

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SAWARIMEDIA LLC,
DEBORAH PARKER, JUDY
KELLOGG and PAUL ELY,

Plaintiffs,

v.

Case No. 4:20-CV-11246
Hon. Matthew F. Leitman
Mag. J. Michael J. Hluchaniuk

GRETCHEN WHITMER, Governor of
Michigan, JOCELYN BENSON,
Secretary of State of Michigan and
JONATHAN BRATER, Director of the
Michigan Bureau of Elections, in their
official capacities,

Defendants.

**PLAINTIFF SAWARIMEDIA LLC'S RESPONSE TO DEFENDANTS'
EMERGENCY MOTION FOR STAY PENDING EMERGENCY APPEAL**

Plaintiff SawariMedia, LLC opposes Defendants' motion for a stay of the injunction here because there is no legitimate ground for the stay. Plaintiff incorporates and relies upon its opening brief, its reply brief, its objections to the Second Proposed Remedy and its Notice of intent to rely on certain authority.

As to the likelihood of success on the merits, even if *de novo* review were appropriate rather than the abuse-of-discretion standard that applies, the State would not be likely to succeed because the established law is squarely against it. Notably,

the State continues to willfully ignore its burden of proof as reflected in *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 429, 126 S. Ct. 1211, 1219 (2006), as well as the *Aschcroft* and *Playboy* lines of cases, which require the State at this stage to produce evidence and to demonstrate – as applied here – *both* that Plaintiff’s proposed remedy is not the least restrictive practicable means to vindicate appropriate interests and that the State’s proposed remedy is instead the least restrictive means to accomplish those ends. The State’s parroting of an interest in vindicating unconstitutional State-law provisions is patently insufficient.

The same irreparable harm to Plaintiffs continues to occur with every passing day that an injunction might be stayed.

The State’s interest in removing the injunction, so that it could continue to impose unconstitutional requirements, is not legitimate in the absence of a compliant alternative.

The public’s interests – usually melding with the State, but diverging here because of the State’s approach – also include the interests in exercising the citizens’ right to direct democracy and to vote for (or against) the initiative on their own accord.

Respectfully Submitted,

June 24, 2020

By: /s/ Saura J. Sahu
Saura J. Sahu (P69627)

PROOF OF SERVICE

I hereby certify that on June 24, 2020, I caused the aforementioned and attached document to be electronically filed through the Court's electronic CM/ECF filing system, which will serve a copy and notice of filing on every attorney of record for Defendants. I also caused to be served via email the following parties:

Judy Kellogg, *In Pro Per*, judy_kellogg95@gmail.com
Deborah Parker, *In Pro Per*, alinosi@yahoo.com
Paul Ely, *In Pro Per*, tlc.rgeenyard@yahoo.com

I declare under the penalty of perjury that the above statements are true to the best of my knowledge, information, and belief.

Respectfully Submitted,

June 24, 2020

By: /s/ Saura J. Sahu
Saura J. Sahu (P69627)
CLANCY ADVISORS, PLC
Attorneys for Plaintiff SawariMedia LLC
Saura J. Sahu (P69627)
230 Nickels Arcade
Ann Arbor, MI 48104
(734) 780-7595
sahu@clancyadvisors.com