STATE OF MICHIGAN

COURT OF CLAIMS

THE YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF KALAMAZOO, MICHIGAN, on behalf of itself and its clients,

Plaintiff,

v

Case No. 24-000093-MM

STATE OF MICHIGAN and DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Hon. Brock A. Swartzle

Defendants,

and

THE PEOPLE OF THE STATE OF MICHIGAN,

Intervening Defendant.
_____/

OPINION AND ORDER GRANTING SUMMARY DISPOSITION FOR LACK OF STANDING

Central to this case are two laws approved by the voters of Michigan, one statutory and one constitutional. In 1988, the voters of Michigan voted to ban state tax dollars from funding abortions through Medicaid. MCL 400.109a. Decades later, the voters of Michigan voted in 2022 to create "a fundamental right to reproductive freedom," including the ancillary right to "effectuate decisions" about such freedom. Reproductive Freedom for All amendment, Const 1963, art 1, § 28(1) (RFFA). Left undefined in the RFFA was the term "effectuate."

The next year, as a follow-up to the amendment, our Legislature enacted the Reproductive Health Act, MCL 333.26101 *et seq.* (RHA). As part of this act, our Legislature repealed several

provisions dealing with abortion. It did not, however, advance the bills (HB 4958 and 4959) that would have repealed the statutory prohibition on state funding of abortions through Medicaid—thus, the statutory prohibition remains on the proverbial books.

According to plaintiff, the Young Women's Christian Association of Kalamazoo, Michigan (YWCA), the voters of Michigan made clear with the most recent constitutional amendment, as did our Legislature with enactment of the RHA, that the taxpayers of Michigan are required to fund abortions for indigent women through Medicaid. The YWCA asserts that the prior voter-approved ban on state funding of abortions is unconstitutional and must be ignored.

Based on the relevant law and arguments made by the parties, there remain significant questions on whether the term "effectuate" can carry the weight asked of it by the YWCA. With that said, the Court will not reach the merits of the claims because the YWCA lacks direct harm to itself, lacks affected members, lacks sufficient contractual relationship with beneficiaries of its support—in short, lacks standing to bring this lawsuit. Accordingly, for the reasons set forth here, the Court will grant the People's motion for summary disposition.

I. BACKGROUND

A. *ROE* AND ITS AFTERMATH

In *Roe v Wade*, 410 US 113; 93 S Ct 705; 35 L Ed 2d 147 (1973), the United States Supreme Court held that the right of privacy in the federal Constitution barred a state from banning abortion before viability or even after viability when necessary to preserve the mother's life or health. Shortly after, Congress reacted in part by passing the Hyde Amendment, PL 94-439, § 209; 90 Stat 1434; that law became effective in 1977 and prohibited the use of federal funds to cover the costs of most abortion care, including through the federal portion of Medicaid.

A decade later, the voters of Michigan approved a similar statutory prohibition against the use of state Medicaid funds to reimburse the costs of most abortion care. MCL 400.109a.[1] In 1992, our Supreme Court upheld the validity of section 109a against an equal-protection challenge by the plaintiffs, a minor eligible for medical assistance payments under the state Medicaid program and her mother, who argued that the law provided unequal treatment to two classes of indigent, pregnant women—those who chose childbirth and those who chose abortion. *Doe v Dep't of Social Servs*, 439 Mich 650; 487 NW2d 166 (1992). The Court held that the Equal Protection Clause of Michigan's Constitution of 1963 permits the state to fund the expenses of childbirth even though the state does not fund abortions. *Id*. at 681-682.

Congress amended the Hyde Amendment in 1993 to provide coverage for abortions resulting from rape or incest. PL 103-112, § 509; 107 Stat 1082. In *Planned Parenthood Associates of Mich v Engler*, 73 F3d 634, 638 (CA 6, 1996), the United States Court of Appeals for the Sixth Circuit addressed the interplay between the 1994 Hyde Amendment and state laws restricting abortion funding and held that a state participating in Medicaid must fund abortions of pregnancies resulting from rape or incest, as well as abortions necessary to save the life of the mother.

Then, in 1997, our Legislature amended the Social Welfare Act to address the misuse of public funds for elective abortions "[i]n light of evidence that abortion providers, in conjunction with third-party payors, may have devised and implemented plans for reimbursing services in

[1] Section 109a was proposed by initiative petition and adopted by both chambers of our Legislature in 1987. In the November 1988 general election, the voters of Michigan approved the law by referendum by a vote margin of 56.9% to 43.1%.

violation of the intent of" the earlier citizen-approved law. MCL 400.109d(2). Our Legislature found that "any practice of separating or unbundling services directly related to the performance of an abortion for the purpose of seeking medical reimbursement, with those funds thereby subsidizing in whole or in part the cost of performing an abortion, is an inappropriate use of taxpayer funds." It recognized that particular services related to performing an abortion can also be part of legitimate and routine obstetrical care, and so clarified that "[u]nacceptable requests for reimbursement include those services which would not have been performed, but for the preparation and performance of a planned or requested abortion." MCL 400.109d(4).

At the same time, our Legislature enacted MCL 400.109e "as a necessary clarification of, and enforcement mechanism for," the earlier citizen-approved law. MCL 400.109e(2) provides that a "health professional or health facility or agency shall not seek or accept reimbursement for the performance of an abortion knowing that public funds will be or have been used in whole or in part for the reimbursement in violation of [MCL 400.109a]." MCL 400.109e(3) imposes a civil penalty on any person who violates this section.

B. *DOBBS* AND ITS AFTERMATH

The grounding of any constitutional right to abortion changed in 2022 when the United States Supreme Court decided *Dobbs v Jackson Women's Health Org*, 597 US 215; 142 S Ct 2228; 213 L Ed 2d 545 (2022). In *Dobbs*, the Court held that procuring an abortion is not a fundamental right under the federal Constitution, effectively overturning *Roe* and returning the authority to regulate abortion to Congress and the individual states.

In reaction to the *Dobbs* decision, a proposed constitutional amendment to protect "reproductive freedom" was put on Michigan ballots for the November 2022 general election.

Voters approved Proposal 3 by a vote margin of 56.7% to 43.3%. Under the enacted RFFA, individuals have "a fundamental right to reproductive freedom," including the right to abortion care. Const 1963, art 1, § 28(1). Any statute or regulation that denies, burdens, or infringes on that reproductive freedom must do so only to protect the health of the individual seeking care, achieve the goal by the least restrictive means, be consistent with accepted clinical standards of practice and evidence-based medicine, and not infringe upon an individual's autonomous decision-making. Const 1963, art 1, § 28(1)-(4). Although the RFFA is self-executing by its own terms, Const 1963, art 1, § 28(5), our Legislature passed the RHA as implementation legislation for the constitutional amendment, MCL 333.26103. Under the RHA, for example, certain relief can be sought for violation of reproductive freedom, including an injunction or damages. MCL 333.26105.

C. PRESENT LAWSUIT

The YWCA sued the State of Michigan and the Department of Health and Human Services (DHHS) "on behalf of itself and its clients." According to the complaint, the YWCA is a nonprofit organization with a mission "to eliminate racism, empower women, stand up for social justice, help families, and strengthen communities." The YWCA maintains a Reproductive Health Fund (Fund) through which it provides financial support to its clients who are Kalamazoo County residents receiving "reproductive, sexual, and gender-affirming health care services." The YWCA's largest expenditure from the Fund is for abortion care.

The YWCA makes five claims in its complaint. In Count I, the YWCA asserts that the state's Medicaid ban on abortion care violates "the fundamental right to reproductive freedom of Plaintiff and its clients." In Count II, the YWCA contends that the state's ban favors one reproductive choice (pregnancy) over another (abortion), in violation of the anti-discrimination

provisions of the RFFA and RHA. Similarly, in Count III, the YWCA argues that the ban discriminates on the basis of sex. As for Counts IV and V, the YWCA asks for a writ of mandamus and declaratory relief, respectively, consistent with its allegations in Counts I thru III.

The State of Michigan and the DHHS made clear at the outset of the lawsuit that they would not defend the constitutionality of the state's ban on Medicaid funds for most abortions. Because our judicial system requires zealous advocacy to function properly, the Court ordered that the People of the State of Michigan participate as intervening defendant. The People moved for summary disposition under MCR 2.116(C)(8), to which the YWCA and the State of Michigan/DHHS opposed. In response to the Court's order, the parties supplemented their briefs on the question of the YWCA's standing to bring this lawsuit.

With respect to standing, the People argue that the YWCA does not have standing to bring suit because it cannot demonstrate an interest or particularized injury on its own behalf or claim one on behalf of its clients, while the YWCA argues that it has standing under multiple sources of law, specifically MCL 600.2041(3) and MCR 2.201(B)(4) (taxpayer standing); MCL 333.26105 (cause of action under the RHA); MCR 2.605 (declaratory action), and *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349; 792 NW2d 686 (2010) (*LSEA*) (special injury/right or substantial interest). For their part, the State of Michigan and the DHHS argue that the YWCA has standing to challenge the constitutionality of the state ban, but lacks standing on Counts IV and V.

D. HEARING ON THE PEOPLE'S MOTION

At the hearing on the People's motion for summary disposition, the Court explored both the matter of standing and the merits of the YWCA's claims. On standing, the YWCA clarified several important points. First, the YWCA was not advancing associational standing as a basis for

bringing this case. Second, it reiterated that it is a nonprofit that spends tens of thousands of dollars on abortion care for its "clients," and it maintained that, if Michigan funded abortion care through Medicaid, it would spend similar funds elsewhere, possibly on pregnant women who want an abortion but do not qualify for Medicaid. Third, the YWCA is not a membership organization (unlike some YMCAs or YWCAs in other cities), so the clients it serves have no membership status with the entity. Fourth, the YWCA is not alleging that any of its clients were denied any medical care, abortion-related or otherwise. Fifth, its only third-party standing argument relates to the cause of action found in the RHA, MCL 333.26105.

On the merits, several preliminary points were explored. For its part, the RFFA does not appear to be limited narrowly to care received for an actual pregnancy or abortion, but instead extends more broadly to all "reproductive freedom." To see this, consider the very first sentence of the amendment: "(1) Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care." Grammatically, the "which entails" subordinate clause that follows the main clause makes explicit that pregnancy is a necessary consequent of "reproductive freedom," but the subordinate clause in no way limits or restricts the "fundamental right to reproductive freedom." Moreover, the "including" phrase includes things like contraception and sterilization, which, although related to pregnancy, are related in the negative sense, i.e., to prevent a pregnancy in the first place. Thus, regardless of how the proposed amendment might have been presented to voters prior to the November 2022 general election, the wording of the amendment extends beyond care related specifically to an actual pregnancy or abortion.

This raises an interesting matter explored during the hearing. The YWCA characterizes the RFFA as a "sea change" in the law, with the creation of rights significantly broader than those that existed under *Roe*, *Planned Parenthood of Southeastern Pennsylvania v Casey*, 505 US 833; 112 S Ct 2791; 120 L Ed 2d 674 (1992), and their progeny. If the YWCA's position is correct—specifically as to Count I, that the voters of Michigan in 2022 enacted an amendment that requires state funding so that indigent individuals can "make and effectuate" all decisions related to pregnancy—then there is no reason that the logic of this position would not extend to *all* services related to *all* "reproductive freedom." Thus, for example, there would seemingly now be a constitutional right in Michigan to have state means-tested funding for such diverse services as abortion, in-vitro fertilization, vasectomy reversals, and the like. Counsel for the YWCA conceded that this very well could be the case under their reading of the amendment.

Separate from Count I, the parties addressed the discrimination claims of Counts II and III. The parties had earlier agreed not to address Counts IV and V at this time, as the issues raised by the People in their motion, including in the supplemental briefing on standing, might be dispositive of the entire case. At the end of the hearing, the Court asked the YWCA to make a supplemental filing with regard to its "clients," specifically, to explain the relationship between the YWCA and its clients. The YWCA thereafter submitted a factual proffer explaining the relationship.

The YWCA submitted a declaration from Susan Rosas, the CEO of the YWCA. Rosas explains that the YWCA has four strategic focus areas to advance its mission: (1) advocacy and system changes; (2) improving the lives of children; (3) caring for victims of abuse; and (4) promoting maternal and child health. YWCA launched the Fund in 2021 to provide comprehensive financial support to Kalamazoo County residents to expand reproductive rights and increase access to reproductive health services by eliminating financial and transportation barriers.

Support from the Fund is available to Kalamazoo County women, children, and families regardless of proof of insurance, citizenship status, or income level. Through the Fund, the YWCA offers financial support for abortion services in collaboration with community partners and health providers. The YWCA "contracts with and/or has memoranda of understanding ('MOU') with several providers for its clients' benefits." The YWCA uses the term "client" to refer to individuals using any of its services.

Relevant here, a client who seeks abortion care must complete a confidential-intake process with a YWCA representative. The intake process confirms the client's residence and demographic information. The client must identify the services being sought and disclose whether she has medical insurance, and, if so, whether it is Medicaid, private insurance, or another form of insurance. The client must have an appointment with a care provider that has an MOU with the YWCA before the intake process can be completed.

The client will discuss her plan of care with the YWCA. The client must indicate whether the appointment is for a medical or procedural abortion, the date and time of the appointment, the gestational age of the pregnancy at the time of the appointment, and the identity of the abortion provider. The client must also identify the total costs for abortion care and the client contribution she is able to provide, if any.

Once the intake process is complete, the YWCA assesses the client's financial need and determines the amount of funding the YWCA will provide. If all requirements are met, then the YWCA offers to provide a specified amount of funds; there is no written contract between the YWCA and the client. The YWCA memorializes the understanding with a voucher. The voucher contains a unique identification number, the amount the YWCA will pay, the name of the abortion

provider, and the date and time of the client's appointment. The voucher is then sent to the abortion provider. Once the appointment is complete, the provider submits the voucher to the YWCA for payment. The YWCA matches the voucher to the client record and pays the provider the amount specified in the voucher.

With the YWCA's clarification of its relationship with its clients, the People's motion is now ready for resolution.

II. ANALYSIS

The Court first must address the People's argument that the YWCA lacks standing to bring this action. Standing is appropriately challenged under MCR 2.116(C)(8) or (C)(10). *Pueblo v Haas*, 511 Mich 345, 354 n 3; 999 NW2d 433 (2023). Although the People initially brought their motion under MCR 2.116(C)(8), because the Court has considered evidence outside the pleadings, the Court considers this motion under MCR 2.116(C)(10). *Van Buren Charter Twp v Visteon Corp*, 319 Mich App 538, 544; 904 NW2d 192 (2017).

A motion under MCR 2.116(C)(10) tests the factual sufficiency of a claim. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019). The Court considers all evidence submitted by the parties in the light most favorable to the party opposing the motion. *Id*. A motion under MCR 2.116(C)(10) may be granted when there is no genuine issue of material fact. *Id*.

Michigan's prudential standing doctrine directs a trial court to assess whether a litigant's interest in the issue is sufficient to ensure sincere and vigorous advocacy. *LSEA*, 487 Mich at 355. Generally speaking, "[a] litigant must assert his own legal rights and interests and cannot rest his

claim to relief on the legal rights and interests of third parties." *Barclae v Zarb*, 300 Mich App 455, 483; 834 NW2d 100 (2013) (cleaned up).

There are several sources of standing relevant here. Initially, if a party has a legal cause of action, then that party has standing to sue and the case may proceed. *LSEA*, 487 Mich at 372. For example, a party might have standing to bring a taxpayer action under MCL 600.2041(3) and MCR 2.201(B)(4). In the absence of a legal cause of action, the party must look elsewhere for authority to sue. For instance, a party might have third-party standing provided under a specific legislative grant. Or, a party might have a special injury or right, or a substantial interest, that warrants standing under *LSEA*. See also *Mich Republican Party v Donahue*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 364048); slip op at 6. Finally, a party might have standing to bring a declaratory-relief action under MCR 2.605.

The YWCA cites all of these possible sources of standing, and the Court will address each in turn.

A. LEGAL CAUSE OF ACTION

The YWCA contends that it has an express cause of action under "the statutory scheme governing taxpayer standing, MCL 600.2041(3) and MCR 2.201(B)(4)." The YWCA concedes that its complaint does not allege that it has taxpayer standing. Setting this pleading deficiency aside, the YWCA does not have taxpayer standing.

Both the statute and the court rule provide that an action to "prevent the illegal expenditure of state funds or test the constitutionality of a statute" relating to the illegal expenditure of state funds may be brought in the name of a domestic nonprofit organization organized for civic, protective, or improvement purposes. MCL 600.2041(3); MCR 2.201(B)(4). The YWCA

maintains that it is discriminatory and unconstitutional to use state Medicaid funds to pay costs related to birth but not costs related to abortion. But, the YWCA's position is not that the constitutional deficiency results from Michigan's coverage of pregnancy care, but rather, the deficiency springs from Michigan's *failure to provide coverage* for abortion care. Put more simply, the YWCA does not challenge the expenditure of tax dollars, but rather the failure to expend tax dollars.

The YWCA does not cite any authority where taxpayer standing was found in a lawsuit seeking to force the state to expend funds. This makes sense, as the total products and services for which the state expends funds is finite, even if sizable. This puts a workable bound on the number of taxpayer cases that can be brought. In contrast, the items for which the state does not expend funds is literally infinite, as there is always "something else" for which a tax dollar could be spent. If the YWCA's understanding of taxpayer standing was the correct one, then the universe of taxpayer standing would be a vast one, limited only by the number and creativity of qualifying domestic nonprofit organizations.

The YWCA next points to a purported implied cause of action under the RFFA, as well as the express private right of action provision in MCL 333.26105. It argues that it is directly injured by the Medicaid ban. More specifically, in its complaint, the YWCA alleges that the ban prevents it from helping future, non-Medicaid-eligible clients. In other words, it seeks to strike down the challenged statutes so that it can divert resources that would have gone to indigent women and use them to help non-indigent women who might still not be able to afford abortion care.

This is not, however, an injury to be protected against under the RFFA or RHA. To begin with the RFFA, the amendment provides in relevant part:

> 1) Every *individual* has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.
>
> An *individual's* right to reproductive freedom shall not be denied, burdened, nor infringed upon unless justified by a compelling state interest achieved by the least restrictive means.
>
> Notwithstanding the above, the state may regulate the provision of abortion care after fetal viability, provided that in no circumstance shall the state prohibit an abortion that, in the professional judgment of an attending health care professional, is medically indicated to protect the life or physical or mental health of the pregnant individual.
>
> (2) The state shall not discriminate in the protection or enforcement of this fundamental right.
>
> (3) The state shall not penalize, prosecute, or otherwise take adverse action against an *individual* based on their actual, potential, perceived, or alleged pregnancy outcomes, including but not limited to miscarriage, stillbirth, or abortion. Nor shall the state penalize, prosecute, or otherwise take adverse action against *someone* for aiding or assisting a pregnant individual in exercising their right to reproductive freedom with their voluntary consent. [Const 1963, art 1, § 28 (emphasis added).]

Private causes of action presumptively exist for state constitutional violations. *Bauserman v Unemployment Ins Agency*, 509 Mich 673, 698; 983 W2d 855 (2022). The RFFA, however, expressly refers to an *individual's* right to reproductive freedom and the right of *someone* not to be penalized, prosecuted, or otherwise adversely acted against. The YWCA is not an individual and it, as a nonprofit organization, does not have reproductive freedom. Further, the YWCA does not provide abortion care and is not directly affected by a law that denies funding for abortions. And, even if it could be considered "someone" in a corporate sense, there is no allegation that it was penalized, prosecuted, or adversely acted against by the state.

As a nonprofit organization, the YWCA might have had associational or organizational standing "to bring suit in the interest of its members if its members would have standing as

individual plaintiffs." *Mich Citizens for Water Conservation v Nestle Waters N American Inc*, 479 Mich 280, 296; 737 NW2d 447 (2007), overruled on other grounds by *LSEA*, 487 Mich 349. But, as noted in the previous section, the YWCA concedes that it does not have members. Thus, unlike the plaintiffs in *Mich Citizens* who were a water conservation nonprofit organization with 1,300 members, some of whom were riparian owners of properties impacted by a proposed bottling facility and two property owners, the YWCA has not filed its lawsuit asserting standing as a membership organization representing individual members. There is no plaintiff in this case who has been denied the right to exercise reproductive freedom. Instead, the YWCA attempts to assert the interests of individuals who might seek funding for abortion care and litigate constitutional claims on behalf of a group of unknown future individuals who have yet to be injured. This is too tenuous a connection to establish standing as a representative of a nonparty to litigate constitutional claims.

As for the RHA, the YWCA contends that it has third-party standing to assert its clients' causes of action under MCL 333.26105. That section provides a private cause of action for a violation of rights under the RFFA or section MCL 333.26103. A party seeking to vindicate a third-party claim must first establish standing in its own right. *Pontiac Police & Fire Retiree Prefunded Group Health & Ins Trust Bd of Trustees v Pontiac No 2*, 309 Mich App 611, 622; 873 NW2d 783 (2015). Again, the YWCA is not suing based on a violation of its own rights, and there is no evidence that the YWCA is the legal representative of its clients. As a result, the RHA does not provide standing to the YWCA.

B. SPECIAL INJURY/RIGHT OR SUBSTANTIAL INTEREST

Moving to its next argument, the YWCA argues that it has standing because it can demonstrate an interest or injury attributed to the prohibition on the use of public funds for abortion

care that is different in type and severity from what is suffered by the general public. It argues that it has had to divert resources to pay for abortion care that would be covered by Michigan's Medicaid program but for the ban, thereby reducing the funds it will have available to fund abortion care for individuals who are ineligible for Medicaid.

The YWCA cites *Muskegon Bldg and Constr Trades v Muskegon Area Intermediate Sch Dist*, 130 Mich App 420; 343 NW2d 579 (1983), overruled on other grounds by *Western Mich Univ Bd of Control v Michigan*, 455 Mich 531, 546; 565 NW2d 828 (1997). The Court of Appeals concluded in *Muskegon Bldg* that the plaintiff trade association had a "direct interest in defendant's compliance with the prevailing wage act since its existence and health is dependent upon the existence and health of its member organizations, which organizations will wither or die if they are unable to effectively protect their members." *Id*. at 428.

The YWCA also relies on *LSEA*, 487 Mich 349. In that case, our Supreme Court held that teachers had standing to sue the school board for failing to comply with its statutory duty to expel students that allegedly physically assaulted those teachers because "they have a substantial interest in the enforcement of [the statute] that will be detrimentally affected in a manner different from the citizenry at large if the statute is not enforced . . . [g]iven that the students are expelled for assaulting employees of the school, and not the citizenry at large." *Id*. at 373-374. The Court noted that "[t]he members of the general public might never be in a school, and, even for those who are, an assault on those members would not necessarily lead to the expulsion of the assaultive student." *Id*. at 374. It also noted that the legislative history of the statute specifically contemplated that the statute was intended not only to make the general school environment safer but additionally to protect teachers from assault and assist them in more effectively performing their jobs. *Id*. at 375-376. The Court concluded that teachers who work in a public school have a

significant interest distinct from that of the general public in the enforcement of the statute. *Id*. at 376.

Unlike the plaintiff trade association in *Muskegon Bldg*, the YWCA has no members, and there is no evidence to suggest that the YWCA's existence is dependent upon reimbursement of funds that the YWCA provides for abortion care for Medicaid-eligible individuals. And unlike the plaintiffs in *LSEA*, the YWCA here has not demonstrated a special injury, right, or substantial interest that will be detrimentally impacted in a manner different from the general public by the challenged statutes. Reimbursement of public funds for abortion care is prohibited without exception, even if all members of the general public may not be affected in the same manner. Moreover, the current Medicaid ban is not a threat to the YWCA's current, actual mission, but is instead an alleged threat to some future, hypothetical mission that it might take on.

In *LSEA*, our Supreme Court found it particularly compelling that the statutory text made clear that employees of the school, which certainly included teachers, were intended beneficiaries of the requirement that violent students be expelled. *LSEA*, 487 Mich at 374-376. In contradistinction with *LSEA*, neither the RFFA nor the RHA mention (or even hint to) the interests of charitable organizations that provide financial support for the reproductive freedoms of indigent individuals.

Because the YWCA has not shown a particularized harm that it will actually suffer, it does not have standing to challenge these statutes on that basis.

C. DECLARATORY RELIEF AND STANDING

Finally, the YWCA argues that it has standing to pursues a declaratory judgment under MCR 2.605. MCR 2.605(A)(1) provides that "[i]n a case of actual controversy within its

jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." "An actual controversy exists when declaratory relief is needed to guide a plaintiff's future conduct in order to preserve the plaintiff's legal rights." *League of Women Voters v Secretary of State*, 506 Mich 561, 586; 957 NW2d 731 (2020). To establish this, a party must "plead and prove facts which indicate an adverse interest necessitating the sharpening of the issues raised." *LSEA*, 487 Mich at 372 n 20 (cleaned up).

In *Mich Republican Party*, ___ Mich App ___; slip op at 12-13, the Court of Appeals explained that standing to bring a declaratory-judgment action is not substantively different from the test announced in *LSEA*, 487 Mich at 372. "When considering standing in the context of MCR 2.605, 'a party's interest is sufficient if the party has a legally protected interest that is in jeopardy of being adversely affected.' " *Mich Republican Party*, slip op at 12.

An actual controversy does not exist between the YWCA and defendants. The essence of the YWCA's complaint was not to seek a declaration of rights as between the YWCA and defendants. Instead, the YWCA seeks a declaration of its potential future clients' rights to public funding for abortion care relative to defendants. The YWCA is not entitled to a declaratory judgment to preserve the legal rights of a nonparty. Further, given the Court has already concluded that the YWCA cannot show that it has standing on the basis of a special injury, right, or a substantial interest, the YWCA cannot show that it is an interested party for purposes of a declaratory judgment. The Court concludes that the YWCA does not have standing under MR 2.605.

III. CONCLUSION

For the reasons explained in this Opinion and Order, the Court orders as follows:

IT IS ORDERED that the People's motion for summary disposition is GRANTED under MCR 2.116(C)(10). The YWCA lacks standing to pursue Counts I thru V of its complaint in this Court of Claims.

IT IS FURTHER ORDERED that the case is DISMISSED in its entirety.

IT IS SO ORDERED. This is a final order that disposes of the last pending claim and closes the case.

Date: July 3, 2025

Hon. Brock A. Swartzle
Chief Judge, Court of Claims