

STATE OF MICHIGAN
IN THE COURT OF APPEALS

SHERRY LOAR

Plaintiff,

Court of Appeals No. 294087

v

MICHIGAN DEPARTMENT OF HUMAN SERVICES,

and ISHMAEL AHMED, in his official capacity as
Director of Michigan Department of Human Services,

Defendants

Patrick J. Wright (P54052)
MACKINAC CENTER LEGAL FOUNDATION
Attorney for Plaintiff
140 West Main Street
Midland, MI 48640
(989) 631-0900

**PLAINTIFF'S ANSWER TO DEFENDANTS' MOTION TO DISMISS
PURSUANT TO MCR 2.116(C)(8) AND (C)(4)**

1. Admit.
2. Admit.
3. Admit that in 2006, the Michigan Employment Relations Commission (MERC) purported to certify Child Care Providers Together Michigan (Union) as the collective bargaining agent to represent day care providers. Deny that a collective bargaining agent could be named for day care providers without an act of the Legislature.
4. Admit that the Union and Michigan Home Based Child Care Council (MHBCCC) purported to enter into a collective bargaining agreement. Deny that the Union could act on Plaintiff's behalf without an act of the Legislature. Further deny that DHS was a party to the collective bargaining agreement or that the agreement by its express terms contemplates DHS' withholding of union dues.
5. Deny.
6. Deny.
7. Deny.
8. Admit that MCR 7.203 is a rule related to this Court's jurisdiction.
9. Deny.
10. Deny.
11. Deny that involvement of a non state official as a party deprives this Court of original jurisdiction over mandamus actions.
12. Deny.
13. Deny that Plaintiff is a member of the Union and further deny that this action must be brought in either MERC or in Circuit Court.
14. Deny.

Respectfully submitted,

Patrick J. Wright (P54052)
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140 W. Main Street
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Dated: October 28, 2009