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**Mich. Legislators File Federal Lawsuit. Claim State Usurped Their Constitutional Authority.**

**Lawmakers say state election officials violated legislature's right to determine times, places, and manner of elections as protected in both the U.S Constitution and the Michigan Constitution**

*Sept. 28, 2023. Lansing, Mich.* Today, eleven Michigan state legislators filed a lawsuit in federal court against state election officials. The lawsuit claims the 2018 and 2022 state constitutional amendments regulating the times, places, and manner of federal elections are legally null and void. The U.S. Constitution, Article I, Section 4 ([the Elections Clause](#)), requires the state legislature to regulate the times, places, and manner of federal elections. However, Michigan's constitutional amendments (Proposal 3 of 2018 and Proposal 2 of 2022) bypassed the state legislature and, in doing so, usurped the legislature's federally-mandated constitutional authority. These state constitutional amendments included provisions that allow voters to sign affidavits instead of presenting valid identification when voting in person or applying for an absentee ballot; nine days of early voting; private funding of election administration; no-excuse absentee voting procedures; same-day voter registrations; state-funded absentee ballot drop boxes, and independent redistricting commissions. The lawsuit, filed in the United States District Court for the Western District of Michigan, names as defendants Secretary of State Jocelyn Benson and Jonathan Brater, Director of the Bureau of Elections.

In a press conference webinar conducted today, state Senator Jonathan Lindsey, one of the legislator plaintiffs, said, "The United States Constitution, the supreme law of the land, contains limited, but critical, election regulations. We also have procedures in place at the state level to amend election law. However, these processes were violated in 2018 and 2022 when an alternative amendment process was used without regard to federal constitutional requirements. This lawsuit challenges recent attempts to subvert our constitutional process and will protect against such actions in the future."

Lindsey said progressives had tried and failed for years to pressure elected representatives to tear down safeguards that kept the state's elections convenient and secure. "As an end-around, they used an unconstitutional process, then deceived the public into voting for changes that weaken our elections," he said. "I don't blame voters. They were told lies that made Proposal 2 sound good. Proponents ran ads saying this "enshrines voter ID into our Constitution" when in fact Prop 2 guarantees the right to vote WITHOUT voter ID—a classic bait and switch tactic. A lot of money was spent to deceive people. Now these unlawfully enacted changes purport to limit our power as legislators to fix serious issues with our elections. Today I stand with fellow legislators to challenge that notion."

Representative Steve Carra, a plaintiff and Chair of the Michigan House Freedom Caucus agreed. "The founders of this great republic put regulating elections into the hands of the state legislatures, so changes to the election process will undergo a deliberative and thoughtful process by the people's elected representatives."

"Michigan state election officials committed horrible violations of state legislators' federal rights in 2018 and 2022, and continue to do so," said Erick Kaardal, attorney with Mohrman, Kaardal & Erickson, P.A., representing the plaintiffs. "The election officials enabled these legally unauthorized amendments to the state constitution to eviscerate the state legislators' federal rights to participate in law-making to determine the times, places, and manner of federal elections. Now, the Michigan Constitution contains federal elections regulations that are monuments to civil rights violations. We will need help from the federal courts to clean up the mess that the election officials created."

Additional attorneys for the plaintiffs include Lansing-based David Kallman and Steve Kallman of the Kallman Legal Group, PLLC.

Carra said, “We’re seeing enormous outstate influence on our state’s elections. The far left struggles to win in a fair election, so their national strategy is to corrupt swing-state elections. One of their tactics is to trick the public into voting for unconstitutional changes to a state’s constitution, taking the legislature out of the election process.”

Carra explained that of the total [\\$31.7 million](#) spent on the Proposal 2 campaign, \$23.6 million, 74%, was expended in support. About half of that, \$11.3 million, poured into Promote the Vote from the [Sixteen Thirty Fund](#), a 501(c)4 nonprofit based in Washington D.C. The George Soros [Open Society Foundation](#), a 501(c)3 nonprofit based in New York, accounted for \$1.2 million.

“Despite the inflamed rhetoric coming from extremists, Michigan residents want fair and secure elections.” Carra declared. He cited a recent Honest Elections Project (HEP) [study](#) that shows public support for photo ID laws has grown to an astounding 88% nationwide with 68% strongly agreeing that photo ID should be required when voting. “Promote the Vote behaved like snake-oil salesmen to deceive Michiganders into amending the state constitution. They claimed it enshrined voter ID when the truth is the Proposal 2 amendment did just the opposite. It allows registrants to vote without valid identification.”

Carra noted, “The HEP study found that 86% of Americans think every election office should routinely undergo a full performance review and audit. “Prop 2 allows for nine days OR MORE of early voting, which is fiscally irresponsible and makes our elections ripe for fraud. We need to fix the problem now and restore legislative authority. Otherwise, the situation will continue to get worse.”

The legislature has the authority to propose an amendment to the Constitution involving a vote of the people under Article 12, Sec. 1. But any election-law amendment to the Constitution that bypasses the legislature is illegal. According to both the U.S. Constitution and the [Michigan Constitution](#), only the state legislature has the authority to regulate the times, places, and manner of federal elections. The passage of an election-related ballot referendum without first gaining legislative approval violates both the U.S. and Michigan Constitutions. The [Michigan Constitution](#) provides that the legislative power to regulate elections is vested in the senate and house of representatives.

The lawsuit warns that the unconstitutional process could be misused in 2024 and in the future.

“The courts need to decide these important legal questions,” Senator Lindsey explained. “The people of Michigan are entitled to an answer on the scope and limitations of Article XII, section 2, amendment by petition, especially as it relates to the responsibilities granted to the state legislatures by the United States Constitution. I am honored to play a role in this effort to restore the rule of law in Michigan.”

Plaintiffs include Senators [Jonathan Lindsey](#) and [Jim Runestad](#); Representatives [Steve Carra](#), [James DeSana](#), [Joseph Fox](#), [Neil Friske](#), [Matt Maddock](#), [Brad Paquette](#), [Angela Rigas](#), [Joshua Schriver](#), and [Rachelle Smit](#).

Attorney [Erick Kaardal](#), a partner of [Mohrman, Kaardal & Erickson](#), P.A., specializes in suing the government to improve it. Over the course of his three-decade career, Kaardal has achieved [61 election integrity counter-lawfare](#) victories, including two U.S. Supreme Court wins.

[Michigan Fair Elections](#) and the [Great Lakes Justice Center](#), sponsors of the lawsuit, are Michigan-based, non-profit 501(c)3 organizations. MFE is composed of local task forces dedicated to restoring fair and honest elections through education, local citizen participation in elections, and litigation. GLJC’s mission is to speak truth on behalf of the persecuted and most vulnerable and to champion the cause of the defenseless and oppressed.

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