012285-253658 case page E37 is that the ALJ in Petitioner's case apparently intentionally omitted (from the obviously pre-prepared boilerplate used to commence the ALJ writeup of the order) a key cite:

> Compensation earned, not compensation received, is the test of remuneration. *Phillips v Unemployment Compensation Comm*, 323 Mich 188 (1948).

Although one could expand on it more (e.g., compensation earned or given), and the law has certainly changed since 1948, Petitioner does not believe the legislative intent has substantively changed. Petitioner has examined the law's changes since 1947 and they can be provided on request.

In the Facts and Conclusions by ALJ December 4, 2017 section above it is noted that the ALJ admits to having stopped reading at the first occurrence of "vacation pay" in the below ALJ's mostly illogical paragraph:

> Claimant argues that because the vacation pay was earned prior to his layoff it cannot

be used for offset[9]. That interpretation is contrary to the plain language of the statute. Section 48(2) lists the kind of payments that will be offset against unemployment benefits. Vacation pay is the first in the list. *All* vacation pay is earned prior to a layoff or separation. To eliminate offset for all vacation pay earned prior to a layoff or separation would render the section a nullity. (*Emphasis is ALJ's.* R62-63)

Claimant's (Petitioner's) argument is correct due to the MCL 421.48(2) "However..." sentence which takes up the issue of "vested" where the first sentence does not and the very "however" plain language of the statute negates the ALJ's stop at the first "vacation" occurrence. The legislature's first sentence makes clear the legislature recognized that paid "vacation" (given, as it often is) "as a result of the separation" (and omitting vested covered in sentence two) is therefore not "*All*" earned prior to a layoff. The ALJ has it backwards and it is the ALJ's stop at the first sentence's "vacation" that instead makes the second sentence's overriding "However ... vested..." a nullity.

To cut to the chase, in violation of the "establish Justice" purpose of the U.S. Const. pmbl. the Michigan Courts, agencies, or tribunals never addressed the MCL 421.48(2) "However..." sentence and that failure to address is a fundamental violation of at least the U.S. Const. Amend. IX where

[9] Not a footnote in the original but be aware that "offset" is not a term of law, it is a UIA/MCAC/UIAC confusion. "Reduce" is the law's term. The first sentence of the ALJ paragraph is not illogical but the remaining statements are.

the people have an absolute right to know what the law is and to expect the judiciary to include it in their case analysis. The Judiciary of Michigan is permitting the UIA and the MCAC/UIAC to declare the law as whatever they want on a case-by-case basis. In fact, the people's absolute right to know what the law is predates the Constitution but regardless U.S. Const. Amend. XIV applies it to the states. Valid logic is also an absolute right of the people, the U.S. Constitution neither gives it to them nor takes it away and the ALJ's invalid logic is therefore also clearly a violation of U.S. Const. Amend. IX.

Even without U.S. Const. Amend. XIV it is extremely probable that the framers of the U.S. Constitution did fully believe U.S. Const. Amend. IX fully applied to the States too given their very current acquaintance with Blackstone among others as to rights (and certainly probably even powers as covered by U.S. Const. Amend. X).

While Petitioner's case is not a welfare case as was *Goldberg v. Kelly*, 397 US 254 Supreme Court 1970, and in Petitioner's case it made little difference[10], there likely are many unemployment benefits cases where removing the weekly payment without a hearing or other "due process" (whether per U.S. Const. Amend. V or U.S. Const. Amend. XIV) is very significant. An [Employee] Vacation Pay

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[10] Petitioner was robbed of a planned December into January vacation due to the loss of the 102 vested vacation hours but others could be robbed of one or more weeks of unemployment benefits and/or of the option to voluntarily terminate employment in order to collect the balance owed for earned but unused vacation time.

Questionnaire (Appendix DDD) where the employee has no way to say "I didn't take a vacation" (or didn't even have any available vacation time), where the employer need not comply with "provide a copy," and where how the rules for evaluating the questionnaire responses are kept secret is hardly "due process."

SUPERINTENDING CONTROL

This again is a simple case. A Michigan tribunal, namely the Michigan Compensation Appellate Commission (MCAC, which has since become the Unemployment Insurance Appeals Commission, UIAC), has ignored its duty, then done that duty only after being prodded with a Superintending Control Complaint filing (R97), and the courts have (aside from other errors) ignored motions for Costs incurred in eliciting that response even though the UIAC was clearly aware it should pay those costs.

Petitioner appealed the ALJ denial of BENEFITS to the MCAC on January 15, 2018 (R69). The MCAC affirmed the ALJ's decision on March 7, 2018 (R81-82). Without consulting or permission from Petitioner an attorney for the APA union requested a rehearing on April 2, 2018 but presented no facts or arguments (R83) and that request was denied by the UIAC February 6, 2019 (R84). The denial included a "This order will become final unless a written appeal therefrom is RECEIVED by the clerk of the appropriate circuit court on or before March 8, 2019" statement in an apparent attempt to short circuit the full appeal procedures available by law as shown in *MCL 421.34, particularly (7) and (8) (Appendix KK), MCL 421.38 (Appendix LL), Mich. Admin. Code R. 792.11429 (Appendix RR), and*

Mich. Admin. Code R. 792.11432 (Appendix UU). (Hereinafter FULL CIRCUIT.)

Ignoring the MCAC short circuit language and in full accordance with the law and rules, on March 6, 2019 Petitioner requested the MCAC Rehear, Reopen and/or permit Further Appeal (R86-88) complete with argument and five hopeful "good cause" reasons one of which was that the "[h]owever" sentence of MCL 421.48(2) was being ignored. Petitioner further requested on March 19, 2019 both written and oral argument (R90-91). Having not gotten even a "Notice of Request for Reopening" (or "Notice of Receipt of Appeal," Appendix QQ Mich. Admin. Code R. 792.11419(3)), only fax "OK" responses from the UIAC (but responses from MSU, R89 and R92-95), Petitioner sent a status query to the UIAC on December 23, 2019 (R96) and again got no response so filed a Complaint for Superintending Control in the 30th Circuit Court of Michigan on March 19, 2020 (R97).

The Complaint for Superintending Control elicited a UIAC denial on no "good cause" grounds per the 1-year Reopening but no rehearing or further appeal rationales. Again there was no explanation whatever of how the "However..." sentence of MCL 421.48(2) could be ignored. Additionally elicited was a UIAC "Notice of Request for Reopening" which the UIAC has conveniently omitted from their Certified Record (it would be R100 if it were there). A6 shows the over-one-year-late notice and the date of it is noted as 4/27/20 on A16, a FOIA acquired UIAC log.

The UIAC took the least energy route on all Petitioner's filings and on the 17-012285-253658 case even though the two cases got opposite vacation

pay handling results. The ALJ had also taken the least energy route in denying a rehearing.

The Complaint for Superintending Control noted the MCAC case (17-024033-255373W, Petitioner's) for which Superintending Control was sought and also noted a "pay calculation error" (MATH) had occurred in the September 29, 2017 "vacation payment" which payment caused the (erroneous) UIA denial of BENEFITS. Perhaps that date confused the judge who dismissed the Superintending Control complaint on May 26, 2020 citing the MATH appeal in the Court of Appeals as the reason (Appendix C).

Petitioner on June 1, 2020 filed a "Motion to Reverse or Correct Dismissal" of the 20-191-AS Complaint for Superintending control since the MATH 349812 case the Court cited for denial was not applicable. The 30th Circuit Court on February 2, 2021 then observed in dismissal (with no hearing) that Petitioner had, in fact (though the Court didn't mention the date), filed case 20-301-AA [sic, should be AE] June 30, 2020 *well after* the Complaint filing and *after* the Complaint induced UIAC's April 30, 2020 decision. The fact that the Court dismissed the 20-191-AS Complaint did not and cannot negate the Complaint's success in eliciting a UIAC response. The UIAC treated the specter of the 30th Circuit Court as sufficient Superintending Control. Other filings to the 30th Circuit Court were ignored.

Costs for the Complaint filing should have been awarded to Petitioner. Petitioner's July 26, 2021 Court of Appeals Motion for Reconsideration re Superintending Control said:

From *Citizens Insurance Co. of America v. Juno Lighting, Inc.*, 247 Mich. App. 236, 635 N.W.2d 379 (Mich. Ct. App. 2001)

> Generally, costs are allowed to the prevailing party. MCR 2.625(A)(1); *Ullery v. Sobie,* 196 Mich. App. 76, 82-83, 492 N.W.2d 739 (1992). In order to be considered the prevailing party, defendant was required to show *at the very least that its position was improved by the litigation. Ullery, supra.* (*emphasis added,* same must apply for a plaintiff)

The UIAC seeks, and so far has succeeded in escaping costs on the basis of MCR 2.625(B)(4) "An appellant in the circuit court who improves his or her position *on appeal* is deemed the prevailing party" and MCR 7.102 (Appendix ZZ) because a Superintending Control Complaint is technically not an "appeal." Thus blocking U.S. Const. Amend. I "petition ... for redress." More case law cites and rationale excerpted from the Michigan Court of Appeals Reconsideration can be found in Appendix AAA . A primary purpose of Superintending Control is to improve one's position when being thwarted by the stonewalling inaction of State employees.

On May 19, 2020 Jason Hawkins of the Michigan Attorney General's (AG) office suggested stipulation "without costs to either party" (O15-18) beating Petitioner's May 26, 2020 Certified Bill of Costs (O19) filing in the 30th Circuit Court for case 20-191-AS. The attempt to stipulate no costs should also make it very clear the AG rationales to the Court for no costs were frivolous.

Valid logic is clearly a right that predated the U.S. Constitution and would have automatically been assumed to be included in U.S. Const. Amend. IX by its framers. Without valid logic the country is ripe for court (and/or other) tyranny just like in Russia where their constitution guarantees freedom of speech yet Mr. Putin is able to ram through "special military operation" and if you say "war" instead it may be 15 years of jail.

Also the U.S. Const. Amend. IX guarantees reasonable interpretations of the plain English of Michigan laws, administrative rules, and court rules at the very least.

REHEAR, REOPEN "GOOD CAUSE"

Rejecting Petitioner's request for Rehear, Reopen, and/or allow Further Appeal by the "Reopen" option only presumably was the least energy route for the UIAC. The catch is that no "good cause" is only a rejection option for Reopen, not for Rehear or Further Appeal. In keeping with the purpose of the Michigan Employment Security Act as stated in MCL 421 preamble (Appendix GG):

> An act to protect the welfare of the people of this state ... to provide for the protection of the people of this state from the hazards of unemployment,

Nobody has explained why ALJ and the UIAC *totally ignoring* the "However ..." MCL 421.48(2) sentence of the law is not "good cause" in and of itself.

The 30th Circuit Court accepted the UIAC short circuit language of February 6, 2019 (R84) without

regard to the *FULL CIRCUIT* appeal procedures. At the very least the March 6, 2019 Petitioner request for Rehearing beat the supposed March 8, 2019 30-day time-bar and kept the UIAC decision of February 6, 2019 from being "final." See particularly Mich. Admin. Code R. 792.11418(2) in Appendix PP

In ignoring that timely rehear request, which should toll circuit court filing until after the UIAC announce their new decision (even if it replicates the prior one), is to say that, while a timely rehear pends, simultaneously or alone Petitioner could have timely (i.e., before March 8, 2019) appealed to the 30th Circuit Court. Petitioner reads that *either* are allowed per the plain English of at least the last sentence of MCL 421.34(7):

> ***Unless*** an interested party, within 30 days after mailing of a copy of a decision of the Michigan compensation appellate commission or of a denial of a motion for a rehearing, *files an appeal from the decision or denial*, **or** *seeks judicial review* as provided in section 38, the *decision shall be* ***final***. (*all emphasis Petitioner's*)

In other words, it is the action or inaction of the parties that make a decision "final," not any UIAC (or court) declaration. Petitioner believes the within-30-day Rehearing request was sufficient and that a simultaneous circuit court filing would make the February 6, 2019 UIAC decision final while Petitioner's March 6, UIAC rehear filing was pending. Doing both is not logical and to insist on that is akin to implying that when appealing to the ALJ for rehearing Petitioner could and therefore *must* simultaneously have appealed the ALJ's

original decision to the MCAC. The logical, time-honored practice is to complete (even if not using the maximum available) appeals in one venue before moving on to another.

Given the Court's acceptance of the UIAC short circuit the Court goes on to insist that "good cause" was necessary for UIAC to Reopen to handle Petitioner's request. The Court also cites:

> The review [of an agency decision] ***shall include***. . . the determination whether such final decisions, findings, rulings and orders are authorized by law; and [...] supported by [...] evidence [...] " Const 1963, art 6, § 28; see *Union Bank & Trust Co v First Michigan Bank & Trust Co*, 44 Mich App 83; 205 NW2d 54 (1972). (***Petitioner's emphasis,*** [...] ellipses are Petitioner's, see also Appendix EE ***)***

Then the Court goes on to *not* review the law's "However..." sentence at all nor any of the law referenced in the previous paragraphs of this document's Rehear, Reopen "Good Cause" subsection. In fact the Court seems to give "[d]eference" to ALJ's "[t]he payment was charged against his accrued vacation time" but overrule that fact with "great deference" to the UIAC's "administrative expertise" re "good cause" but makes no effort to review how those fit the law the UIAC did *not* follow. In short, the 30th Circuit Court cites the Michigan Constitution then fails to adhere to the "shall include ... law" duties required of the 30th Circuit Court by the Michigan Constitution.

Even if a UIAC decision of "good cause" was needed the Court should not have deferred to the UIAC judgement. Petitioner grants that Petitioner's initial 30th Circuit Court filing did not cite MCL 421.34 because Petitioner believed that the UIAC clearly ignoring the "However.." sentence of MCL 421.48(2) among other things the law requires is an obvious "good cause." Also the Michigan Const. of 1963 Art. 6, § 28 (Appendix EE) guarantee of law and fact review was expected by Petitioner as is supported by or supports Mich. Admin. Code R. 792.11431(5):

> If the Michigan compensation appellate commission denies a request for reopening, *both the denial of reopening and the initial decision may be appealed to the appropriate circuit court* under section 38 of the act, MCL 421.38. (*Petitioner emphasis*)

The 30th Circuit Court did, in fact, cite a certain "good cause" Mich. Admin. Code R. 421.270(1):

> g. If an interested party has been misled by incorrect information from the agency, the office of appeals, or the board of review.

But the 30th Circuit Court mysteriously failed to find that appropriate. If the UIAC can be allowed to not present their obligated full and proper Mich. Admin. Code R. 792.11432 (Appendix CC) "Notice of rights of appeal" then very certainly Petitioner can be allowed to have been "mislead" by relying on that full (though UIAC omitted) proper notice and MCL 421.34 (including (8) further appeal). Petitioner was aware of the *FULL CIRCUIT*, including Mich. Admin. Code R. 792.11432 (Appendix UU) notice

requirements on March 6, 2020. Petitioner also notes Mich. Admin. Code R. 792.11430(1) and (4) in Appendix SS The Court should not have allowed itself to be sidetracked from the Rehear or Further Appeal or law issues by the UIAC short circuit language which substantially ups the effort required by employee plaintiffs and is outside the law and rules.

Petitioner did address MCL 421.34(7) in Petitioner's reconsideration request to the 30th Circuit Court but the Court's response was a non-responsive resend of the 20-191-AS Superintending Conrtrol case denial on reconsideration (see Appendix B and Appendix D) and bears no relationship to the arguments in the 20-301-AE reconsideration brief. Again illogical, and not proper English interpretation, at the very least.

MISCELLANEOUS

On August 14, 2020 the Michigan Attorney General's office responded to Petitioner's 20-301-AE 30th Circuit Court filing with:

> After review of the administrative record and the pleadings filed with this Court, the Department of Attorney General does not intend to file a brief in this matter on behalf of Appellee Michigan Unemployment Insurance Agency unless directed to by the Court. However, the Department of Attorney General will appear at oral argument to answer any questions the Court may have for the Unemployment Insurance Agency.

Petitioner took this at face value, i.e., the Attorney General (AG) cannot support the UIA's

position of ignoring the "However..." sentence of MCL 421.48(2). At a later time an APA attorney suggested that might not be a good belief. And on further reflection and after the Attorney General Briefs, etc., and the Court's responses, Petitioner has come to believe the Attorney General's office was intentionally hiding its position from Petitioner and directing the Court to apply the Court's past history with the AG as the AG's position. The AG's past history is clearly an *ex parte* communication generally forbidden by the U.S. Const. Amend. IX.

If none of the judges from the ALJ to the Michigan Supreme Court noticed the real issues in the 20-191-AS-C30 and 20-301-AE-C30 cases then none is really adhering to the U.S. Const. pmbl. "establish Justice" clause or the U.S. Const. Amend. IX. Justice in the Constitution is apparently being ignored by people declared by the State of Michigan to be "lawyers" by said lawyers considering themselves a *de facto* titled nobility who can get away with favor granting (to their fellow State cronies in this case) outside the law. Justice deserves more than that, it requires adherence to basic-principle rights as presented in the Questions Presented section of this petition.

The U.S. Const. Amend. IX also certainly had been considered by the founders to include that in court cases there is a guarantee of judicial fairness and impartiality. Petitioner cannot be certain if Hon. Wanda M. Stokes was truly impartial given, as Appendix A through Appendix D and Appendix S show, that she was a judge of the 30th Circuit Court in Petitioner's cases 20-191-AS and 20-301-AE reviewing a benefit denial decision that was made

while she was the TIA Director overseeing the Michigan Unemployment Insurance Agency. She was also an employee before becoming director and Petitioner has no way to know if she had any hand in the UIA decisions to omit even asking a claimant employee if they took a vacation on layoff, omit getting proof of contract or policy claims re vacation on layoff from employers, creating the hoop-jumping notice "continuation on the payroll may render you ineligible" (or similar) language, creating the misleading "ineligible" and "offset" language, or with the MCAC/UIAC creating the short circuit reduced "notice of appeal options" bypassing 30 day decision or "further" appeal options, or any rules that would prohibit generosity in tune with the purpose of the Michigan Employmet Act in finding "good cause." Clearly she was determined to ignore Petitioner motions in her court and to ignore at least her Michigan Const. Art. 6 § 28 "review ... law" obligations.

The Judge in the 30th Circuit was also arguably heavily biased in favor of the State as exemplified by noting that the Judge omitted "good cause shall include, but not limited to" of Mich. Admin. Code R. 421.270 from her quote of "good cause" reasons (Appendix C), disregarded MCL 421.38 obligations to "review questions of fact and law," disregarded the Michigan Const. Art. 6, § 28, "review shall include, as a minimum, the ... law" and Michigan Const. Art. 1 § 2:

> No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights.

All which the judge swore or affirmed via Michigan Const. Art. 11, § 1 (Appendix FF) "support the Constitution of the United States and the constitution of [Michigan]" and to which U.S. Const. Art. VI, § 2 (Appendix X) compels her regardless of any oath. U.S. Const. Amend. IX most certainly includes the right to expect judges to be impartial and to adhere to their oaths, even to recuse themselves.

Michigan Const. of **1908** Art. 7, § 7:

> Decisions of the supreme court, including all cases of mandamus, quo warranto and certiorari, shall be in writing, with a concise statement of the facts and reasons for the decisions; and shall be signed by the justices concurring therein. Any justice dissenting from a decision shall give the reasons for such dissent in writing under his signature. All such opinions shall be filed in the office of the clerk of the supreme court.

Michigan Const. of **1963** Art. 6, § 6:

> Decisions of the supreme court, including *all decisions on prerogative writs*, shall be in writing and shall contain a concise statement of the facts and *reasons* for each decision *and* ***reasons*** *for each denial of leave to appeal.* When a judge dissents in whole or in part he shall give in writing the reasons for his dissent. (*all emphasis Petitioner's*)

The above two sections of the 1908 and 1963 Michigan Constitution respectively also make it clear that the Michigan Supreme court in denying Superintending Control (a prerogative writ) without

facts and reasons and by simply stating "not persuaded" in their denials of leave to appeal in Michigan Supreme Court Cases 163548 and 163563 (Appendix F through Appendix I) are not in compliance with at least the "***reasons***" added in the Michigan Constitution of 1963.

The People of Michigan created that 1963 constitution. The Legislature of Michigan created the unemployment laws among others cited above, but the Michigan Executive/Administrative branch via the UIA, ALJ, and MCAC/UIAC has breached those laws and the U.S. Constitution and the Michigan Judiciary, including the Michigan Supreme Court, has supported that breach. Michigan therefore no longer has a "Republican Form of Government" when two of its three branches can abandon the laws created by the People's representatives. Michigan needs corrected for breaching U.S. Const. Art. IV § 4:

> The United States shall guarantee to every State in this Union a Republican Form of Government...

Additionally U.S. Const. Amend. XIV 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*.

Plaintiff, as shown above, had $362 of earned and vested vacation pay used by Michigan State University by their own decree to reduce MSU unemployment obligations by $362 in violation of said amendment and/or U.S. Const. Amend. V via U.S. Const. Amend. XIV. Other Michigan residents

are getting different protection of their earned and vested vacation pay than Petitioner therefore there is not equal protection via either U.S. Const. Amend. XIV or Michigan Const. Art. 1, § 2.

And certainly the lawyers, including Judges and Justices appearing in this case seem to be getting (and/or giving themselves) deference as an aristocracy without need to adhere even to their own Michigan Code of Judicial Conduct, Michigan Rules of Professional Conduct, or Lawyer's Oath. While the "lawyer" title is not inheritable it seems to be getting deference that is not permitted under U.S. Const. Art. I, § 10: No State shall ... grant any Title of Nobility."

SUMMARY

MCL 421.48(2) second sentence:

> 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.

MCL 421.34(7) last sentence:

> Unless an interested party, within 30 days after mailing of a copy of a decision of the Michigan compensation appellate commission or of a denial of a motion for a rehearing, files an appeal from the decision or denial, or seeks judicial review as provided in section 38, the decision shall be final.

In short what we see in Plaintiff's cases is that the law is stated in English very clearly, but, an agency, or series of agencies, and courts created to administer that law has decided that they want to stretch their power outside the law. Alexander Hamilton stated it fairly well in Federalist No. 15 though he was talking on the scale of states it is equally applicable to agencies within states:

> ...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. (*Petitioner's emphasis*)

Alexis de Tocqueville nailed it in 1835 in his "Democracy in America:"

> If I were asked where I place the American aristocracy, I should reply without hesitation that it is not composed of the rich, who are united together by no common tie, but that it occupies the judicial bench and the bar.

So what we see in this case is that the UIA, ALJ, MCAC/UIAC, all with lawyers, and the Michigan Judiciary, all being lawyers, have joined in their State granted powers as lawyers to override the Michigan Legislature and the People and abuse both their powers and the non-lawyer Petitioner.

CONCLUSION

For the above and foregoing reasons, Petitioner requests the issuance of a writ of certiorari to the Michigan Supreme Court.

Respectfully,

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