



Written by [Michael Tennant](#) on April 25, 2022

Pro-life Groups Go to Bat for Michigan Abortion Law Under Assault by Whitmer, Planned Parenthood

Michigan pro-life groups recently filed court motions in defense of the Wolverine State's anti-abortion law that is under a coordinated attack by Governor Gretchen Whitmer, Attorney General Dana Nessel, and Planned Parenthood.

On April 7, Whitmer [filed a lawsuit](#) alleging that Michigan's 1931 law prohibiting abortion except to save the life of the mother violates the due-process and equal-protection clauses of the Michigan constitution. Seven of the county attorneys general named as plaintiffs in Whitmer's lawsuit issued a statement saying they would not contest it.



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That same day, in a coordinated complaint, Planned Parenthood of Michigan, represented by American Civil Liberties Union (ACLU) attorneys, sued Nessel over the 1931 act; she declared that she would not defend it.

Since practically every party to these lawsuits agrees that the law should be overturned, Right to Life of Michigan and the Michigan Catholic Conference, both represented by attorneys from the Alliance Defending Freedom (ADF), are stepping into the breach in an effort to preserve the statute.

On Wednesday, ADF attorneys filed an [amicus brief](#) with the Michigan Court of Claims, asking the court to dismiss the Planned Parenthood case.

Noting the coordinated attacks on the abortion law by Whitmer, Nessel, and Planned Parenthood and the fact that Whitmer has "used her flouting of Michigan law to initiate a national fundraising campaign," they write, "Any one of these factors should cause a court to pause and question whether it is being used as a political football in a matter which should be pursued through the democratic process."

Beyond that, however, they argue that the court "lacks jurisdiction to resolve Plaintiffs' complaint for three, fundamental reasons: (1) the lack of adverse parties, (2) the lack of an actual case or controversy, and (3) the lack of ripeness." There are no adverse parties because everyone involved wants to be rid of the 1931 law. There is no actual case because no one has brought a claim of injury. The hypothetical future injuries — namely the inability of Michigan women to abort their unborn children — are contingent upon the U.S. Supreme Court's overturning of *Roe v. Wade* (1973) in its decision on the pending case *Dobbs v. Jackson Women's Health Organization*, which is by no means certain. Thus, the claim is not "ripe" for consideration by the court, plaintiffs contend.

The plaintiffs also request that the presiding judge, Elizabeth Gleicher, recuse herself from the case because (a) in private practice, she represented Planned Parenthood on behalf of the ACLU in similar cases; (b) she received an award from Planned Parenthood; and (c) she continues to donate to Planned



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Parenthood.

The pro-life groups didn't stop there. On Friday, they also filed a [motion to intervene](#) in Whitmer's lawsuit.

They begin their motion by pointing out that Michigan's current constitution was ratified in 1963, 32 years after the abortion law Whitmer claims is unconstitutional was already on the books. "There is no public record suggesting that those who drafted and ratified Michigan's 1963 Constitution believed that they were invalidating [the 1931 law]," they explain. "The one time a litigant raised the issue in the 1990s, the Court of Appeals definitively held that 'there is no right to abortion under the Michigan Constitution.'" The lawyer who litigated that case was none other than Gleicher.

The pro-lifers claim they have a right to intervene in the case because their "interests may be inadequately represented by the parties" to the suit, few of whom seem inclined to defend the law and none of whom can "articulate the government's interests" in prosecuting someone under a law that is currently unenforceable. Moreover, any politician who did stick up for the law would run the risk of political attacks.

In addition, the pro-lifers would "advance alternative arguments" to those offered by elected officials, the motion reads. They are, for instance, prepared to defend the law on the basis of the 14th Amendment to the U.S. Constitution and that same document's clause guaranteeing each state "a republican form of government."

Whitmer and her pro-abortion allies may have expected an easy victory in the courts. Thanks to ADF and the pro-life organizations it represents, however, their charge toward a world of unlimited baby-killing may well be thwarted.



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