STATE OF MICHIGAN
COURT OF CLAIMS

KELLIE SAUNDERS, *et al.*,

Plaintiffs,

v

MICHIGAN UNEMPLOYMENT INSURANCE AGENCY AND JULIA DALE,

Defendants.
_____/

No. 2022-000007-MM

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DEFENDANTS MICHIGAN UNEMPLOYMENT INSURANCE AGENCY'S AND JULIA DALE'S MARCH 31, 2022 RESPONSE TO PLAINTIFFS' MARCH 10, 2022 MOTION FOR PRELIMINARY INJUNCTION TO SUSPEND COLLECTION ACTIVITIES

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STATEMENT OF ISSUES PRESENTED

1. Preliminary injunctions are extraordinary remedies that are only appropriate when a plaintiff demonstrates certain requirements, including that they are likely to prevail on the merits and that without one they are likely to suffer irreparable harm. Plaintiffs' alleged injuries are compensable with legal monetary damages should they prevail, and they do not demonstrate facts showing they are likely to prevail on their due process claims. Should this Court grant Plaintiffs a preliminary injunction under these circumstances?

INTRODUCTION

Plaintiffs ask for a preliminary injunction prohibiting the Agency from taking collection action against any possible member of the putative class identified in their complaint, contending that collection is unlawful and would cause irreparable harm. However, Plaintiffs fail to establish what is required for this Court to issue an injunction, particularly one on the scale they seek.

This Court can only order an injunction to preserve the status quo for the *parties*. Putative class members are not parties to this case unless and until a class is certified; consequently, this Court cannot grant a preliminary injunction ceasing collection for anyone other than the named Plaintiffs. But the named Plaintiffs fail to state the requisite irreparable harm, as they have a legal remedy, should they prevail, in the form of money damages for any improperly collected benefits. Moreover, Plaintiffs fail to demonstrate that they are likely to prevail on any of their due process claims. Plaintiffs allege the Agency violated their due process rights by failing to follow the law governing the timing for issuing redeterminations, in failing to grant restitution waivers, and in engaging in premature collection activities. But they do not demonstrate any material violation of the law and, even if the Agency exceeded its authority, they do not demonstrate how such actions violated their due process rights. The unlikeliness that Plaintiffs will prevail on their claims is illustrated by the fact that the Agency has a pending motion to dismiss all claims. Without a high probability of success, their plea for an injunction fails.

Preliminary injunctions are extraordinary relief; as such, Plaintiffs have a steep burden in demonstrating the need for one. Because Plaintiffs fail to meet this burden, their motion for a preliminary injunction should be denied.

STATEMENT OF FACTS

Plaintiffs' amended complaint alleges three due process violations involving three separate classes of plaintiffs:

1. Putative Plaintiffs, represented by Saunders, Davis, Eggleston, Zestos, and Hillebrand, were denied due process when the Agency issued decisions more than a year after the initial monetary determinations in their cases were issued (Amended Complaint, ¶¶ 219–228);

2. Putative Plaintiffs, represented by all named Plaintiffs, were denied due process when the Agency failed to waive their debts because they were based on Agency error (Amended Complaint, ¶¶ 229–242); and

3. Putative Plaintiffs, represented by Varga, Shepard, Larke, Logan, Eggleston, Hillebrand, and Scarantino, were denied due process when the Agency initiated collection activity before their appeals of the decisions assessing restitution were concluded (Amended Complaint, ¶¶ 243–249).

The facts concerning each of the named plaintiffs in relation to these claims are detailed below.

Kellie Saunders

Saunders applied for unemployment benefits through the federal pandemic unemployment assistance (PUA) program. (PUA Monetary Determination, Exhibit A.) In a monetary determination dated April 23, 2020, she was initially approved for a weekly benefit amount of $362.00. (*Id.*) But on October 22, 2021, the Agency issued a monetary redetermination revising her benefits downward to $160.00 per

week because the proof of income she had submitted to warrant the higher amount could not be verified. (PUA Monetary Redetermination, Exhibit B.)

Erik Varga

Varga filed a claim for unemployment benefits in November of 2019, which was extended due to the COVID-19 pandemic. (Monetary (Re)determinations, Exhibit C.) On October 8, 2020, the Agency issued a determination assessing restitution for the week ending April 4, 2020, because he had unreported earned income. (10/8/20 Determination, Exhibit D.) On January 8, 2021, the Agency issued a second determination finding he was disqualified from benefits after quitting his job in January of 2020. (1/8/21 Determination, Exhibit E.) Varga was assessed a total of $17,386.91 in restitution in relation to these determinations, and he has paid a total of $162.34 toward this debt. (Weeks of Overpayment, Exhibit F; Collection Screen, Exhibit G.) The Agency has sent him collection notices. (Collection Notices, Exhibit H.) Varga filed a late protest of the October 8, 2020 determination in September of 2021, and he also protested the January 8, 2021 determination. (Protests, Exhibit I.)

Lisa Shephard

Shepard filed a traditional claim for unemployment benefits on April 9, 2020 and was approved for a benefit amount of $314.00 per week on May 13, 2020. (Monetary Determination, Exhibit J). On August 6, 2020, she was found ineligible for unemployment benefits because she was not able to work and was assessed

restitution. (8/6/20 Determination, Exhibit K.) Shephard appealed, and on November 18, 2020, an administrative law judge reversed the Agency's determination. (11/18/20 ALJ Decision, Exhibit L.) On September 28, 2020, the Agency issued a separate and distinct determination finding that Shephard was disqualified because she had voluntarily quit her employment without good cause attributable to her employer. (9/28/20 Determination, Exhibit M.) Shephard filed a late protest of this decision on March 13, 2021. (Protest, Exhibit N.) She was assessed a total of $3,649.10 in restitution and has paid $586.00 from a state tax refund. (Collection Screen, Exhibit O.)

Dawn Davis

Davis filed a claim for PUA benefits, and on April 23, 2020, was approved for a weekly benefit amount of $160.00 per week. (Monetary Determination, Exhibit P.) On June 1, 2021, the Agency issued a monetary redetermination finding Davis was ineligible for PUA benefits after it learned that she was not unemployed as a direct result of COVID-19 and that her unemployment was not COVID-19 related because she lost her job prior to the pandemic. (Monetary Redetermination, Exhibit Q.)

Jennifer Larke

Larke filed a PUA claim in April of 2020. (Monetary Determination, Exhibit R.) She was assessed restitution for overpayments because she had unreported earnings on October 12, 2020. (10/12/20 Determination, Exhibit S.) This

determination was affirmed in a redetermination dated May 10, 2021. (5/10/21 Redetermination, Exhibit T.) Larke was assessed additional restitution in a series of redeterminations in August 2021 after she was found not to have provided a valid COVID-19 related reason establishing her PUA eligibility. (8/9/2021 Determinations, Exhibit U.) These redeterminations were affirmed on September 15, 2021, after Larke filed a protest. (9/15/21 Redeterminations, Exhibit V.) The total amount of restitution assessed was $13,152.00. (Collection Screen, Exhibit W.) Larke is credited with having paid $7,158.00. (*Id.*)

Additional Plaintiffs

Plaintiffs raise facts in their brief pertaining to several individuals who they claim are members of the putative classes in this action – Anna Logan, Joshua Eggleston, Jennifer Hillebrand, Cheryl Scarantino, and Eleni Zestos. (Plaintiffs' PI Br, pp 5, 10, 14–15.) Since the filing of Plaintiffs' preliminary injunction motion, these individuals were added to this case as named plaintiffs. (See Amended Complaint.) To the extent these claims warrant discussion for purposes of this motion, they are discussed in the argument section.

ARGUMENT

I. Any injunctive relief is limited to the named Plaintiffs.

Preliminary injunctions are designed to "preserve the status quo, so that upon the final hearing *the rights of the parties* may be determined without injury *to either*." *Psychological Services of Bloomfield*, 144 Mich App 182, 185 (1985)

(emphasis added), quoting *Bratton v Detroit Automobile Inter-Ins Exchange*, 120 Mich App 73, 79 (1982); see also, *Mich AFSCME Council 25 v Woodhaven-Brownstown School Dist*, 293 Mich App 143, 145 (2011) ("[t]he objective of a preliminary injunction is to maintain the status quo pending a final hearing regarding *the parties'* rights" (emphasis added)). In other words, preliminary injunctions are intended to avoid harm to the litigants while their claims reach legal resolution; they are not intended to benefit non-parties whose rights are not at issue in the suit. Unnamed putative class members are not parties to an action where the class has not been certified. See *Hanton v Hantz Financial Services, Inc*, 306 Mich App 654, 666 (2014), citing *Smith v Bayer Corp*, 564 US 299, 315 (2011). As stated by the United States Supreme Court in *Smith,* which was relied on heavily by the *Hanton* court, courts have been unwilling "to advance the novel and surely erroneous argument that a nonnamed class member is a party to the class-action litigation *before the class is certified*." *Smith*, 564 US at 313, quoting *Delvin v Scardelletti*, 536 US 1, 16, n 1 (2011) (opinion of Scalia, J., emphasis in original).

Plaintiffs seek a preliminary injunction to protect not only themselves from collection activity, but also every possible member of the putative classes detailed in their complaint. (See Plaintiffs' PI Br, pp 1, 17–25.) But no class has been certified in this matter, so any putative class members are not yet parties entitled to injunctive relief. Even if a preliminary injunction is warranted, a point which the Defendants are not conceding for the reasons discussed below, it should be limited to prevent collection against only the named Plaintiffs.

II. Plaintiffs do not satisfy the requirements necessary to obtain the extraordinary remedy of a preliminary injunction.

A. Legal principles governing preliminary injunctions.

A preliminary injunction is considered equitable relief to "preserve the status quo pending a final hearing regarding the parties' rights." *Hammel v Speaker of House of Representatives*, 297 Mich App 641, 648 (2012). It is considered an "extraordinary remedy." *Sandstone Creek Solar, LLC v Twp of Benton*, 335 Mich App 683, 706 (2021). When deciding whether to grant a preliminary injunction, a court must consider four things:

> (1) The likelihood that the party seeking the injunction will prevail on the merits;
>
> (2) The danger that the party seeking the injunction will suffer irreparable harm if the injunction is not issued;
>
> (3) The risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief; and
>
> (4) The harm to the public interest if the injunction is issued. [*Mich AFSCME Council 25*, 293 Mich App at 148.]

The burden of proving these four elements rests with the party seeking the injunction. *Hammel*, 297 Mich App at 648.

The second element is a particularly important one. A "particularized showing of irreparable harm" is "an indispensable requirement to obtain a preliminary injunction." *Mich Coalition of State Employee Unions v Mich Civil Service Comm*, 465 Mich 212, 225 (2001). Without a showing of irreparable harm, it is unnecessary for the court to consider other factors, including the requesting

party's likelihood of success on the merits. *Mich AFSCME Council 25*, 293 Mich App 148–149, citing *Pontiac Fire Fighters Union Local 376 v City of Pontiac*, 482 Mich 1, 13, fn 21 (2008). "[A]pprehension of future injury or damage" is insufficient to demonstrate irreparable harm; rather, the party requesting a preliminary injunction must face a "*real* and *imminent* danger. . . rather than future, speculative harm." *Pontiac Fire Fighters*, 482 Mich at 11 (emphasis in original). For purposes of a preliminary injunction, "[e]conomic injuries are not irreparable because they can be remedied by damages at law." *Thermatool Corp v Borzym*, 227 Mich App 366, 377 (1998); see also, *Sandstone Creek Solar, LLC*, 335 Mich App at 706; *Pontiac Fire Fighters*, 482 Mich at 10. The moving party must demonstrate "a noncompensable injury for which there is no legal measurement of damages or for which damages cannot be determined with a sufficient degree of certainty." *Thermatool*, 227 Mich App at 377.

B. Plaintiffs fail to establish any irreparable harm where their only alleged harm is speculative and compensable with money damages.

In their preliminary injunction motion, the *only* irreparable harm Plaintiffs allege is the possible economic and financial implications of continued collection activity, including interception of tax refunds and wage garnishments. (Plaintiffs' PI Br, pp 1, 3, 17–20.) As discussed above, case law is clear that this type of financial damage will not support a preliminary injunction because there is an adequate legal remedy. *Thermatool*, 227 Mich App at 377. In the event Plaintiffs prevail and amounts are found to have been improperly collected, those amounts

can be easily ascertained and refunded to the Plaintiffs. There is no threat of harm that cannot be addressed through monetary damages.

Much of the Plaintiffs' alleged harms are also speculative. Of the named Plaintiffs, only Varga, Shepard, and Larke claim to have been subject to unwarranted collection activity. (Plaintiffs' PI Br, pp 13–14.) Of those, Larke had $7,158.00 collected, Varga has paid $162.34, and Shephard has paid $586.00. (Exhibits W, H, O.) The only garnishment and tax intercept documentation Plaintiffs attach to their motion was sent approximately a year ago in 2021. (Larke Garnishment Notices, Exhibit X; Shephard Garnishment Notices, Exhibit Y; Varga Garnishment Notices, Exhibit Z.) While Eggleston, Logan, and Hillebrand allege they have been subject to collection, they do not identify any actual garnishment or interception of funds. (Plaintiffs' IP Br, pp 14–15.) Plaintiffs do not allege, must less prove, immediate collection efforts and actual ongoing financial impact. Rather, they demonstrate only past collection and speculative fear of possible future collection. This is insufficient to sustain a preliminary injunction, so the analysis can end here. *Mich AFSCME Council 25*, 293 Mich App at 148–149.

C. Plaintiffs do not demonstrate they are likely to prevail on the merits of their due process claims.

1. Plaintiffs were given notice and an opportunity to be heard.

Plaintiffs cannot demonstrate they are likely to prevail. All three of Plaintiffs' claims sound in due process. Due process requires "notice reasonably calculated, under all circumstances, to appraise interested parties of the pendency

of the action and afford them an opportunity to present their objections." *Sidun v Wayne County Treasurer*, 481 Mich 503, 509 (2008), quoting *Mullane v Central Hanover Bank & Trust Co*, 339 US 306, 314 (1950). Plaintiffs do not allege, much less prove for purposes of this motion, that they were denied notice of the decisions in their cases or the opportunity to appeal them and present their objections.

The determinations and redeterminations the Plaintiffs received state both the Agency's decision and how to protest it to an administrative hearing. (Exhibits A–E, J–K, M, P–T, V; Eggleston (Re)determinations; Exhibit AA; Hillebrand (Re)determinations, Exhibit BB; Zestos (Re)determinations, Exhibit CC; Logan (Redeterminations), Exhibit DD.) Similarly, the notices of garnishment and tax intercept notices detail the collection action to be taken and how to appeal or challenge that action if the claimant believes the debt is not legally collectable. (Exhibits X–Z.) Even the monthly collection statements provide instruction on how a claimant can appeal the underlying decisions. (See, e.g., Exhibit H; Additional Collection Statements, Exhibit EE.) Plaintiffs acknowledge taking advantage of the opportunity to object to the Agency's actions by filing protests and appeals of the adverse decisions. (Plaintiffs' PI Motion Br, pp 13–15.) Because Plaintiffs demonstrate they received notice and an opportunity to be heard, they are unlikely to prevail on their due process claims, and their motion for a preliminary injunction must fail.

2. The Agency is authorized to issue a redetermination after more than a year.

Turning to each of Plaintiffs' claims separately, their first claim states that the Agency violated their due process rights by issuing redeterminations finding they were ineligible for benefits more than a year after the original monetary determinations were issued in their cases. (Amended Complaint, ¶¶ 219–228.) But Michigan law gives the Agency authority, and in fact requires it, to seek restitution for overpaid benefits up to three years after a claimant first receives payment. MCL 421.62(a). The original Plaintiffs raising this claim, Saunders and Davis, had redeterminations finding they were overpaid well within this three-year period – approximately 14 months for Davis and approximately 18 months for Saunders. (Exhibits A, B, P, Q.) The redeterminations for new Plaintiffs Zestos, Eggleston, and Hillebrand were similarly issued within 18 months of their original determinations. (Exhibits AA, BB, CC.) As such, the Agency has complied with the law.

Moreover, even if the Agency acted untimely, violation of a state statute "*ipso facto*, does not amount to a constitutional violation." *York v Detroit*, 438 Mich 744, 762 (1991). Plaintiffs contend the Agency violated the statute by issuing untimely redeterminations, but they do not claim that they did not receive the redeterminations or had no opportunity to challenge them through the typical administrative process. (See Plaintiffs' PI Br, pp 4–8.) Quite the opposite— Plaintiffs themselves acknowledge an opportunity to be heard through the typical protest and appeal process in citing to a decision from the Michigan Unemployment

Insurance Appeals Commission on this same jurisdictional issue. (See Plaintiffs' PI Br, pp 7–8.) Even if the Agency did exceed its jurisdiction in making redeterminations more than a year into Plaintiffs' unemployment claims, a point that is not conceded, Plaintiffs have not demonstrated that it was a due process violation or that they are likely to prevail on such a claim.

3. Plaintiffs fail to establish entitlement to a waiver.

Plaintiffs' second allegation is that the Agency violated their due process rights when it failed to enact restitution waivers based on Agency error. (Amended Complaint, ¶¶ 229–242.) Michigan law permits the Agency to waive restitution where: (1) an employer or claimant provides incorrect wage information, (2) the claimant meets certain statutory poverty guidelines, or (3) the payments were the result of an "administrative or clerical" error by the Agency. MCL 421.62(a). Agency error does not include a change in judgment at the administrative or judicial level. *Id.* These provisions are incorporated into the federal PUA program, and the federal government has indicated it may take until February 2023 to process overpayment waivers related to the pandemic claims. UIPL 20-21, p 6 (attached as Exhibit FF); UIPL 20-21, Change 1, p 5 (attached as Exhibit GG).

Of the Plaintiffs asserting a waiver claim, facts are provided only for Saunders' and Hillebrand's cases. (See Plaintiffs' PI Br, pp 8–12.) Where the remaining Plaintiffs do not lay out any alleged error that would support a waiver, they have not demonstrated they are likely to prevail on a claim that they were denied a waiver they were entitled to receive. From what Saunders points to for

purposes of this motion, it is not clear that there was any sort of error warranting a waiver in her case either. Saunders directs this Court to her original monetary determination, which states that she was approved for weekly benefits amount of $362.00, and a redetermination showing her weekly benefit amount was lowered to $160.00 as evidence of Agency error in calculating her benefit amount. (See PI Brief, pp 9–10, Exhibits A, B.) But these documents do not demonstrate any clerical or administrative error by the Agency that would justify a waiver. The original determination calculated Saunders' weekly benefit amount based on what was reported at the time she applied. (Exhibit A.) PUA regulations require the Agency to issue an immediate monetary determination assessing a weekly benefit amount based on what Saunders reported in her application. 20 CFR § 625.6(e); 15 USC § 9021(h). Saunders was then required to submit information verifying those earnings in order to sustain that benefit amount. 20 CFR § 625.6(e)(1), (2). If she failed to submit information or submitted insufficient information to support the earlier benefit entitlement, the Agency was required to recalculate her weekly benefit amount. 20 CFR § 625.6(e)(2), (3). When the income Saunders reported in her application could not be verified, the Agency issued a redetermination revising the benefit amount based on what could be verified. (Exhibit B.) The same is true for Hillebrand, whose benefits were reduced based on "new additional or corrected information received." (Exhibit BB.) There is no indication of any error justifying a

waiver, merely a change to their benefit entitlement based on the available information as required by federal regulation.

Moreover, at least one state court has held that a claimant does not have a vested right in waiver of money owed, so that failure to provide a waiver does not give rise to a constitutional deprivation. *Millar v NM Dep't of Workforce Solutions*, 304 P3d 427, 432 (2013) (attached as Exhibit HH). While not binding, this case suggests that even if Plaintiffs could substantiate that they were denied a waiver they were entitled to, it does not give rise to a due process claim.

Finally, Plaintiffs are unlikely to prevail because their claim is not ripe. A claim is not ripe "if it rests upon 'contingent future events that may not occur as anticipated, or indeed may not occur at all." *City of Huntington Woods v City of* Detroit, 279 Mich App 603, 615–616 (2008). As of February 7, 2022, the federal Department of Labor contemplated it could take states up to a year – until February of 2023 – to address waivers arising from pandemic claims. (Exhibit GG, p 5.) This is true in Michigan. If there is any sort of error requiring a waiver in any of these Plaintiffs' case, they may still receive one as the Agency has not yet processed all waivers on pandemic-related claims.

In sum, Plaintiffs have failed to demonstrate that they are likely to prevail on the waiver claim.

4. The Agency is lawfully entitled to collect overpayments.

Plaintiffs' last claim, pursued by Varga, Shephard, Larke, Logan, Eggleston, Hillebrand, and Scarantino, is that their due process rights were violated when the

Agency engaged in collection efforts while they still had pending appeals of the determinations assessing the restitution. (Amended Complaint, ¶¶ 243–249.)

Plaintiffs cite to several statutes they say the Agency violated in initiating collection during the appellate process, but none of these statutes bars collection as they allege. Plaintiffs point to §§ 32a and 62(a) of the Michigan Employment Security (MES) Act as supporting that the Agency can only collect on restitution once the underlying determination is final. (Plaintiffs' PI Br, p 16.) But these sections do not state this. Section 32a governs agency redeterminations and provides that an Agency determination that is not timely appealed is final. MCL 421.32a(1), (2). It is silent as to when the Agency can start collection. *Id.* Section 62(a) states that once the Agency determines a claimant was overpaid benefits, the Agency "shall" issue a determination assessing restitution. MCL 421.62(a). After a determination is made, the Agency may initiate collection through various means, such as wage garnishment, tax refund intercepts, or offset from ongoing unemployment benefits. *Id.* It does not limit the timing of these collection activities once a determination is issued. *Id.* In fact, no provision of the MES Act mandates a stay on collection pending ongoing protests or appeals of a determination. See MCL 421.32a (governing redeterminations); MCL 421.33 (governing hearings before an administrative law judge); MCL 421.34 (governing appeals to the Michigan Unemployment Insurance Appeals Commission); MCL 421.38 (governing appeals to circuit court).

Plaintiffs further rely on 26 USC § 6402(f)(3)(A) as barring collection during an unemployment appeal. This statute concerns only the intercept of federal tax refunds and requires the Agency to notify claimants that it intends to intercept a refund and give them 60 days to present evidence that "all or part of such liability is not legally enforceable or is not a covered unemployment compensation debt." 26 USC § 6402(f)(3)(A), (B). The Agency must then consider that evidence before intercepting a tax refund. 26 USC § 6402(f)(3)(C). Larke never claims to have had a tax refund intercepted, and Shephard's tax intercept was a state refund not subject to § 6402(f)(3). (See Exhibit Y.) Varga received the requisite notice before his federal refund was intercepted, and never claims to have sought to introduce evidence that the debt was not collectable as contemplated in § 6402, despite having the opportunity to do so. (See Plaintiffs' PI Br, p 13; Exhibit Z.) While Varga states he appealed the underlying determination, this is a different process from that contemplated by the federal statute cited. See 26 USC § 6402(f)(3); MCL 421.32a, MCL 421.33, MCL 421.43, MCL 421.38. New Plaintiffs Hillebrand, Eggleston, and Logan assert threats of tax refund intercepts, but they do not document any actual effort to seize their federal taxes and cite only to boilerplate about the Agency's collection options noted in ordinary billing statements. (Exhibit EE.)

Finally, Plaintiffs point to § 503 of the Social Security Act, which requires an "opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied." 42 USC § 503(a)(3). But nothing in this section contemplates completion of an appeal hearing before the

Agency can begin collection efforts. In fact, guidance to state unemployment Agencies from the federal Department of Labor indicates that states "*may* prohibit recovery of an overpayment until the overpayment determination, including any appeal, has become final under state law," but it does not *have* to limit collection. UIPL 01-16, p 4 (emphasis added) (attached as Exhibit II).

Even if the Agency engaged in collection activity it should not have, it does not give rise to a due process violation. Due process does not bar economic impact to a party during an ongoing appeal process. In *McAvoy v H.B. Sherman Co*, 401 Mich 419, 439–441 (1977), the Michigan Supreme Court held that the Legislature's decision not to stay workers compensation payments during an appeal was not a violation of due process. The Court has since built on this idea to hold that the Legislature may "exert substantial control over the mechanics of how administrative decisions are to be appealed," including the "time frames for filing an appeal, . . . *whether a party may obtain a stay pending appeal,* and . . . the controlling standard of review." *Midland Cogeneration Venture Ltd Partnership v Naftaly*, 489 Mich 83, 84 (2011), citing *McAvoy*, 401 Mich at 443 (emphasis added). A reading of the Michigan Court Rules emphasizes this point, as even courts do not require blanket stays on judgment collection while a case is pending appeal. MCR 7.108; MCR 7.209; MCR 7.305(I).

The cited statutes do not bar collection, nor does due process require a stay of collection activity pending appeal. For these reasons, Plaintiffs fail to demonstrate that they will prevail on this claim as well.

CONCLUSION AND RELIEF REQUESTED

Plaintiffs fail to meet the high standards needed to warrant a preliminary injunction. They do not allege an irreparable injury as required, nor have they proved they are likely to succeed on the merits of any of their due process claims. Even if the Plaintiffs could somehow show they are eligible for injunctive relief, relief would be limited to their claims only, and not those of undefined putative class members who are not yet, and may never be, parties to this case. For these reasons, Plaintiffs' motion for a preliminary injunction should be denied.

Respectfully submitted,

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