

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

GRETCHEN WHITMER,
on behalf of the State of Michigan,

Plaintiff,

Case No. 2022-193498-CZ
Hon. JACOB JAMES CUNNINGHAM

-vs-

JAMES R. LINDERMAN, *et al.*,
Defendants.

**ORDER RE: PROPOSED INTERVENORS', RIGHT TO LIFE OF MICHIGAN AND
MICHIGAN CATHOLIC CONFERENCE, MOTION TO INTERVENE**

Non-Parties proposed intervenors, Right to Life of Michigan and Michigan Catholic Conference, filed a motion and corresponding praecipe for Wednesday, August 17, 2022, at 8:30 a.m. The Court considers the motion and dispenses with oral argument. MCR 2.119(E)(3).¹

As an initial matter, the Court notes proposed intervenors have been invited to advocate their position as *amicus curiae*, in *Whitmer v Linderman*, Supreme Court docket number 164256 simultaneously with the instant litigation before this trial Court.² Thus, from this Court's perspective, proposed intervenors' positions are not only well preserved in the Supreme Court's concurrent action and record, but also, that their instant request is more appropriate for consideration in that forum as *amici curiae* as a practical matter.

¹ MCR 2.119(E)(3) provides: a court may, in its discretion, dispense with or limit oral arguments on motions, and may require the parties to file briefs in support of and in opposition to a motion. See also, *Banta v Serban*, 370 Mich 367, 368 (1963).

² See *Whitmer v Linderman*, Order of the Michigan Supreme Court, docket number 164256, dated June 15, 2022.

At this juncture, this trial Court finds it inappropriate to allow any third-party interest group outside the named parties to intervene in this litigation. See MCR 2.209.³ Additionally, proposed intervenors have failed to persuade the Court they have established their burden of satisfactorily demonstrating their respective and collective interests are inadequately represented by a named party to this litigation warranting intervention. See e.g., *United States v Michigan*, 424 F3d 438, 443 (CA 6, 2005); MCR 2.209.

³ MCR 2.209 provides:

(A) Intervention of Right. On timely application a person has a right to intervene in an action:

- (1) when a Michigan statute or court rule confers an unconditional right to intervene;
- (2) by stipulation of all the parties; or
- (3) when the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(B) Permissive Intervention. On timely application a person may intervene in an action

- (1) when a Michigan statute or court rule confers a conditional right to intervene; or
- (2) when an applicant's claim or defense and the main action have a question of law or fact in common.

In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(C) Procedure. A person seeking to intervene must apply to the court by motion and give notice in writing to all parties under MCR 2.107. The motion must

- (1) state the grounds for intervention, and
- (2) be accompanied by a pleading stating the claim or defense for which intervention is sought.

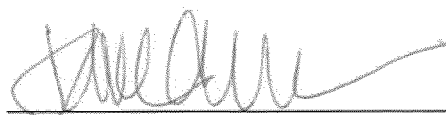
(D) Notice to Attorney General. When the validity of a Michigan statute or a rule or regulation included in the Michigan Administrative Code is in question in an action to which the state or an officer or agency of the state is not a party, the court may require that notice be given to the Attorney General, specifying the pertinent statute, rule, or regulation.

The Court notes, given the underlying issues presented by this case, there are many potential interest groups in varying forms who can allege a claim for intervention. Potential categories of interest groups that may request intervention could range from other governmental, religious, vocational, educational, and institutional organizations and bodies, to name only some. To allow intervention for *any* special interest group at the trial level invites intervention for *all* interest groups which certainly would “unduly delay or prejudice the adjudication of the rights of the original parties” at this juncture. MCR 2.209(B). And, as previously noted, this relief has been granted in the Supreme Court docket with no indication the instant proposed intervenors, or intervenors that have not yet made a similar request, will be prejudiced in any way by the trial Court deferring intervention or participation as *amici curiae* to the Supreme Court.

For all these reasons, and for the additional reasons argued in Defendants’ response in opposition⁴ to Right to Life of Michigan and Michigan Catholic Conference’s renewed motion to intervene pursuant to MCR 2.209, the motion is DENIED.

IT IS SO ORDERED.

Dated: 08/16/2022



Hon. JACOB JAMES CUNNINGHAM
Circuit Court Judge MY

⁴ See Defendants McDonald, Savit, Leyton, Siemon, Getting, Weise, and Worthy’s joint response filed August 11, 2022.