

No. 25-1571

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

GREGORY SEMACK; BRUCE CARLETON; and
CHARLES WAYNE BROOKS,
Plaintiffs - Appellants,

v.

ROSCOMMON COUNTY, MICH. and
CHASE SCHEPKE, as drain commissioner
sued in his official and personal capacities,
Defendants - Appellees

On Appeal from the United States District Court
for the Eastern District of Michigan
Hon. Judith E. Levy, District Court Judge

APPELLANTS' BRIEF

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CORPORATE DISCLOSURE STATEMENT

Appellants have no parent corporation and are not a publicly held corporation owning 10% or more of stock of a party. Fed. R. App. P. 26.1(a).

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STATEMENT IN SUPPORT OF ORAL ARGUMENT

Appellants, by counsel, request oral argument on this appeal of major constitutional significance as the Court would benefit from the presentation of the issues by counsel and to answer any questions the panel may have.

STATEMENT OF JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. § 1291 to review a District Court's final judgment entered on June 23, 2025. **Final Judgment, RE 40, PageID # 651.** Appellants timely appealed to this Court thereafter. **Notice of Appeal, RE 41, PageID # 652.**

STATEMENT OF QUESTIONS PRESENTED

- I. Whether the district court erred in holding that Plaintiffs lack Article III standing where they alleged a concrete injury from the deprivation of their protected property interest in court-ordered lake levels without procedural due process.
- II. Whether the district court erred in finding no concrete harm for standing purposes, despite Supreme Court precedent recognizing that procedural due process violations tied to protected interests confer standing, including for nominal damages.
- III. Whether the district court erred in determining that the injury was not actual or imminent at the time of filing, given the passage of Public Act 112 and its impending effect on Plaintiffs' rights.

Appellants answer "yes" to all questions.

INTRODUCTION

This case arises from the extraordinary and faithless conduct of Roscommon County. For decades, the County was bound by a judicial order — entered under what is today known as Part 307 of the *Natural Resources and Environmental Protection Act* — to maintain the legal levels of the ten-thousand-acre Higgins Lake. That order was clear, mandatory, and ministerial. And as such, it became a “legitimate claim of entitlement,” i.e., a property right. Yet the County treated it as optional, refusing to carry out its duty even after being hauled into court and chastised by the Michigan Court of Appeals. The County’s defiance culminated not in compliance, but in an audacious effort with political partners to change the rules of the game altogether. Unable or unwilling to obey the 1982 Lake Level Order, the County and its allies lobbied for new legislation to try to retroactively erase it.

The result was Public Act 112 of 2024 — a statute that did not merely amend Part 307 prospectively but reached back to rewrite judicial judgments, converting strict obligations into flexible “targets.” This legislative maneuver attempted to strip riparian owners of their long-

settled entitlements without so much as notice or a hearing. That violated due process.

At its core, this appeal asks whether due process and vested property rights mean what they say. Plaintiffs — riparian owners who have long relied on the stability of the 1982 order — allege a deprivation of their protected interests without process. That is a textbook procedural due process violation, actionable under § 1983. The district court erred by dismissing their claims as a “bare procedural violation,” as though the Constitution tolerated the retroactive destruction of property rights so long as the State avoids breaking down doors in the process. That is not the law.

The County was faithless here when bound by court order, rebuked by appellate courts, and yet determined to escape its obligations. The Fourteenth Amendment does not allow state or local governments to legislate away long secured entitlements without affording due process to those whose rights are at stake. This Court should reverse and remand.

STATEMENT OF FACTS

Michigan has long recognized the unique character of riparian property rights and the necessity of judicial oversight to balance private ownership with public use of inland lakes in the Great Lakes state. The *Inland Lake Levels Act* — now codified as Part 307 of the *Natural Resources and Environmental Protection Act* (“NREPA”), M.C.L. § 324.30701 et seq — reflects this balance.

Part 307 empowers local governments to initiate proceedings in the circuit court to determine and fix the “normal level” of an inland lake. It is straight-forward. “The county board” can “initiate [an] action to take the necessary steps to cause to be determined the normal level of the inland lake.” M.C.L. § 324.30702(1).¹ “Upon filing of a civil action under this part, the court shall set a day for a hearing.” M.C.L. § 324.30707(1). The County’s legal counsel was required to “give notice of the hearing by publication” local newspapers of general circulation in the county for 3 successive weeks. *Id.* And the “county drain commissioner” is required to

¹ “Unless required to act by resolution as provided in this part, the county board may delegate powers and duties under this part to that county’s commissioner, road commission, or other delegated authority.” M.C.L. § 324.30702(2).

provide notice by first-class mail to various property owners and certain governing bodies. M.C.L. § 324.30707(2). When the hearing date arrives, the local circuit court judge must adjudicate and determine what will be the “normal level of [the] inland lake.” M.C.L. § 324.30707(3). Part 307 requires the local judge to consider a host of conflicting interests including past lake level records, location of improvements, the watershed’s hydrology, surveys and reports, flow requirements, impacts on downstream riparian, fisheries and wildlife habitats, upstream drainage, and the rights of riparians. M.C.L. § 324.30707(4)(a)-(h). It must consider the “testimony and evidence offered by all interested persons” and any “other pertinent facts and circumstances.” M.C.L. § 324.30707(4)(i)-(j). Once taking all that into account, “the court shall determine the normal level to be established and maintained.” M.C.L. § 324.30707(5). It is reduced to a final order/judgment. E.g. **RE 1-2**.

Importantly and critically, “after the court determines the normal level..., the delegated authority of any county or counties in which the inland lake is located *shall provide for and maintain **that** normal level.*” M.C.L. § 324.30708(1). There is no discretion to ignore this judicial command. Once set, the “normal level” becomes more than a regulatory

guideline — it becomes a vested entitlement, enforced by statute, binding not only upon the county but benefiting all riparian owners. Further, by statute, “[t]he delegated authority... *shall* provide for and maintain that normal level.” M.C.L. § 324.30708(1) (emphasis added). The statute confers no discretion. Courts, not counties, determine levels; counties must obey.

This statutory design reflects a constitutional sensitivity: water levels directly affect property rights. Riparian owners’ ability to use their shoreline, to install docks, to access navigable waters, and to protect seawalls depends on stable water levels. In Michigan, riparian rights are among the most valuable and cherished property rights. See *Thies v. Howland*, 380 N.W.2d 463 (Mich. 1985). By subjecting lake levels to judicial orders rather than political discretion, Part 307 ensured due process and stability for thousands of Michigan property owners.

The 1982 Lake Level Order for Higgins Lake

Higgins Lake is a 10,000-acre lake with thousands of riparian owners. In 1982, after full statutory process, the Roscommon County Circuit Court established the legal summer level at 1,154.11 feet and the

winter level at no less than 1,153.61 feet. **RE 22-1, PageID # 330.** That order has governed Higgins Lake for generations.

For riparian owners such as Appellants, this order is not abstract. The difference of inches in water levels determines whether docks reach the water, whether boats can launch, whether seawalls fail, and whether riparians can meaningfully exercise their rights to access and enjoy the lake. Plaintiffs pleaded concrete impacts: low water produces “broken boat propellers, stunted docks, failed seawalls, and more.” **RE 34, PageID # 591.** These harms are unique to riparian property; no other property class depends so directly on state-maintained physical conditions.

***CHiLLL* Litigation and Judicial Recognition of Vested Rights**

For years, Roscommon County actively resisted its duty to maintain the legal levels, treating the 1982 order as aspirational. Riparians challenged this in the “*CHiLLL*” litigation. In the end, the County was rebuked. The Michigan Court of Appeals unequivocally rejected its position, holding that Part 307 “does *not* explicitly allow for deviations” and that “the 1982 court order sets the legal levels and no explicit deviation or fluctuation was permitted.” *Citizens for Higgins Lake Legal*

Levels v. Roscommon Cnty. Bd. of Commissioners, 988 N.W.2d 841 (Mich. Ct. App. 2022) (“*CHiLLL*”). The duty is “legal and ministerial.” *Id.* The Michigan Supreme Court later denied review, cementing this interpretation as the law of the state. 985 N.W.2d 829 (Mich. 2023).

On remand, the Roscommon County Circuit Court (Bennett, J.) entered a declaratory judgment confirming that the County “shall maintain” the 1982 levels and cannot deviate without first initiating a proper proceeding. **RE 1-2, PageID # 16**. This established beyond dispute that riparian owners possessed a legally enforceable entitlement to maintenance of the 1982 levels.

Public Act 112 of 2024

Unwilling to comply, Roscommon County officials turned instead to state politicians. Senate Bill 662 — later enacted as Public Act 112 of 2024 (“PA 112”) — was introduced to redefine “normal level.” A “normal level” was always—

the level or levels of the water of an inland lake that provide the most benefit to the public; that best protect the public health, safety, and welfare; that best preserve the natural resources of the state; and that best preserve and protect the value of property around the lake.

M.C.L. 324.30701.² Standing judicial orders and judgments were entered based on that definition and legal standard. The new definition now dictates that a “normal level” is—

the *target* level or levels of the water of an inland lake, *around which actual levels may fluctuate*, that provide the most benefit to the public; that best protect the public health, safety, and welfare; that best preserve the natural resources of this state; and that best preserve and protect the value of property around the inland lake.

RE 8-2, PageID # 104.

In substance, PA 112 attempted to erase binding judicial orders and replace them with the flexible political discretion the County long desired. The Act provided no individualized notice, no hearing, and no due process to riparian owners whose vested rights were being extinguished. **RE 22, PageID # 325-326.**

The bill passed both houses of the Michigan Legislature along strict party-line votes and was signed into law by the Michigan Governor on July 23, 2024. The law, as enacted, became Public Act 112 of 2024.

In short, what became PA 112 was not a mere statutory amendment. It was a legislative assault on judicial judgments and on the

² The statute further explains “a normal level shall be measured and described as an elevation based on national geodetic vertical datum.”

settled property rights of thousands of Michigan riparians.

This Lawsuit

On July 28, 2024, three riparians, Plaintiffs Gregory Semack, Bruce Carleton, and Charles Wayne Brooks, filed their civil rights complaint in the Eastern District of Michigan. In lieu of answering, Defendants Roscommon County and Chase Schepke, the delegated authority for Higgins Lake, filed a motion to dismiss the operative amended complaint under Federal Rules of Civil Procedure 12(b)(1) (lack of subject matter jurisdiction) and 12(b)(6) (failure to state a claim). **RE 32.** On June 23, 2025, the district court issued an opinion and order granting Defendants' motion to dismiss under Rule 12(b)(1) for lack of Article III standing, dismissing the amended complaint without prejudice. **RE 39.** This appeal promptly followed.

STANDARD OF REVIEW

This Court reviews de novo a dismissal for lack of subject matter jurisdiction under Rule 12(b)(1), including standing determinations. *Gentek Bldg. Prod., Inc. v. Sherwin-Williams Co.*, 491 F.3d 320, 330 (6th Cir. 2007). Facial attacks accept allegations as true. *DLX, Inc. v. Kentucky*, 381 F.3d 511, 516 (6th Cir. 2004). Dismissals under Rule

12(b)(6) are reviewed de novo, accepting plausible allegations as true. *Taylor v. City of Saginaw*, 922 F.3d 328, 331 (6th Cir. 2019); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

SUMMARY OF ARGUMENT

The district court erred in dismissing for lack of standing. Plaintiffs have a protected property interest in (i.e., a legitimate entitlement to) the 1982 court-ordered lake levels, created by state law and standing judicial orders. PA 112's retroactive alteration deprives that property interest without process, constituting a concrete harm under Supreme Court precedent. This injury supports standing for nominal damages, declaratory, and injunctive relief. The harm was actual at filing and thus reversal is required.

ARGUMENT

I. The District Court Erred in Holding That Plaintiffs Lack Article III Standing Because They Alleged a Concrete and Particularized Injury-in-Fact from the Deprivation of Their Protected Property Interest Without Due Process

Article III standing requires (1) concrete and particularized injury-in-fact that is actual or imminent; (2) traceability to defendants; and (3) redressability. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992). Standing is assessed per claim and relief sought. *TransUnion*

LLC v. Ramirez, 594 U.S. 413, 431 (2021). Standing is determined at filing. *Ohio Citizen Action v. City of Englewood*, 671 F.3d 564, 580 (6th Cir. 2012).

The trial court erred on its misapplication of the injury-in-fact prong, finding no concrete harm from the alleged procedural due process violation. **RE 39, PageID # 643-645**. This ignores that deprivations of recognized protected interests without process are concrete harms.

A. Plaintiffs Have a Protected Property Interest in the Court-Ordered Lake Levels for Higgins Lake

Procedural due process protects “property” interests from state deprivation without notice and hearing. U.S. Const. amend. XIV. Property interests arise from state law creating a “legitimate claim of entitlement.” *Bd. of Regents v. Roth*, 408 U.S. 564, 577 (1972).

The lower court erred in not recognizing that Part 307 together with *CHiLLL*, prior to PA 112, created such an entitlement. Once a court sets the normal level, the county “shall provide for and maintain that normal level.” M.C.L. § 324.30708(1). The Michigan Court of Appeals confirmed no deviations are allowed without proceedings. *CHiLLL*, 988 N.W.2d 841. The 1982 order and subsequent declaration bind the County to strict maintenance. **RE 22-1; RE 1-2**.

“Constitutionally protected property interests are created by ‘existing rules or understandings that stem from an independent source... that secure certain benefits and that support claims of entitlement to those benefits.’” *R.S.W.W. Inc. v. Keego Harbor*, 397 F.3d 427, 435 (6th Cir. 2005). A common (but not exclusive) source is state law. *Id.* State governments have the unique power to confer³ a “legitimate claim of entitlement” by state statute. *Golden v. City of Columbus*, 404 F.3d 950, 955 (6th Cir. 2005). “A reasonable expectation of entitlement is determined largely by the language of” a state law like Part 307 “and the extent to which the entitlement is couched in mandatory terms.” *Ass’n of Orange Cnty. Deputy Sheriffs v. Gates*, 716 F.2d 733, 734 (9th Cir. 1983). The more mandatory, the greater the likelihood of the establishment of a “legitimate claim of entitlement.”⁴

³ Once concurred, due process is required prior to later depriving it.

⁴ Some examples might help. When utility services are only terminable “for cause,” there is a “legitimate claim of entitlement” to uninterrupted continuation of those services to be within the protection of the Due Process Clause before effecting any deprivation. *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1, 20 (1978). A continued right to just-cause government job is the same too. *Arnett v. Kennedy*, 416 U.S. 134 (1974). Welfare payments are deemed such too. *Goldberg v. Kelly*, 397 U.S. 254, 262 (1970). There are countless others. *Shinault v. Hawks*, 776 F.3d 1027, 1031 (9th Cir. 2015) (prison inmate assets); *Rebirth Christian Acad. Daycare, Inc. v. Brizzi*, 835 F.3d 742, 749 (7th Cir. 2016)

The relevant question here turns on whether the original language of Part 307 (before PA 112) creates a “legitimate claim of entitlement” to the already established and mandated (since 1982) lake levels of Higgins Lake. If it does, then sufficient due process has to be provided *before* taking it away by fiat.

A perfect example of this is in *Goldberg*. Of course, there is no absolute right to receive governmental welfare. But after the government creates a ‘legitimate entitlement’ to such, due process (prior notice or hearing before termination) is required before depriving a person of such entitlement. The right to maintain the status quo (i.e. enjoy the legitimate claim of entitlement) continues until notice and the opportunity to be heard is first provided before depriving. That is the essence of due process – the opportunity and right to be heard before any deprivation.

In *Goldberg*, the government tried to point out that “benefits are a matter of statutory entitlement for persons qualified to receive them” and suggested they could arbitrarily be terminated for being merely a

(child care registration); *New Windsor Volunteer Ambulance Corps., Inc v. Meyers*, 442 F.3d 101, 116 (2d Cir. 2006) (ambulances).

statutory privilege rather than a right. The Supreme Court rejected that conceptualization. That such were statutorily-created or a privilege does not mean that due process is not required prior to depriving them. Due process “restrains” the “withdrawal” of a legitimate claim of entitlement unless and until the government provides the benefactor with sufficient procedural due process first.

Turning this case, under Part 307, when the lake level is being established, all riparians’ interests are required to be considered with notice and opportunity to be heard first provided. Once established, the lake levels thereafter are required to be maintained at a specific level without any exercisable discretion to deviate from those levels. M.C.L. § 324.30708(1);⁵ M.C.L. § 324.30702(3).⁶ For Higgins Lake, since February 1982, there is an established legitimate claim of entitlement (by law) to that 10,000-acre lake being strictly maintained at “that normal level” of 1,154.11-ft during the summer after having been “established pursuant

⁵ “After the court determines the normal level of an inland lake in a proceeding initiated by the county, the delegated authority of any county or counties in which the inland lake is located shall provide for and maintain that normal level.”

⁶ “If a court-determined normal level is established pursuant to this part, the delegated authority of the county or counties in which the lake is located *shall maintain that normal level.*”

to this part [307].” M.C.L. § 324.30702(3); see also M.C.L. § 324.30708(1). The Court of Appeals has fully confirmed it. *CHiLLL*, 988 N.W.2d at 855.^{7,8}

Here, Plaintiffs have entitlement to a particular judicially-determined lake level as a property right in itself. Low illegal levels cause tangible harms like damaged propellers and unusable infrastructure. **RE 34, PageID # 591**. Where PA 112 goes off track is that, without notice, opportunity to be heard, or a proper legal proceeding, it arbitrarily deprived riparians such as Plaintiffs of their state-law entitlement to the established summer-time lake level of 1,154.11 feet (or 5.37-ft datum). PA 112 deprives Plaintiffs’ legitimate claim of entitlement of that

⁷ Part 307 “does not explicitly allow for deviations” and the County “applicable duty was the duty to *maintain* the lake at” the court-ordered lake level.

⁸ But this is not to say that the lake levels can never ever be changed. However, if there is to be change in “that normal level,” the desire “to deviate from said established level(s) and directives within the 1982 lake level order” can only be effectuated by “a proper legal proceeding... that must be first undertaken.” **RE 1-2, PageID # 16**. Whether the *CHiLLL* judges were insightful enough to know it, they were referencing due process. As such, Part 307 creates a legitimate claim of entitlement to the legally established and mandated lake levels of Higgins Lake that, because of the Fourteenth Amendment, can only be changed with provided pre-deprivation due process, i.e. “a proper legal proceeding.”

specified lake levels by arbitrarily authorizing massive deviations from the current strictly-mandated levels. Such interferes with “the existence and reliance” of the already required levels, which, in turn, hampers the exercise of their other property and riparian rights. **RE 22, PageID # 324** (install private docks into the waters and upon the lakebed of Higgins Lake; gain access to the lake waters; the right to put out in a boat or on foot from upland property where it touches the lake waters; the right, after so embarking, to go boating, swimming, water skiing, fishing, ice skating or sledding or to engage in other aquatic sports, in or upon the lake waters; and the right to use the entire surface and subsurface lake waters for such purposes). In short, the bottom-line effect of PA 112 (which was seemingly intentional) deprives Plaintiffs’ legal entitlement to their riparian lake with required strict compliance with the actual lake level and instead now only provides a lake with a non-strict “target” level – which was accomplished without notice or the opportunity to be heard before doing so. That violates due process.

Because there is a legitimate entitlement under pre- PA 112 state law via Part 307 and the 1982 lake level order to a particular lake level that is strictly defined, deprivation of that cannot occur without a

predeprivation due process being first provided. And the complaint alleges that without prior notice or the opportunity to be heard before a neutral and detached decisionmaker, changing and utilizing changes to Part 307 in such a fashion without first providing *Mathews*-sufficient⁹ pre-deprivation notice and the opportunity to be heard violates due process. In granting dismissal, the district court erred in failing to recognize there is a clear and established ‘legitimate claim of entitlement’ being deprived without proper process. **RE 39, PageID # 645.** As such, dismissal of this case was in error. Reversal is required.

B. The Deprivation of That Interest Without Pre-Deprivation Process Constitutes a Concrete Harm Sufficient for Standing

Appellees will likely spill much ink suggesting that lake levels are intangibles. But such harm to intangibles are sufficiently concrete if analogous to common-law harms or are constitutionally specified. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 340-341 (2016); *Merck v. Walmart, Inc.*, 114 F.4th 762, 773 (6th Cir. 2024) (recognizing that “[t]raditional harms also include ‘harms *specified by the Constitution itself*’”). Under Supreme Court precedents, procedural due process violations are

⁹ *Mathews v. Eldridge*, 424 U.S. 319 (1976)

actionable without further injury if tied to protected interests. *Carey v. Phipps*, 435 U.S. 247, 266 (1978) (“denial of procedural due process” actionable “without proof of actual injury”); *Brody v. Village of Port Chester*, 345 F.3d 103, 121 (2d Cir. 2003).

The district court misapplied *Spokeo* by incorrectly labeling this challenge a “bare procedural violation.” **RE 39, PageID # 644**. Unlike harmless reporting errors in *Spokeo*, PA 112 substantively and seriously alters Plaintiffs’ entitlement, allowing fluctuations that negate the 1982 order’s strict levels. **RE 22, PageID # 323**. The harm is particularized: Plaintiffs, as riparians, suffer impaired property use. **RE 34, PageID # 600**. The government (or here, the state legislature) cannot eliminate standing by statutory changes without process when interests vest.

The district court erred in requiring “tangible” harm beyond the deprivation. **RE 39, PageID # 644**. *Carey* allows recovery and remediation for the denial itself. 435 U.S. at 266.

C. The Injury Was Actual or Imminent at the Time of Filing, Supporting Standing for All Forms of Relief

For damages, the passage of PA 112 created an actual deprivation by retroactively altering the legal entitlement, effective April 2, 2025. But the harm began with enactment, as it immediately undermined the 1982

order. **RE 22, PageID # 323.** Nominal damages require only past violation. *Uzuegbunam v. Preczewski*, 592 U.S. 279, 289 (2021). The district court erred in finding no “past” harm pre-effectiveness. **RE 39, PageID # 645.** The legislative act itself deprives without process.¹⁰

Because standing and Article III injury exists, the court should have proceeded to the merits. Plaintiffs state a claim: protected interest, deprivation via PA 112, and inadequate process (none provided). The legislative process does not substitute for individualized due process when altering vested rights. Reversal and remand for merits adjudication is warranted.

CONCLUSION

The district court’s dismissal of this case for lack of Article III standing represents a fundamental misapplication of controlling Supreme Court and Sixth Circuit precedent, overlooking the concrete and particularized harm inflicted upon Plaintiffs by the deprivation of their

¹⁰ For prospective relief, the injury was imminent: PA 112’s effectiveness was certain, and Defendants would enforce it, allowing deviations. **RE 22, PageID # 327.** Here, the County’s history of non-compliance confirms the threat. **RE 22, PageID # 320-321.** Standing exists for challenges to unlawful statutes before full enforcement if harm is impending. *E.g., Lujan*, 504 U.S. at 564 n.2

vested property interest in the court-ordered lake levels of Higgins Lake without any procedural safeguards. As riparian property owners, Plaintiffs possess a legitimate claim of entitlement under Michigan's *Inland Lake Levels Act* (now NREPA's Part 307) and the binding 1982 judicial order, an interest that Public Act 112 retroactively undermines by permitting unbridled fluctuations in water levels—fluctuations that directly impair their ability to enjoy essential riparian rights, such as boating, docking, and shoreline protection, while exposing them to tangible harms like property damage and diminished recreational use. This is no mere “bare procedural violation” as the court erroneously characterized it; rather, it is a substantive deprivation tied inextricably to a protected interest, actionable under *Carey v. Piphus* and its progeny even without proof of additional injury, and sufficient to confer standing for nominal damages, declaratory relief, and injunctive measures to prevent ongoing and imminent violations.

By failing to recognize the actual harm from the Act's passage and enforcement—evidenced by Roscommon County's history of non-compliance and the Michigan Court of Appeals' unequivocal mandate in *CHiLLL*—the district court eroded the foundational protections of the

Due Process Clause. Procedural due process demands notice and an opportunity to be heard *before* such vested rights are altered, particularly when legislative amendments target specific judicial outcomes without individualized process. Upholding the dismissal improperly allows governments to circumvent constitutional requirements through retroactive statutory amendments that favor governmental convenience over individual rights.

RELIEF REQUESTED

For these reasons, this Court should reverse the district court's order, hold that Plaintiffs have standing to pursue their claims, and remand the case for full adjudication on the merits.

Date: August 22, 2025

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CERTIFICATE OF COMPLIANCE

This brief has been prepared in proportional typeface using Century School Book 14-point font. The brief, including headers and footnotes but excluding the signature block, contains 4,250 words according to the Word Count feature in the Microsoft Word program.

The undersigned understands that a material misrepresentation in completing this certificate or circumvention of the type-volume limitations may result in the Court's striking the brief and imposing sanctions against the person signing the brief.

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CERTIFICATE OF SERVICE

I hereby certify that on the date stated below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notice of and a copy of such filing to counsel of record at their email address(es) of record.

Date: August 22, 2025

s/ Philip L. Ellison
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DESIGNATION OF RELEVANT DISTRICT COURT DOCUMENTS

RE.	PageID Range	Description of the Document
1-2	#16	Declaratory Judgment
8-2	#102-105	Public Act 112
22	#316-329	Amended Complaint
22-1	#330-331	1982 Legal Lake Level Order
32	#443-476	Motion to Dismiss
34	#558-616	Response to Motion to Dismiss
39	#633-650	Opinion and Order
40	#651	Final Judgment
41	#652	Notice of Appeal