

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CATHOLIC CHARITIES
WEST MICHIGAN,

Plaintiff,

2:19-CV-11661-DPH-DRG

Hon. Denise Page Hood

v.

Hon. David R. Grand

MICHIGAN DEPARTMENT
OF HEALTH AND HUMAN
SERVICES; ROBERT GORDON, in
his official capacity as Director
of the Michigan Department of
Health and Human Services;
MICHIGAN CHILDREN'S
SERVICES AGENCY; JENNIFER
WRAYNO, in her official capacity as
Acting Executive Director of
Michigan Children's Services Agency;
DANA NESSEL, in her official
capacity as Attorney General of
Michigan.

**PLAINTIFF CATHOLIC
CHARITIES WEST
MICHIGAN'S MOTION TO
CHANGE VENUE**

Defendants.

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**PLAINTIFF CATHOLIC CHARITIES WEST MICHIGAN'S
MOTION TO CHANGE VENUE**

Plaintiff Catholic Charities West Michigan hereby moves this Court to change venue and transfer this action to the U.S. District Court for the Western District of Michigan, Southern Division, pursuant to 28 U.S.C. § 1406(a) or, alternatively, 28 U.S.C. § 1404(a). In accordance with Local Rule 7.1(a), counsel for Plaintiff conferred with Defendants' counsel to determine whether Defendants opposed this motion. On June 17, 2019, Defendants' counsel stated that Defendants opposed the motion and would not concur in the relief requested.

Dated: June 19, 2019

Respectfully submitted,

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**PLAINTIFF CATHOLIC
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**PLAINTIFF CATHOLIC CHARITIES WEST MICHIGAN'S BRIEF
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CONCISE STATEMENT OF ISSUES PRESENTED

1. Whether this district and division is the proper removal venue for a state court action filed with the Michigan Court of Claims in the Court of Appeals, District 3 (Grand Rapids), or whether the proper venue is the Western District of Michigan.

2. Whether this case should be transferred to the Western District in any event “[f]or the convenience of the parties and witnesses” and “in the interest of justice,” 28 U.S.C. § 1404(a), where Plaintiff initiated this action in Grand Rapids and all parties and witnesses reside in the Western District.

CONTROLLING OR MOST APPROPRIATE AUTHORITY

28 U.S.C. § 1441(a)

28 U.S.C. § 1406(a)

28 U.S.C. § 1404(a)

Keeth v. State Farm Fire & Cas. Co.,
No. 10-13219, 2011 WL 479903 (E.D. Mich. Feb. 7, 2011)

Haney v. Baker College,
No. 15-cv-10053, 2015 WL 1245956 (E.D. Mich. Mar. 18, 2015)

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Hite v. Norwegian Caribbean Lines,
551 F. Supp. 390 (E.D. Mich. Nov. 18, 1982)

INTRODUCTION

Plaintiff Catholic Charities West Michigan filed this lawsuit in state court after Defendants demanded that it begin recommending foster care and adoption placements with same-sex couples or lose the ability to serve Michigan's foster children. Faced with the impossible choice of violating its Catholic beliefs and convictions or shuttering its 70-plus-year-old ministry to foster kids, Catholic Charities filed suit to uphold its statutory and constitutional right to operate consistently with its faith. Like most reluctant plaintiffs, Catholic Charities filed its complaint in the closest court that could hear all of its claims—in this case, the Michigan Court of Claims in the Court of Appeals, District 3 (Grand Rapids). (*See* Wierenga Decl. ¶ 5, attached as Ex. 1.)

Defendants opted, however, to remove the case to federal court, invoking federal question jurisdiction based on the complaint's alleged violations of the U.S. Constitution.¹ But instead of removing the case to the Western District of Michigan—the correct removal venue for state

¹ By voluntarily removing the case to federal court, Defendants waived Eleventh Amendment immunity with respect to the pendent state claims. *See Lapidus v. Bd. of Regents of the Univ. Sys. of Georgia*, 535 U.S. 613, 624 (2002) (voluntary removal to federal court waives State's Eleventh Amendment immunity)

court actions filed and pending in Grand Rapids—Defendants decided to remove it over 150 miles away to this Court.

As explained below, the Court should correct this obvious error and transfer the case to the Western District. Indeed, transfer is warranted not only because the Western District is the proper venue under the federal removal statute, but also because Catholic Charities' selection of its home forum deserves substantial deference and the Western District is undeniably the more convenient forum for the witnesses and parties—all of whom reside in the Western District.

BACKGROUND

A. Catholic Charities and its Complaint

Catholic Charities West Michigan is a nonprofit religious organization affiliated with the Roman Catholic Diocese of Grand Rapids that has been feeding the hungry, counseling those who struggle, and building strong families for over 70 years. (Verified Compl. (“VC”) ¶¶ 13, 19–20.)² Today, it is one of western Michigan's largest social services providers, offering a broad spectrum of child

² The verified state court complaint is attached to Defendants' notice of removal, and can be found starting at page 10 of ECF No. 1-2. For ease of reference, this motion cites directly to the complaint's paragraphs.

welfare, family preservation, behavioral health, and community outreach services. (*Id.* ¶¶ 13, 20.) As a Catholic organization, Catholic Charities believes and adheres to the teachings and doctrines of the Catholic Church. (*Id.* ¶ 22.) Its services are thus offered in accord with the tradition of Catholic social teaching and designed to support individuals and families in their “emotional, social and spiritual development.” (*Id.* ¶ 13.)

In addition to its other ministries, Catholic Charities obeys historic teachings of scripture and the Church by providing foster care and adoption services to vulnerable children. (*Id.* ¶¶ 23–26, 53.) As one of Michigan’s largest providers, Catholic Charities has approximately 100 employees dedicated exclusively to its foster care and adoption ministry, and about 170 licensed foster homes ready to help children in need. (*Id.* ¶¶ 51, 59.) Catholic Charities has over 300 foster children in its care and custody on any given day, and serves about 450 foster children annually. (*Id.* ¶ 58.) In the past decade alone, Catholic Charities has placed around 4,500 children in loving adoptive or foster homes. (*Id.* ¶ 52.)

Given Catholic Charities proven track record of success, the State of Michigan has for years entered into agreements with Catholic Charities to provide critical services to abused, neglected, and abandoned children in Michigan’s foster care system. (*Id.* ¶ 115.) Under current agreements, the State reimburses Catholic Charities at agreed rates for certain services provided to foster children. (*Id.* ¶¶ 116–24.) The State partners with other private entities besides Catholic Charities. (*Id.* ¶ 113.) Because “[h]aving as many possible qualified adoption and foster parent agencies” is “a substantial benefit” to Michigan’s foster children, Mich. Comp. Laws § 722.124e(c), the State contracts with both faith-based and secular agencies. (VC ¶ 108.)

In 2015, the Michigan Legislature passed proactive legislation to ensure that faith-based organizations like Catholic Charities could continue to serve foster children for many more decades without being forced to give up or violate their religious beliefs. *See* Mich. Comp. Laws §§ 722.124e, 722.124f, 710.23g, 400.5a. The enacted legislation states that “a child placing agency” cannot be compelled to provide foster or adoption services or accept referrals from the State that conflict with its “sincerely held religious beliefs.” *Id.* §§ 722.124e(2), 722.124f(1),

710.23g. Nor may the government take “adverse action” against an agency that has declined any service or referral based on its religious beliefs. *Id.* §§ 722.124e(3), 722.124f(2), 710.23g, 400.5a. However, if an agency is unable to provide any service due to its religious beliefs, it must “[p]romptly refer” the “applicant” to a list of other agencies or to an “agency that is willing and able to provide the declined services.” *Id.* § 722.124e(4). Catholic Charities complies with these requirements.

In enacting these statutory protections, the Michigan Legislature found that faith-based organizations “have a long and distinguished history” of providing foster care and adoption services in Michigan, and that allowing them to continue serving consistent with their faith convictions “will benefit the children and families who receive publicly funded services.” *Id.* § 722.124e(1)(f) & (g). The Legislature further found that private foster care and adoption providers “have the right to free exercise of religion,” including the right to “abstain from conduct that conflicts with [their] sincerely held religious beliefs.” *Id.* § 722.124e(1)(e).

The conflict foreseen by the Michigan Legislature manifested itself shortly after Defendant Dana Nessel was elected attorney general

in 2018. Before her election, Ms. Nessel had stated that the 2015 statutory protections’ “only purpose” was “to discriminate against people” and she attacked religious providers like Catholic Charities as “hate mongers.” (VC ¶¶ 141–42.) After her election, AG Nessel’s words became action. She instructed the Michigan Department of Health and Human Services and its sub-agency the Michigan Children’s Services Agency (collectively, DHHS) to enter into a “friendly” settlement of pending litigation challenging the State’s longstanding practice of accommodating faith-based providers’ religious beliefs. (VC ¶¶ 125–130.) That settlement agreement—in which DHHS committed to violate Michigan law by excluding faith-based providers from serving Michigan’s foster children unless they agreed to recommend same-sex couples as foster and adoptive parents—was finalized in March 2019. (VC, Ex. 8.)

In April 2019, Defendants sent a directive to Michigan’s child placing agencies, including Catholic Charities, purporting to implement the settlement. (VC, Ex. 9.) The directive says that “regardless of whether the individual or couple being considered has identified a particular child for foster or adoptive placement,” Catholic Charities can

no longer refer a same-sex couple to another agency or decline to recruit, train, evaluate, or recommend a same-sex couple as prospective foster or adoptive parents. (VC, Ex. 9 at 1–2.) The directive further states that Defendants will terminate Catholic Charities’ contracts with the State, and thereby prohibit it from serving foster children through foster and adoption placements, if it “refuses to comply” with this new directive. (VC, Ex. 9 at 2.)³

Having been put to the choice of violating its Catholic beliefs and convictions or shuttering its ministry to foster children, Catholic Charities filed this lawsuit to uphold its statutory and constitutional right to serve needy children consistent with its faith. The complaint alleges violations of Mich. Comp. Laws §§ 400.5a, 710.23g, 722.124e, and 722.124f, violations of the free exercise, free speech, and equal protection clauses of the U.S. and Michigan Constitutions, and a violation of 42 U.S.C. § 604a. Catholic Charities filed its complaint in the closest court that could hear all of its claims—the Michigan Court of

³ A child placing agency cannot provide placement services for Michigan’s foster children unless it contracts with and accepts referrals from the State. (VC ¶ 112.)

Claims in the Court of Appeals, District 3 (Grand Rapids). (*See* Wierenga Decl. ¶ 5.)

B. The Michigan Court of Claims

The Michigan Court of Claims is a statutorily created court with exclusive jurisdiction over “any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ against the state or any of its departments or officers.” Mich. Comp. Laws § 600.6419(1)(a).

Although technically a trial court, the Court of Claims consists of four court of appeals judges made up from at least two of Michigan’s court of appeals districts. *Id.* § 600.6404(1). The Michigan Supreme Court assigns the judges for terms of two years. *Id.* § 600.6404(1) & (6). And the clerk of the court of appeals, which is located in Lansing, doubles as the clerk of the Court of Claims. *Id.* § 600.6410(1). The Court of Claims holds at least four sessions each year “in the various court of appeals districts,” *id.* § 600.6407, but will only “sit in the court of appeals district where a court of appeals judge serving as a judge of the court of

claims sits, unless otherwise determined by the chief judge of the court of claims,” *id.* § 600.6413.

Currently, three of Michigan’s four court of appeals districts are represented by the Court of Claims. Two of the appellate judges assigned to the Court of Claims are from District 1 (Detroit); one is from District 2 (Troy); and one from District 4 (Lansing).⁴ The only district not represented is District 3, which sits in Catholic Charities’ hometown of Grand Rapids. Even so, the Michigan Legislature did not intend to make ease of access to the Court of Claims dependent on who the Michigan Supreme Court assigns as judges. Plaintiffs “may file a cause of action in the court of claims in any court of appeals district.” *Id.* § 600.6410(2). As noted, Catholic Charities chose to file this lawsuit in its home district.

ARGUMENT

I. This case should be transferred to the Western District of Michigan because that district was the only proper venue for removal.

Defendants removed this case to the wrong district court. Under 28 U.S.C. § 1441(a), the state court action should have been removed to

⁴ Michigan Courts, Michigan Court of Claims, <https://courts.michigan.gov/coc/pages/default.aspx>.

the Western District of Michigan because Catholic Charities filed its complaint with the Court of Claims in the Court of Appeals, District 3 (Grand Rapids). Because courts may transfer an improperly removed case to the correct venue under 28 U.S.C. § 1406(a), this Court should grant the motion and transfer the case to the Western District.

A. Cases removed to the improper venue can—and should—be transferred to the correct one pursuant to 28 U.S.C. § 1406(a).

Improper removal to an incorrect district or division, where the court “otherwise has the jurisdictional power to hear the case, presents a procedural (as opposed to jurisdictional) defect curable by transfer to the proper venue.” *Keeth v. State Farm Fire & Cas. Co.*, No. 10-13219, 2011 WL 479903, at *2 (E.D. Mich. Feb. 7, 2011). Ordinarily, when a case is filed in an improper venue, 28 U.S.C. § 1406(a) applies. Section 1406(a) allows a district court that is not the proper venue to transfer a case, “in the interest of justice,” “to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a).

Although § 1406 “is not directly applicable to a case improperly removed,” this Court has held that the defect created by an improper removal is akin to an improper venue situation. *Keeth*, 2011 WL

479903, at *2. Concluding that § 1406(a)'s "tenets apply [to improperly removed cases] by analogy with equal force," courts in the Sixth Circuit, including this one, have determined that the appropriate response is to transfer the case to the proper venue under § 1406(a). *Id*; accord *Haney v. Baker College*, No. 15-cv-10053, 2015 WL 1245956, at *2 (E.D. Mich. Mar. 18, 2015) (granting motion to change venue where the case was removed to the improper federal venue); *McPeck v. Tandy, LLC*, No. 09-146-DCR, 2010 WL 399109, at *4 (E.D. Ky. Jan. 25, 2010) (proper remedy for a matter removed to an improper venue was to transfer the matter to the district court in the proper venue); *Smith v. Cariten Ins. Co.*, No. 08-171, 2008 WL 2550660, at *2 (E.D. Tenn. June 20, 2018) (transfer to a proper venue served the interests of justice, rather than a remand to state court). The Court should do the same here.

B. The proper venue is the Western District because the state action was filed and pending in Grand Rapids.

The Sixth Circuit has held that there can be only one proper federal venue "into which a state court action may be removed." *Eaton v. Meathe*, No. 1:11-cv-178, 2011 WL 1898238, at *1 (W.D. Mich. May 18, 2011) (citing *Kerobo v. Sw. Clean Fuels Corp.*, 285 F.3d 531, 535 (6th Cir. 2002)). That determination is governed by 28 U.S.C. § 1441(a),

which states that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction[] may be removed ... to the district court of the United States for the district and division embracing the place where such action is pending.”

The Eastern District is not the proper *venue* under § 1441(a). As detailed above, Catholic Charities initiated this action in the Michigan Court of Claims *in the Court of Appeals, District 3* (Grand Rapids). This was expressly authorized by Michigan law. *See* Mich. Comp. Laws § 600.6410(2) (allowing plaintiffs to “file a cause of action in the court of claims in any court of appeals district”). Because Catholic Charities properly filed the case in Grand Rapids, this Court should transfer it to the Western District—the only proper venue for federal removal purposes.

C. Defendants improperly based removal to this district on a *random* state court judge assignment.

Defendants know full well that Catholic Charities is based in Grand Rapids and had filed this action with the Court of Claims there. So why did they remove this case to a federal district court over 150 miles away? Because the state judge *randomly* assigned to the case works in Detroit. Indeed, Defendants contend that “the Eastern District

of Michigan is the appropriate venue” because “Judge Cynthia Stephens is the court of appeals judge assigned to this matter, and she sits in Michigan Court of Appeals District 1 which is located in Detroit, Michigan.” (Notice of Removal, ECF No. 1 at 5.) Although Judge Stephens did not even have the time to issue a *single* ruling or order, Defendants claim that removal to this district and division is proper because Michigan law says “the court of claims shall sit in the court of appeals district where a court of appeals judge serving as a judge of the court of claims sits.” (*Id.*) (quoting Mich. Comp. Laws § 600.6413). This is wrong for several reasons.

First, federal law governs removal, not state law. And federal courts generally determine the proper removal venue based on where the state action is *filed*. *E.g.*, *Helmi v. Solvay Pharms., Inc.*, No. 5:05-CV-36, 2005 WL 1309152, at *2 (W.D. Mich. June 1, 2005) (“Plaintiffs *filed* this action in the Eaton County Circuit Court, which is within the Western District of Michigan, Southern Division. Therefore, venue of this removed action is proper in this Court.”) (emphasis added); *Rinks v. Hocking*, No. 1:10-cv-1102, 2011 WL 691242, at *2 (W.D. Mich. Feb. 16, 2011) (venue proper in Western District of Michigan where the plaintiff

“filed” the action in Kent County). Defendants do not, and cannot, point to any legal authority supporting the position that the proper venue for removal purposes depends entirely on a random judge assignment.

Second, the state statute that Defendants rely on does not contemplate federal removal. All it says is that the Court of Claims will “sit” in the district “where a court of appeals judge serving as a judge of the court of claims sits.” Mich. Comp. Laws § 600.6413. “Sit” for what? Is this case specific? Or does it refer to the four or more sessions the court holds each year? *See id.* § 600.6407. And what about the fact that “the chief judge of the court of claims” can unilaterally determine at any time that the Court of Claims “sits” somewhere else. *Id.* § 600.6413. Or the fact that “another judge assigned to sit as a judge of the court of claims may continue, hear, determine, and sign orders and other documents” in a case if the initial judge is “disabled, disqualified, or otherwise unable to attend to [the] matter.” *Id.* § 600.6404. Surely, the proper venue for federal removal purposes is not—and cannot be—so fluid and uncertain.

Third, allowing the proper venue for removal purposes to be determined “by blind draw,” *id.* § 600.6410(3), will discourage state

court litigants from asserting federal constitutional claims against the State of Michigan. Indeed, because the Eleventh Amendment prohibits state claims from being asserted against state agencies and officials in federal court, *see Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 117 (1984), the *only* court in the entire state that can initially adjudicate both state *and* federal constitutional claims against the state government is the Michigan Court of Claims. *See* Mich. Comp. Laws § 600.6419(1) (describing court’s exclusive jurisdiction).⁵ If a random judge assignment can dictate the proper federal venue for removal from the Court of Claims, as Defendants contend, then state litigants will be deterred from raising federal constitutional claims for fear that the State will remove them to a federal district court far away from home. Plaintiffs residing in western Michigan, such as Catholic Charities, will be particularly disadvantaged given the current makeup of the Court of Claims, which has three of its four judges based in the Detroit area.

⁵ Although the Eleventh Amendment prohibits plaintiffs from asserting state law claims against the state government in federal court, the State can subsequently waive its sovereign immunity over those claims by voluntarily removing the case to federal court, as Defendants decided to do here. *See Lapidus*, 535 U.S. at 624 (voluntary removal to federal court waives State’s Eleventh Amendment immunity).

In short, removal from the Michigan Court of Claims should (and does) depend on where the case was initiated and pending, not on where a randomly assigned judge sits. The Western District is thus the proper venue here.

II. Alternatively, this Court should transfer the case to the Western District under 28 U.S.C. § 1404(a).

Under 28 U.S.C. § 1404(a), this Court may “[f]or the convenience of the parties and witnesses” and “in the interest of justice,” transfer this case “to any other district or division where it might have been brought.” In deciding whether to transfer a case under § 1404(a), courts in the Sixth Circuit have identified a number of non-exclusive factors in weighing whether to transfer, including the (1) weight accorded the plaintiff’s choice of forum, (2) convenience of the parties and witnesses, (3) location of relevant evidence, (4) locus of the operative facts, (5) ability to compel attendance of unwilling witnesses, and (6) the relative means of the parties, among other things. *See Eaton v. Meathe*, No. 1:11-cv-178, 2011 WL 1898238, *2 (W.D. Mich. May 18, 2011); *IFL Grp. v. World Wide Flight Servs.*, 306 F. Supp. 2d 709, 712 (E.D. Mich. 2004).

When those factors are considered as whole, they weigh strongly in favor of transferring the case to the Western District.

A. Catholic Charities’ decision to file its lawsuit in Grand Rapids is entitled to substantial deference.

“Courts presume that plaintiffs choose convenient forums, so a plaintiff’s choice of forum is given deference.” *Jones v. IPX Int’l. Equatorial Guinea, S.A.*, 920 F.3d 1085, 1094 (6th Cir. 2019). Thus, “unless the balance is strongly in favor of the defendant, the plaintiff’s choice of forum should rarely be disturbed.” *Dowling v. Richardson-Merrell, Inc.*, 727 F.2d 608, 612 (6th Cir. 1984).

Here, Catholic Charities initially filed its lawsuit in the Michigan Court of Claims. Under Michigan law, it had the option of filing its complaint “in the court of claims in any court of appeals district”—meaning either District 1 (Detroit), District 2 (Troy), District 3 (Grand Rapids), or District 4 (Lansing). *Id.* § 600.6410(2). It naturally chose to file suit in its hometown of Grand Rapids, a choice that must be given “considerable weight,” *Hanning v. New England Mut. Life Ins. Co.*, 710 F. Supp. 213, 214 (S.D. Ohio 1989), and that supports transfer to the Western District.

B. The Western District is more convenient for the parties and witnesses.

Transfer to the Western District is also warranted because it is easily the more convenient forum for the parties and witnesses.

Both the Plaintiff and Defendants here reside in the Western District. Catholic Charities has its main office in Grand Rapids, and conducts its ministry *exclusively* in counties located in the Western District. (VC ¶¶ 33–34; *see also* Slater Decl. ¶¶ 3–5, attached as Ex. 2.) Similarly, given that Defendants are state agencies and officials, they have their main offices in Lansing and therefore also reside in the Western District. Moreover, Defendant DHHS has local offices all throughout western Michigan.

The convenience of the witnesses likewise compels transfer to the Western District. Because Defendants are based in Lansing, the decision makers behind the challenged policy are located in the Western District. As this case proceeds, those individuals will be called upon to explain the rationale and motivation for applying the new policy to faith-based foster care and adoption providers like Catholic Charities.

Catholic Charities' likely witnesses also reside in the Western District. As detailed in Chris Slater's declaration, all of Catholic Charities' employees live and work in western Michigan. (Slater Decl. ¶ 7.) Thus, any employee needed to describe or answer questions about Catholic Charities' foster care and adoption ministry resides in the

Western District. (*Id.*) So does Catholic Charities' CEO, Chris Slater, who already submitted an affidavit in support of Catholic Charities' motion for preliminary injunction filed in state court, providing testimony about Catholic Charities' religious beliefs, foster care and adoption ministry, and the effect of Defendants' challenged policy. (ECF No. 1-3 at 34–42; *see also* Slater Decl. ¶ 6.) This is significant, as courts have consistently concluded that “greater weight must be accorded inconvenience to witnesses whose testimony is central to the claim or whose credibility is likely to be an important issue.” *Rinks v. Hocking*, No. 1:10-cv-1102, 2011 WL 691242, at *3 (W.D. Mich. Feb. 16, 2011).

Because the convenience of the parties and witnesses weighs overwhelmingly in favor of transfer to the Western District, this Court should grant the motion to change venue. *See Hite v. Norwegian Caribbean Lines*, 551 F. Supp. 390, 395 (E.D. Mich. Nov. 18, 1982) (transferring removed case to Western District of Michigan where plaintiff resided in Western District, defendant did business in Western District, and witnesses resided in Western District).

C. Other relevant factors weigh in favor of transferring the case to the Western District.

The other factors likewise weigh in favor of granting the motion and transferring this case to the Western District. For example:

- Given the location of the parties and witnesses, all of the relevant evidence is in the Western District;
- The locus of the operative facts—*i.e.*, the alleged violations of Catholic Charities’ statutory and constitutional rights resulting from Defendants’ actions—is in the Western District;
- The Western District will be able to compel the attendance of unwilling witnesses given its proximity to likely witnesses, whereas the Eastern District will not be able to do so (*see* Fed. R. Civ. P. 45); and
- The relative costs and burdens that Catholic Charities (a nonprofit organization) would incur litigating this case in a forum more than 150 miles away would be much greater than those experienced by the State if the case proceeds in the Western District.

Simply put, all of the relevant factors support a change of venue to the Western District. This is hardly surprising. Catholic Charities is based in and performs *all* of its ministry in the Western District. It would make little sense to force it to travel over 300 miles (150+ miles each way) to attend court hearings in the Eastern District, especially when it has *no* contacts with that district and Defendants themselves reside in the Western District.

CONCLUSION

For the foregoing reasons, Plaintiff Catholic Charities West Michigan respectfully requests that this Court grant its motion to change venue and transfer this case to the Western District of Michigan.

Dated: June 19, 2019

Respectfully submitted,

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**Application for admission
forthcoming*

*Attorneys for Plaintiff Catholic
Charities West Michigan*

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2019, the foregoing Motion to Change Venue and related exhibits were filed with the Clerk of the Court using the ECF system, which will provide electronic copies to counsel of record.

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EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CATHOLIC CHARITIES
WEST MICHIGAN,

Plaintiff,

2:19-CV-11661-DPH-DRG

v.

Hon. Denise Page Hood

Hon. David R. Grand

MICHIGAN DEPARTMENT
OF HEALTH AND HUMAN SERVICES;
ROBERT GORDON, in his official capacity as
Director
of the Michigan Department of Health and Human
Services; MICHIGAN CHILDREN'S SERVICES
AGENCY; JENNIFER WRAYNO, in her official
capacity as Acting Executive Director of Michigan
Children's Services Agency; DANA NESSEL, in
her official capacity as Attorney General of
Michigan.

**DECLARATION OF JAMES R.
WIERENGA IN SUPPORT OF
PLAINTIFF'S MOTION TO CHANGE
VENUE**

Defendants.

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**Application for admission forthcoming*

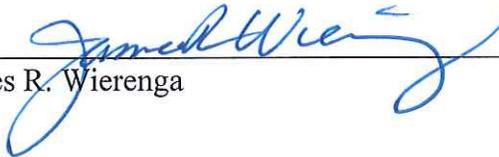
**DECLARATION OF JAMES R. WIERENGA IN SUPPORT OF PLAINTIFF'S MOTION
TO CHANGE VENUE**

I, James R. Wierenga, under penalty of perjury, hereby declare and state as follows:

1. I am over 18 years of age and of sound mind. I have personal knowledge of the facts stated in this declaration and, if called upon, could testify competently to these facts.
2. I am a named partner at the law firm of David, Wierenga & Lauka, PC, which has its office in Grand Rapids, Michigan.
3. My law firm, David, Wierenga & Lauka, PC, serves as local counsel to Catholic Charities West Michigan in above-captioned matter, and I am the attorney primarily responsible for handling the case on behalf of my firm.
4. As local counsel, my firm was responsible for filing Catholic Charities' initial complaint and motion for preliminary injunction in the Michigan Court of Claims, both of which were filed in Grand Rapids.
5. On April 25, 2019, my firm filed Catholic Charities' complaint in the Michigan Court of Claims in the Court of Appeals, Third District, which is located in Grand Rapids.
6. On May 15, 2019, my firm filed Catholic Charities' motion for preliminary injunction with the court of appeals district in Grand Rapids.

I declare under penalty of perjury pursuant to 28 U.S.C. 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 18th day of June 2019, in Grand Rapids, Michigan.



James R. Wierenga

EXHIBIT 2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CATHOLIC CHARITIES
WEST MICHIGAN,

Plaintiff,

2:19-CV-11661-DPH-DRG

v.

Hon. Denise Page Hood

Hon. David R. Grand

MICHIGAN DEPARTMENT
OF HEALTH AND HUMAN
SERVICES; ROBERT GORDON, in
his official capacity as Director
of the Michigan Department of
Health and Human Services;
MICHIGAN CHILDREN'S
SERVICES AGENCY; JENNIFER
WRAYNO, in her official capacity as
Acting Executive Director of
Michigan Children's Services Agency;
DANA NESSEL, in her official
capacity as Attorney General of
Michigan.

**DECLARATION OF CHRIS
SLATER IN SUPPORT OF
PLAINTIFF'S MOTION TO
CHANGE VENUE**

Defendants.

_____ /

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**DECLARATION OF CHRIS SLATER IN SUPPORT OF
PLAINTIFF'S MOTION TO CHANGE VENUE**

I, Chris Slater, under penalty of perjury, hereby declare and state
as follows:

1. I am over 18 years of age and of sound mind. I have personal knowledge of the facts stated in this declaration and, if called upon, could testify competently to these facts.

2. I am the CEO of Catholic Charities West Michigan, and have served in that position since July 2018. I first began working at Catholic Charities in 2015. Before being named CEO, I served as Catholic Charities' CFO and interim CEO. I received a bachelor's degree in business administration from Western Michigan University in 2009. I also am a certified public accountant.

3. Founded in 1947, Catholic Charities is a nonprofit religious organization affiliated with the Roman Catholic Diocese of Grand Rapids. It was created to assist the Diocese and its Bishop to carry out the Church's ministry to the poor, weak, and distressed—a ministry that is commanded by the Catholic faith.

4. Catholic Charities' principal place of business is located at 40 Jefferson Avenue, SE, Grand Rapids, Michigan 49503.

5. Catholic Charities performs all of its ministry in western Michigan. As an exercise of its religious beliefs, Catholic Charities provides a wide-array of child welfare, family preservation, behavioral

health and counseling, and community outreach services throughout 18 counties in western Michigan. Those counties are Allegan, Barry, Benzie, Grand Traverse, Ionia, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Montcalm, Muskegon, Newaygo, Oceana, Osceola, and Ottawa.

6. If this case proceeds, I anticipate that my testimony will be necessary to establish and explain Catholic Charities' religious beliefs, the organization's 70+ year old ministry to foster children, and the devastating effect that enforcement of Defendants' new policy—which is being challenged in this case—will have on the organization's religious beliefs and ministry to foster children.

7. The testimony of other employees will also be needed to explain specifics about Catholic Charities' daily ministry to foster children, including but not limited to the organization's longstanding partnership with the State to perform services for Michigan's foster children. Given that Catholic Charities conducts its ministry exclusively in western Michigan, every employee that could potentially serve as a witness in this case lives and works in the Grand Rapids area or one of its nearby counties.

8. Catholic Charities decided to file its state lawsuit in Grand Rapids, because that is where Catholic Charities and the majority of its employees are located.

9. It would be very burdensome for me and other Catholic Charities employees if we had to travel to Detroit for this case. In addition to the cost involved in traveling across the state (e.g., fuel, food, lodging costs), we would have to take significantly more time off of work to travel to Detroit than we otherwise would have to if the case were in Grand Rapids.

10. Taking additional time off of work to travel for this case would not only affect Catholic Charities' internal operations, but it also would interfere with Catholic Charities' service to children and their families by taking critical employees away from their day-to-day jobs for longer periods of time. Moreover, those employees with young children (myself included) would have to make arrangements for childcare if we were forced to travel to Detroit for this case.

I declare under penalty of perjury pursuant to 28 U.S.C. 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 18th day of June 2019, in Grand Rapids, Michigan.

A handwritten signature in black ink, appearing to read "C. Slater", written over a horizontal line.

Chris Slater, CEO
Catholic Charities West Michigan