

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

**TIMOTHY KING, et.al.,**  
Plaintiffs,

Case No. 20-cv-13134  
**Hon. Linda V. Parker**

v.

**GRETCHEN WHITMER**, in her official capacity  
as Governor of the State of Michigan, *et.al.*,  
Defendants,

and

**ROBERT DAVIS**,  
Proposed Intervenor Defendant.

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GREGORY J. ROHL (P39185)  
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Defendant Robert Davis  
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**PROPOSED INTERVENOR DEFENDANT ROBERT DAVIS'  
REPLY TO PLAINTIFFS' RESPONSE TO EMERGENCY  
MOTION TO INTERVENE (ECF NO. 25).**

NOW COMES, PROPOSED INTERVENOR DEFENDANT

ROBERT DAVIS (hereinafter “Intervenor Defendant Davis”), by and through his attorney, ANDREW A. PATERSON, and for his Reply to Plaintiffs’ Response to Emergency Motion to Intervene (ECF No. 25), states the following:

Despite granting Intervenor Defendant Davis’ request for concurrence to intervene in this case (Email Exhibit, ECF No. 20, Pg.ID 2107-2108), in a bizarre development, this morning at 8:56 a.m., Gregory Rohl (“Mr. Rohl”), counsel for Plaintiffs, filed a response in opposition to Intervenor Defendant Davis’ Emergency Motion for Intervention [12] (ECF No. 25). Although Plaintiffs’ response (ECF No. 25) does **not** dispute the fact that Plaintiffs’ counsel, Mr. Rohl, expressly granted Intervenor Defendant Davis’ request to intervene in this case (Email Exhibit, ECF No. 20, Pg.ID 2107-2108), Plaintiffs’ meritless response (ECF No. 25) nonetheless attempts to provide a basis for the Court to deny Intervenor Defendant Davis’ Emergency Motion to Intervene (ECF No. 12).

Surprisingly, Plaintiffs assert the frivolous argument that Intervenor Defendant Davis, who is a Wayne County registered voter

that voted by absentee ballot in the November 3, 2020 general election, does not have a substantial interest in this case. Specifically, Plaintiffs argue that “[i]f the Court sets aside the results of the election, then no one’s vote can be counted. [Intervenor Defendant Davis] is no different than the general citizenry.” (Plaintiffs’ Response, ECF No. 25, Pg.ID 2125). It is apparent that Plaintiffs’ counsel has not read **ALL** of the relief requested in the original complaint (ECF No.1) or in the purported amended complaint (ECF No. 6) that he filed on behalf of his clients. In both the original (ECF No. 1, Pg.ID 73, ¶211(1)) and purported amended complaints (ECF No. 6, Pg.ID 955, ¶233(1)), the Plaintiffs requested the following relief: “An order directing Secretary Benson, Governor Whitmer, the Board of State Canvassers **and Wayne County to de-certify the election results.**” (Compare Org.Compl., ECF No. 1, Pg.ID 73, ¶211(1) with Am. Compl., ECF No. 6, Pg.ID 955, ¶233(1)).

Intervenor Defendant Davis, as a Wayne County registered voter that lawfully voted by absentee ballot in the November 3, 2020 general election, has a substantial interest in this litigation considering Plaintiffs are expressly seeking this Court to enter an order “**de-**

**certifying” votes cast in Wayne County**, which would result in Intervenor Defendant Davis’ lawfully cast vote not being counted and resulting in Intervenor Defendant Davis being disenfranchised.

Contrary to Plaintiffs meritless and frivolous arguments, Intervenor Defendant Davis is different than the citizenry at large considering not all citizens of Michigan voted in the November 3, 2020 general election and not all citizens of Michigan voted for Joe Biden for President and Kamala Harris for Vice President as Intervenor Defendant Davis PROUDLY did!

Unlike the other proposed intervening defendants (ECF No. 5, 14), Intervenor Defendant Davis has a substantial interest in protecting his most precious and fundamental constitutional right to vote and to have his vote counted. Plaintiffs’ original complaint (ECF No. 1) and purported amended complaint (ECF No. 6) directly seek to void Intervenor Defendant Davis’ lawfully cast vote. “A citizen’s right to vote free of arbitrary impairment by state action has been judicially recognized as a right secured by the Constitution, when such impairment ***resulted from dilution by a false tally; or by refusal to count votes from arbitrarily selected precincts***; or by stuffing of the ballot box.”

*Baker v Carr*, 369 U.S. 186, 207-208 (1962) (emphasis supplied). “**Every voter’s vote is entitled to be counted once. It must be correctly counted and reported.**” *Gray v Sanders*, 372 U.S. 368, 380 (1963) (emphasis supplied). For “the right to have one’s vote counted’ has the same dignity as the right to put a ballot in a box.” *Id.* (internal citations omitted).

Lastly, it is unrefuted that the Defendants cannot adequately represent Intervenor Defendant Davis’ interests in this case. Notably, **NONE** of the Defendants timely filed a response in opposition to Intervenor Defendant Davis’ Emergency Motion to Intervene (ECF No. 12) by the deadline set by the Court’s December 1, 2020 text only order. As a result of the Defendants’ failure to timely file a response in opposition, Defendants have essentially conceded the fact that Intervenor Defendant Davis’ interests cannot be adequately represented by the Defendants in this case and Intervenor Defendant Davis has a substantial interest in the causes of action being litigated in this case.

## CONCLUSION

**WHEREFORE**, for the foregoing reasons and for the reasons set forth in Intervenor Defendant Davis' Emergency Motion to Intervene (ECF No.12), Intervenor Defendant Davis prays that this Honorable Court GRANT his Emergency Motion to Intervene (ECF No.12).

**Dated: December 2, 2020**

Respectfully submitted,

/s/ ANDREW A. PATERSON  
ANDREW A. PATERSON (P18690)  
Attorney for Proposed Intervenor  
Defendant Robert Davis  
2893 E. Eisenhower  
Ann Arbor, MI 48108  
(248) 568-9712

## CERTIFICATE OF SERVICE

I, ANDREW A. PATERSON, certify that forgoing document(s) was filed and served via the Court's electronic case filing and noticing system (ECF) this 2nd day of December, 2020, which will automatically send notification of such filing to all attorneys and parties of record registered electronically.

Dated: December 2, 2020

Respectfully submitted,

/s/ ANDREW A. PATERSON  
ANDREW A. PATERSON (P18690)  
Attorney for Proposed Intervenor  
Defendant Robert Davis  
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Concurrence Proposed Intervening Defendant Robert Davis' Motion To Intervene in the matter of Timothy King, et.al.v Gov. Whitmer, et.al., Case No. 20-cv-13134, Eastern District of Michigan, Judge Linda Parker

Inbox



**Drew Paterson**

Nov 26, 2020, 2:15 PM  
(5 days ago)

to Heather, Erik, scotthagerstrom@yahoo.com, gregoryrohl@yahoo.com, Lisa

Counsel,

I am writing on behalf of my client, Robert Davis, who is a Wayne County registered voter that lawfully voted by absentee ballot in the November 3, 2020 Presidential General Election. To ensure he is not disenfranchised, and his vote is counted, my client will be filing a motion to intervene as a defendant in the above-entitled matter. Will you concur with his intervention as a defendant? Please advise ASAP. Thanks.

Drew Paterson  
(248) 568-9712  
[aap43@outlook.com](mailto:aap43@outlook.com)

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**From:** Gregory Rohl <[gregoryrohl@yahoo.com](mailto:gregoryrohl@yahoo.com)>

**Sent:** Thursday, November 26, 2020 5:30 PM

**To:** [aap43@outlook.com](mailto:aap43@outlook.com) <[aap43@outlook.com](mailto:aap43@outlook.com)>

**Subject:** Re: Concurrence Proposed Intervening Defendant Robert Davis' Motion To Intervene in the matter of Timothy King, et.al.v Gov. Whitmer, [et.al.](#), Case No. 20-cv-13134, Eastern District of Michigan, Judge Linda Parker

Is ur client an attorney w whom I am familiar?

[Sent from Yahoo Mail on Android](#)

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**Drew Paterson**

Nov 26, 2020, 6:30 PM  
(5 days ago)

to Gregory



Mr. Rohl,  
My client is not an attorney and I'm not sure why that is relevant with respect to our request for concurrence for his motion to Intervene as a defendant. So again, I respectfully ask: do you concur?

Drew Paterson  
(248) 568-9712  
[aap43@outlook.com](mailto:aap43@outlook.com)

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**From:** Gregory Rohl <[gregoryrohl@yahoo.com](mailto:gregoryrohl@yahoo.com)>  
**Sent:** Thursday, November 26, 2020 9:15 PM  
**To:** [aap43@outlook.com](mailto:aap43@outlook.com) <[aap43@outlook.com](mailto:aap43@outlook.com)>  
**Subject:** Re: Concurrence Proposed Intervening Defendant Robert Davis' Motion To Intervene in the matter of Timothy King, et.al.v Gov. Whitmer, et.al., Case No. 20-cv-13134, Eastern District of Michigan, Judge Linda Parker

Fine with me

[Sent from Yahoo Mail on Android](#)

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**Drew Paterson**

Nov 26, 2020, 9:34 PM  
(5 days ago)

to Heather, Erik, Lisa, Gregory

Mr. Rohl,  
Thank you for providing your concurrence. I will await to receive a response from Assistant Attorneys General Meingast and Grill.

Drew Paterson  
(248) 568-9712  
[aap43@outlook.com](mailto:aap43@outlook.com)