STATE OF MICHIGAN
IN THE SUPREME COURT

WILLIAM R. HENDERSON and
MICHIGAN CORRECTIONS ORGANIZATION,

Plaintiffs-Appellants,

MSC No. 156270
COA No. 332314
Ingham CC No. 15-000645-AA

v.

MICHIGAN CIVIL SERVICE COMMISSION and
MICHIGAN DEPARTMENT OF CORRECTIONS,

Defendants-Appellees.

Mary Ellen Gurewitz (P25724) Marshall Widick (P53942) Sachs Waldman, P.C. 2211 East Jefferson, Suite 200 Detroit, Michigan 48207 (313) 496-9441 phone (313) 965-4602 fax Attorneys for Plaintiffs-Appellants	Christopher W. Braverman (P70025) Michigan Department of Attorney General Labor Division P. O. Box 30217 Lansing, Michigan 48909 (517) 373-2560 phone (517) 241-7987 fax Attorneys for Defendants-Appellees

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW) AND UAW LOCAL 6000'S BRIEF AS *AMICUS CURIAE* IN SUPPORT OF PLAINTIFFS-APPELLANTS

By: Niraj R. Ganatra (P63150)
General Counsel
Ava Barbour (P70881)
Associate General Counsel
International Union, UAW
8000 East Jefferson Avenue
Detroit, MI 48214
(313) 926-5216 phone
(313) 926-5240 fax
nganatra@uaw.net
abarbour@uaw.net

Dated: July 20, 2018

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

Rules

Other Authorities

STATEMENT OF JUDGMENT/ORDER APPEALED FROM AND RELIEF SOUGHT

Plaintiffs-Appellants seek leave to appeal the Court of Appeals's final decision entered on June 29, 2017, COA docket no. 332314. Amici defer to the Plaintiffs-Appellants' Statement of Relief Sought.

STATEMENT OF QUESTIONS PRESENTED FOR REVIEW

Amici defer to the Plaintiffs-Appellants' Statement of Questions Presented for Review.

STATEMENT OF INTEREST OF AMICI

The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW is one of the largest and most diverse labor unions in North America, with over 400,000 active members and more than 580,000 retired members in the United States, Canada, and Puerto Rico. Amici International Union, UAW and UAW Local 6000 (collectively, "UAW") serve as the exclusive collective bargaining representative for approximately 17,000 State of Michigan employees in the Human Services and Administrative Support Bargaining Units. UAW-represented employees are members of the classified civil service in virtually every department of the State, including over 3,000 Department of Corrections employees. The UAW and the employees that it represents have been, and presumably will continue to be in the future, parties to proceedings and appeals before the Civil Service Commission ("CSC"), including technical appeals and grievances similar to the matter underlying this litigation. Accordingly, the UAW has a strong interest in ensuring that courts reviewing the CSC's technical decisions apply the correct standard of review.

STATEMENT OF FACTS

The UAW defers to and adopts the Statement of Facts presented in Plaintiffs-Appellants' briefing to this Court. However, the UAW wishes to supplement those facts by explaining the background of the CSC, and the types of its decisions that may be subject to judicial review. This information is relevant because it helps to frame the broader stakes of how the classified service would be affected if, as the Court of Appeals concluded, the CSC is permitted to shield its decision-making from meaningful judicial review simply by declining to hold a hearing, or if, as Defendants-Appellees urge, this Court were to limit judicial review under the "authorized by law"

standard to only whether an agency violated a statute or exceeded its statutory authority or jurisdiction.

I. The Civil Service Commission

The CSC was created to destroy the "spoils" or "patronage" system, in which state jobs were doled out based on political patronage, family connections, and other arbitrary factors instead of candidates' fitness and qualifications for the job. Prior to the creation of the CSC, state government was bedeviled by inefficiency and dysfunction. *See Council No 11, AFSCME v Mich Civil Serv Comm'n*, 408 Mich 385, 397 (1980). Frustrated, in 1940 the people of Michigan adopted a constitutional amendment creating the CSC, giving it the authority to "classify all positions in the state civil service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the state civil service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the state civil service." Const 1908, art 6, § 22. This same authority was granted to the Commission in Const 1963, art 11, § 5. Thus, since its creation, the CSC's purpose has to ensure that state government runs fairly and efficiently, and not arbitrarily, irrationally, or dysfunctionally.

There is no question that Const 1963 art 11, § 5 grants the CSC plenary authority over the subjects within its "sphere of authority." *Plec v Liquor Control Comm'n*, 322 Mich 691, 694 (1948). However, both lower courts in the instant case, the parties, and the UAW agree that the CSC's technical appeal decisions are subject to judicial review; the disagreement lies in whether the CSC should be permitted an unfettered right to manipulate the scope of that review by choosing not to provide for a hearing. The UAW agrees with Plaintiffs-Appellants, and with the decision

of the Circuit Court below, that regardless of whether or not an agency has provided for a hearing, the standard of review set forth in Const 1963, art 6, § 28, requires a reviewing court to set aside agency decisions that are arbitrary and capricious, and to review whether the agency's decision is supported by, or inconsistent with, the record compiled before it. Moreover, in addition to being required by art 6, § 28, in the case of the CSC, arbitrary and capricious review is also consistent with the purpose of art 11, § 5, which creates a classified service run on the basis of "merit, efficiency and fitness" and not on the irrational or subjective whims of those in charge of state departments.

II. Civil Service Commission Rules

Under its constitutional authority to regulate conditions of employment within the classified service, the CSC has promulgated an extensive set of rules and regulations. Included in these rules and regulations are processes for challenging certain decisions or actions undertaken by either the CSC or the "appointing authority," or state department. Employees, and in some cases, an appointing authority, can file technical complaints or grievances over myriad issues, but the CSC's rules and regulations only provide for a hearing in specified, limited circumstances. However, although the CSC does not provide for a hearing in all, or even most, types of complaints or grievances, these complaints and grievances often involve issues of critical importance to classified employees, their representatives, and the appointing authorities. Furthermore, even when there is no hearing available, a record is compiled, and parties to these complaints and hearings may submit positions and evidence to the CSC.

The instant case concerns a "technical classification complaint" under Civil Service Rule 8-3.1(a), which provides that "[a]n employee directly affected by a technical classification decision, or the employee's appointing authority, may file a technical classification complaint."

But, Rule 8-3.1(b) and (c) also authorize two other types of technical complaints: technical disbursement complaints, under which any "interested party" may challenge an appointing authority's decision to contract with third parties to perform duties or services that might otherwise be provided by classified state employees; and technical appointment complaints, under which a person whose appointment to the classified service has been revoked may challenge that decision. Unsuccessful candidates for classified positions may also file technical appointment complaints alleging "that the selection, appointment, or certification process for the position violated a civil service rule or regulation." Rule 8-3.1(c)(2). Any of these different types of technical complaints may be referred to a technical review officer ("TRO") who "shall conduct an expeditious review in accordance with the civil service rules and regulations," but the TRO "is not authorized to conduct a hearing" on any technical complaint.[1] Rule 8-3.3(a), (b)(1). This is true even though the types of decisions that may be challenged in the technical complaint process can involve matters of substantial importance to the aggrieved party, whether it be, as in this case, an effective demotion of thousands of employees; the loss of an employment offer; or even, in the case of some technical disbursements, the loss a job entirely if it is contracted out to a third party. Accordingly, the lack of a hearing should not be equated with a lack of significance of the issues raised in a technical complaint. And, as the instant case demonstrates, the lack of a hearing does not mean that there is no record or evidence for the TRO to review in making his or her decision; to the contrary, even in the absence of a hearing, the parties to a technical complaint may submit evidence, and in some cases a voluminous record may be compiled. *See* Rule 8-3.3(b)(3).

Separate from the technical complaint process, CSC rules also allow aggrieved employees to file grievances against their appointing authority, which are handled differently. Currently, non-

[1] The CSC's rules previously provided for technical complaint hearings, but the Commission amended its rules in 1997 to remove these matters from the hearing process.

exclusively represented employees ("NEREs") may file grievances "alleg[ing] that the employee is aggrieved by one or more of the following actions of the appointing authority:"

(1) Discrimination prohibited by rule 1-8 [Prohibited Discrimination].
(2) Reprisal prohibited by rule 2-10 [Whistleblower Protection].
(3) Discipline without just cause.
(4) A written reprimand issued without just cause.
(5) The abolition or creation of a position for reasons other than administrative efficiency.
(6) An arbitrary and capricious lateral job change resulting in substantial harm.
(7) Denial of compensation or supplemental military pay to which the grievant is entitled under the civil service rules and regulations.
(8) The actual or anticipated failure or refusal to comply with Rule 2-14 [Rights of Employees Absent Due to Service in the Uniformed Services] or applicable regulations.
(9) Retaliation for the employee's good faith exercise of grievance or technical complaint rights provided in the civil service rules or regulations.
(10) An action that substantially harmed the employee and violated (1) article 11, section 5 of the Michigan constitution, (2) a civil service rule or regulation, (3) an agency work rule, or (4) an enforceable written grievance settlement permitted by the civil service rules or regulations.
(11) Any other action for which the civil service rules or regulations specifically permit a grievance to be filed.

Rule 8-1.3(a). Such grievances are initially filed with the NERE's appointing authority, and its decision on the grievance "is binding" unless an appeal to a hearing officer is permitted under Rule 8-2. *See* Rule 8-1.4. Rule 8-2.2, in turn, provides that "a grievant is not authorized to file a grievance appeal unless the grievance alleges one or more of the following:"

(a) A tangible adverse employment action resulting from discrimination prohibited in rule 1-8 [Prohibited Discrimination].
(b) A tangible adverse employment action resulting from reprisal prohibited by rule 2-10 [Whistleblower Protection].
(c) One of the following types of discipline imposed without just cause:
    (1) Dismissal.
    (2) Demotion.
    (3) Suspension.
    (4) Reduction in pay.
    (5) Disciplinary lateral job change.
    (6) Unsatisfactory interim rating, as provided in rule 2-3.3 and rule 3-6.4.

(d) A tangible adverse employment action caused by the abolition or creation of a position.
(e) An arbitrary and capricious lateral job change resulting in substantial harm.
(f) Denial of compensation or supplemental military pay to which the grievant is entitled under the civil service rules and regulations.
(g) A tangible adverse employment action has occurred or will occur as the result of the actual or anticipated failure or refusal of the appointing authority to comply with Rule 2-14 [Rights of Employees Absent Due to Service in the Uniformed Services] or applicable regulations.
(h) A tangible adverse employment action taken in retaliation for the employee's good faith exercise of grievance or technical complaint rights provided in the civil service rules or regulations.
(i) An action that substantially harmed the employee and violated (1) article 11, section 5 of the Michigan constitution, (2) a civil service rule or regulation, (3) an agency work rule, or (4) an enforceable written grievance settlement permitted by the civil service rules or regulations.
(j) Any other action for which the civil service rules or regulations specifically permit a grievance appeal to be filed.

Rule 8-2.2(a)-(j). Accordingly, although Rule 8-1 sets forth a fairly broad range of employer decisions that may be challenged via a civil service grievance, a much narrower subset of those decisions may be appealed to a hearing. The rest of those grievances are not subject to a hearing.

Exclusively represented employees generally may not file civil service grievances, because their conditions of employment are supplemented by a collective bargaining agreement ("CBA") containing a contractual grievance and arbitration procedure. *See* Rule 6-2.1(d) (providing that provisions of a collective bargaining agreement approved by the CSC "become a subset of the civil service rules governing rates of compensation and other conditions of employment for eligible employees in the applicable unit"). However, Rule 6-9.6 provides some exceptions to that general rule, making the civil service process the exclusive forum for resolving grievances involving the abolition or creation of a position, or grievances by an employee disciplined or denied the use of sick or annual leave for striking. *See* Rule 6-9.6(b)(3)(A), (B). Rule 6-9.6 also makes clear that "complaints," including technical complaints, against the CSC or its staff or "arising out of or related to" prohibited subjects of bargaining, "can only be adjudicated in a civil service forum

under the exclusive procedures provided for in the civil service rules and regulations." Rule 6-9.6(b)(3)(C), (D)

Prohibited subjects of bargaining are topics over which the state employer and an exclusive representative are not allowed to bargain. On September 20, 2017, the CSC dramatically expanded the scope of prohibited subjects under civil service rules. *See* CSC Meeting Minutes (Sept. 20, 2017) (available at https://www.michigan.gov/documents/mdcs/CSC_Minutes_September_20_2017_614382_7.pdf). For the first time since the CSC authorized collective bargaining in 1980, an exclusive representative and the employer are prohibited from bargaining over "[t]he employer's rights . . . to assign staff, including non-disciplinary transfers, employment preference, recall, working out of class, scheduling, shift assignment, overtime assignment, and defining seniority." State Personnel Director Official Communication No. 17-06a, Revision to 6-3.2(b)(3) (Aug. 9, 2017) (available at http://www.michigan.gov/documents/mdcs/SPDOC_17-06a_597298_7.pdf). As a result of this and other rule changes, effective January 1, 2019, the civil service grievance process will be the exclusive forum for resolving *all* classified employees' grievances involving: the assumption of a position; "an arbitrary and capricious lateral job change resulting in substantial harm;" application of employment preference or recall rights; challenges to "the employer's exercise of any other of its rights to assign staff, including scheduling, shift assignment, overtime assignment, or seniority calculation;" and the rescinding of a probationary appointment. *See id*, Revision to Rule 6-9.6(b)(3). While proposed amendments to civil service regulations implementing the new rule changes appear to provide that these types of grievances will be subject to a hearing for now, the CSC could conceivably change that, and the scope of matters affecting the classified service decided without a hearing would be even greater.

ARGUMENT

I. THE "AUTHORIZED BY LAW" STANDARD APPLIES TO JUDICIAL REVIEW OF APPELLEES' CONDUCT AND ENCOMPASSES A REQUIREMENT THAT THEY NOT ACT ARBITRARILY AND CAPRICIOUSLY.

The "authorized by law" standard set forth in Const 1963, art 6, § 28 is the *minimum* standard for reviewing a CSC decision made without a hearing. However, the Court of Appeals has recognized for many years that encompassed within that minimum standard is a requirement that a reviewing court determine whether the agency's decision was, *inter alia*, arbitrary and capricious. *See Brandon Sch Dist v Mich Educ Special Servs Ass'n*, 191 Mich App 257, 263 (1991) (test for determining whether agency action was authorized by law includes examining whether "it is in violation of statute, in excess of the statutory authority or jurisdiction of the agency, made upon unlawful procedures resulting in material prejudice, or is arbitrary and capricious"). Including an arbitrary and capricious element in the "authorized by law" standard is appropriate, and is consistent with what the framers and adopters of Const 1963, art 6, § 28 intended. Furthermore, where an administrative agency has made a decision with some evidence or record before it – regardless of whether or not it held a hearing – it is also appropriate under art 6, § 28 for a reviewing court to examine whether the agency arbitrarily disregarded that evidence or record, and reached a decision based upon its "own whim, caprice or because of the autocratic nature [it has] assumed." (Appellees' App'x at 52b). This is exactly what the Circuit Court did below, when it reviewed whether the CSC's decision to reclassify and effectively demote nearly 2,500 classified employees was supported by, or inconsistent with, the record compiled before the TRO. By contrast, the Court of Appeals's conclusion that it need not review the CSC's decision in light of the record was incorrect and should be reversed.

A. Article 6, § 28 Was Adopted To Protect The Citizens of Michigan From Arbitrary And Capricious Decisions By Administrative Agencies.

"It 'is a fundamental principle of constitutional construction that we determine the intent of the framers of the Constitution and of the people adopting it.'" *People v Tanner*, 496 Mich 199, 220 (2014) (quoting *Holland v Heavlin*, 299 Mich 465, 470 (1941)). In doing so, "[r]egard must also be given to the circumstances leading to the adoption of the provision and the purpose sought to be accomplished." *People v Nash*, 418 Mich 196, 209 (1983). In discerning the intent of the framers and the people, "constitutional convention debates and the address to the people, though not controlling, are relevant." *Id.*

Far from showing that the framers and adopters meant for the authorized by law standard to be the toothless rubber stamp envisioned by Defendants-Appellees, here the relevant convention debates demonstrate that the paramount, overall concern in adopting art 6, § 28 was to create a floor for judicial review of agency actions, in order to protect citizens and businesses from arbitrary and unsupported action by what they viewed as an increasingly powerful administrative state. Furthermore, nowhere in the debates is there any evidence that the framers intended for judicial review of agency actions to be weaker where no hearing was held; rather, in all instances, the framers were concerned with guarding citizens against unfair agency action and preventing the legislature from weakening the scope of judicial review.

The framers spent a substantial amount of time discussing the need for judicial review of agency actions for "the protection of the public, the individuals, business and otherwise, in the adoption of these recommendations," in order to "safeguard, if you please, against bureaucratic action by an administrative agency which might, so to speak, get the bit in its teeth and run away with it." (Appellees' App'x at 18b.) They noted that their intention was to enshrine in the Constitution "a minimum standard, a minimum below which the legislature may not go in

providing for review." (*Id* at 21b). *See Palo Group Foster Care, Inc v Mich Dep't of Social Servs*, 228 Mich App 140, 145 (1998) (noting that art 6, § 28 "merely establishes the *minimum* review to be applied, without forbidding more stringent review") (emphasis in original). Most telling, in a key part of the debates – which Appellees selectively quote with an ellipsis obscuring the heart of the statement – Delegate Lawrence explained that whether an agency has acted "authorized by law" effectively includes a requirement that it not act arbitrarily or capriciously:

> Now we go to the second sentence. All that second sentence says is that the review that is to be exercised by the court, as a minimum, shall determine first whether the decision of that administrative tribunal is authorized by law. In other words, did it exceed the law? Did it get into a field it shouldn't have gotten into, that it wasn't authorized to get into? Certainly, if we are to have a government of law, we can't object to that. *We can object to individuals running over our private rights, just on their own whim, caprice or because of the autocratic nature they have assumed.* And the other thing that it says is this – and this is all it says – it says that if it's such a decision that a hearing is required, then they've got to make their decision based on reliable, probative and substantial evidence on the whole record. Again, we come back to the fact that if the legislative and executive are going to exercise judicial functions, they've got to have those decisions they make supported by reliable evidence. And certainly that is not too much to expect. We don't have tyranny here. We are supposed to be governed by law.

(Appellees' App'x at 52b, emphasis added).

The convention debates also clarify that, contrary to Defendants-Appellees' arguments or the Court of Appeals's decision below, the framers and adopters did not intend for art 6, § 28 to limit judicial review in the absence of a hearing. Even in the absence of a hearing, art 6, § 28, by its plain language, requires the court to review *all* decisions, findings, rulings and orders of the agency, and "provides for review, both as to the facts and the law on the transcript *or on the record* made before the administrative agency below." (*Id* at 19b, emphasis added). In carrying out that review, Delegate Judge Pugsley explained that the committee's aim was to ensure "the matter of a fair, honest review of the proceedings of the lower body should be had in a court of review." *Id.* at 51b. Judge Pugsley went on to explain,

> I then come to this point. Is the rule of evidence which is set forth within the proposal before you one that is fair to all parties concerned? This appeal, like every appeal from a lower court to a higher one, contains a question of law. Also, it contains in addition thereto a question of fact. So if you will turn your attention to the language contained in this proposal, the appellate court is called upon first to determine as a minimum whether the decisions, findings, and orders are authorized by law. In other words, did the tribunal make a mistake in its interpretation of the law? And then you pass to the second question. Does the record – not in part, but in its entirety – set forth errors in view of the reliable, probative, and substantial evidence? If it does disclose such errors, then it will be the duty of the appellate court to reverse the decision. If the record taken as a whole substantiates that, then it should be affirmed.
>
> I submit to you if you believe that such a rule is a proper one to be included in the constitution, then you should support this proposal . . . .”

(*Id*). This explanation, along with the explanation given by Delegate Lawrence, and other delegates’ statements that the entire section would set a floor for review which the legislature could not go below, show that the framers and adopters intended for judicial review under the section to stand as a bulwark against arbitrary and capricious decision-making by an agency, which necessarily includes ensuring that the agency acted in a manner supported by the record before it, regardless of whether or not it held a hearing.

Other general comments by delegates demonstrate that the overall concern by the framers and adopters was avoiding agency action that would be arbitrary and capricious because it was unsupported by or contrary to the record before the agency. For example:

- Delegate Martin stated that the committee wanted “to get away from this rule that the slightest fragment of evidence will support the ruling of an administrative tribunal.” (*Id* at 22b).
- Delegate Ford explained that “the evidence has to fairly support the findings of fact made by the administrative body or agency – for example, a civil service commission. The civil service commission has to have some facts to act on and those facts have to, when

examined on their face, fairly support the findings. Now, this doesn't mean that they could support it entirely on a presumption on a presumption or on presumptions without any direct evidence." (*Id*).

- Delegates Krolikowski and Danhof indicated that the language for art 6, § 28, in part, from the Missouri Constitution. (*Id* at 16b, 17b). In 1960 – nearly two years before the convention debates on art 6, § 28 – the Missouri Supreme Court, interpreting the phrase "authorized by law" in its constitution, explained that a reviewing court must "determine whether the exercise of the [agency's] sole discretion was in accord with statutory authority, whether it was in violation of any constitutional provision, *whether the decision reached was arbitrary and capricious, or unreasonable and thus an abuse of discretion*." *Pinzino v Supervisor of Liquor Control*, 334 SW2d 20, 26 (Mo 1960) (emphasis added).

The framers did not distinguish in any of the above instances between review of agency decisions, findings, rulings and orders made without a hearing and those made after a hearing. Rather, they made clear that they intended for the courts to review an agency's application of the law to the record before it regardless of whether or not it decided to hold a hearing. Accordingly, the constitutional convention debates support the elements of the "authorized by law" standard recited by the courts below in this case, and further, support the Circuit Court's review of the CSC's decision in light of the record before the TRO.

B. An Administrative Agency Should Not Be Permitted To Avoid Meaningful Judicial Review Of Its Decisions, Findings, Rulings and Orders Simply By Declining To Hold A Hearing.

Taken to its logical conclusion, Defendants-Appellees argument is that administrative agencies are empowered to control the scope of judicial review of their actions, because an agency decides whether it will hold a hearing, and if there's no hearing then judicial review under art 6, §

28 is extremely limited. As explained above, that argument is totally inconsistent with the concerns expressed by the framers about administrative agency power generally, and protecting citizens and businesses from arbitrary and capricious actions. It is especially troubling where, as here, the CSC's rules and regulations govern significantly important issues affecting the rights of classified employees and appointing authorities, but only provide for a hearing in a small number of cases. For example, under the CSC's rules and regulations, employees' jobs can be outsourced to a third-party contractor, or, as in this case, employees can be reclassified to a lower paid, lower status position, without any hearing at the agency level. To quote the convention debates, "we are not dealing here . . with peanuts." (Appellees' App'x at 18b). Moreover, as explained above, and as the instant case demonstrates, the lack of a hearing does not mean that there was not a record or evidence before the agency when it made its decision. That, in turn, means that there is something for a court to review even where the CSC has declined to hold a hearing.

There is no basis for permitting the CSC to shield its decisions on important, significant matters affecting classified and appointing authorities from judicial review that ensures the agency has not acted arbitrarily or capriciously in, for example, effectively demoting thousands of employees or contracting their jobs out to a third party. Furthermore, because there may be nothing to stop the CSC from taking away a hearing for some current or future grievance or technical complaint topics – including employees' rights on layoff, recall, overtime assignment, and seniority, which the CSC recently made prohibited subjects of bargaining – the standard advocated by Appellees would give the CSC a perverse incentive to do just that. Not only would such a result be wholly inconsistent with the reasons why art 6, § 28 was adopted, but it would also be inconsistent with the history underlying art 11, § 5. More specifically, as the CSC has chosen to move further away from a collective bargaining process that ensures participation by employees

and protects against insular and irrational decision-making by the employer, the last thing the classified service needs is less opportunity for judicial review that safeguards against arbitrary and capricious action in state employment.

Finally, it is also important to note that although this case concerns a decision made by the CSC, Defendants-Appellees' arguments about the scope of the "authorized by law" standard are not limited to the CSC. Accepting their argument would massively curtail the scope of judicial review that the lower courts have been applying under Const 1963, art 6, § 28 for many years. In 1962, when the administrative state was presumably smaller than it is in 2018, the framers and adopters of art 6, § 28 concluded that it was "necessary to protect the people in their right of appeal and their right to be heard in another branch of the government, namely the judicial branch, on matters affecting their person, their property or their business." (Appellees' App'x at 18b). That protection continues to be necessary not just with respect to the CSC, but with respect to other agencies as well. That is yet another reason strongly counseling against the dramatic reformulation of Const 1963, art 6, § 28 advocated by Defendants-Appellees in their supplemental brief.

CONCLUSION

For all of the above reasons, Amici International Union, UAW and its Local 6000 urge this Court to grant Plaintiffs-Appellants' application for leave and reverse the decision of the court of appeals.

Respectfully submitted,

By: */s/Ava Barbour*

Niraj Ganatra (P63150)
General Counsel
Ava Barbour (P70881)
Associate General Counsel
International Union, UAW
8000 East Jefferson Avenue
Detroit, MI 48214
(313) 926-5216 phone
(313) 926-5240 fax
nganatra@uaw.net
abarbour@uaw.net

Dated: July 20, 2018

PROOF OF SERVICE

The undersigned certifies that on July 20, 2018, the foregoing document was served on the attorneys of record for all parties in the above-referenced case by using the TrueFiling system, which will send notification of such filing to those who are currently on the list to receive email notices for this case.

/s/Ava Barbour

Ava Barbour (P70881)
Associate General Counsel
International Union, UAW
8000 East Jefferson Avenue
Detroit, MI 48214
(313) 926-5216 phone
(313) 926-5240 fax
abarbour@uaw.net