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No. 18-1104

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In the  
UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

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MARK HORTON,  
Plaintiff-Appellant,

v.

MIDWEST GERIATRIC MANAGEMENT, LLC,  
Defendant-Appellee,

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**MOTION TO WITHDRAW THE STATE OF MICHIGAN  
FROM JUNE 13, 2018 AMICUS BRIEF  
IN SUPPORT OF DEFENDANT-APPELLEE**

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The State of Michigan moves to withdraw its support for the amicus brief filed in this case in support of defendant-appellee and provides the following in support of its motion:

1. On June 13, 2018, the State of Michigan under Attorney General Bill Schuette joined an amicus brief in support of defendant-appellee.
2. On January 1, 2019, the new Attorney General in Michigan, Dana Nessel, took office.
3. In Michigan, the Attorney General is the chief law enforcement officer of the State, *Fieger v. Cox*, 734 N.W.2d 602, 604

(Mich. Ct. App. 2007), and the Attorney General has the authority to intervene in any action in which the Attorney General believes the interests of the People of the State of Michigan are implicated, Mich. Comp. Laws §§ 14.28, 14.101.

4. Likewise, under federal law, the State Attorney General represents the legal position for the State. *Cf.* 28 U.S.C. § 2403(b); Fed. R. Civ. P. 5(a)(1)(B).

5. In this matter, Attorney General Nessel has determined that the amicus brief filed on June 13, 2018, no longer represents the legal position of the State of Michigan. Thus, she seeks to withdraw Michigan's support for this amicus brief.

Wherefore, the State of Michigan respectfully asks this Court to grant this motion to withdraw its support for the previously filed amicus brief.

Respectfully submitted,

Dana Nessel  
Attorney General

/s/ Fadwa A. Hammoud  
Fadwa A. Hammoud (P74185)  
Solicitor General  
Counsel of Record  
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Date: January 29, 2019

### **CERTIFICATE OF SERVICE**

I certify that on January 29, 2019, the foregoing document was served on all parties or their counsel of record through the CM/ECF system.

/s/ Fadwa A. Hammoud  
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