

**STATE OF MICHIGAN
IN THE SUPREME COURT**

ATTORNEY-GENERAL,

Plaintiff-Appellant,

SC: 165961

COA: 362272

v

Ingham CC: 22-000058-CZ

ELI LILLY AND COMPANY,

Defendant-Appellee.

**AMICUS BRIEF OF THE MICHIGAN POVERTY LAW PROGRAM, LEGAL
SERVICES ASSOCIATION OF MICHIGAN, MICHIGAN STATE PLANNING BODY,
AND NATIONAL CONSUMER LAW CENTER**

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Alexander v Del Monte Corp, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued January 11, 2011 (Case No. 09-12303).....9

Allan v M & S Morg Co, 138 Mich App 28, 359 NW2d 238 (1984).....8

AMG Cap Mgmt LLC v FTC, 141 S Ct 1341 (2021).....16

Baumkel v Scotts Miracle-Gro Co, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued September 28, 2009 (Case No. 08-14137).....9

Cyr v Ford Motor Co, unpublished per curium opinion of the Court of Appeals, issued December 26, 2019 (Docket No. 345751).....9

Davis v Boydell Dev Co, Inc, unpublished opinion of the Court of Appeals, issued June 25, 2019 (Docket No. 344284).....10

Dingman v OneWest Bank, FSB, 859 F Supp 2d 912 (ED Mich, 2012).....9

Jimenez v Ford Motor Credit Co, unpublished per curium opinion of the Court of Appeals, issued December 22, 2015 (Docket No. 322909).....9

Jordan v Transnational Motors, 212 Mich App 94, 98; 537 NW2d 471, 474 (1995).....10

King v Taylor Chrysler-Plymouth, Inc, 184 Mich App 204, 457 NW2d 42 (1990).....8

Kraft v Detroit Entertainment, LLC, 261 Mich App 534, 683 NW2d 200, 205 (2004).....9

Liss v Lewiston Richards, Inc, 478 Mich 203 (2007).....9

Love v Ciccarelli, unpublished per curium opinion of the Court of Appeals, issued May 6, 2004 (Docket No. 243970).....9

Lucas v Awaad, 299 Mich App 345, 369; 830 NW2d 141, 155 (2013).....9

Molosky v Washington Mut, Inc, 664 F3d 109 (CA 6, 2011).....9

Newton v Bank West, 262 Mich App 434; 686 NW2d 491 (2004).....15

Rutter v Troy Mortg Servicing Co, 145 Mich. App. 116, 377 NW2d 846 (1985).....8

Smith v Globe Life Ins Co, 460 Mich 446 (1999).....8

Voydanoff v Select Portfolio Servicing, Inc, unpublished per curium opinion of the Court of Appeals, issued December 22, 2011 (Docket No. 298098).....9

Woods v Williams & Sons, unpublished per curium opinion of the Court of Appeals, issued January 23, 2007 (Docket No. 256394).....9

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Other:

Bladen, *How and Why the Consumer Protection Act Came to Be* (2005) Amicus Brief of the Consumer Law Section of the State Bar of Michigan, Ex. 1.....6, 7

Booth-Singleton, *Michigan Consumers Report \$204 Million Loss in 2024 Due to Scams, Report Says*, CBS News (March 10, 2025), <<https://www.cbsnews.com/detroit/news/michigan-consumers-fraud-losses-federal-trade-commission>>.....1, 3

Carter, *Consumer Protection in the States: A 50-State Evaluation of Unfair and Deceptive Practices Laws*, National Consumer Law Center (March 2018), available at <<https://www.nclc.org/resources/how-well-do-states-protect-consumers>>.....2, 6, 9, 10, 14, 15

Consumer Federation of America, *Consumer Complaint Survey Report 2024* (June 2025), available at <<https://consumerfed.org/reports/consumer-complaint-survey-report-2024>>. (highlighting top consumer complaints and consumer protection successes from consumer agencies nationally).....13

Consumer Financial Protection Bureau, *Consumer Complaint Database* <consumerfinance.gov/data-research/consumer-complaints> (accessed August 22, 2025).....3

Consumer Financial Protection Bureau, *Strengthening State-Level Consumer Protections* (January 2025), available at <<https://www.consumerfinance.gov/data-research/research-reports/strengthening-state-level-consumer-protections>>.....2, 5, 14

Consumer Financial Protection Bureau, *Interpretative Rules, Policy Statements, and Advisory Options; Withdrawal*, available at <<https://public-inspection.federalregister.gov/2025-08286.pdf>>.....15

<i>Consumer Interests of the Elderly: Hearing Before the Subcomm. on Consumer Interests of the Elderly of the S. Special Comm. on Aging, 90th Cong. 50 (1967)</i>	7
Counsel and Advocacy Law Line, <i>CALL: 2024 Poverty Law Cases by Topic and Outcome</i> (Ex. 1).....	3, 11
DiResta et al, <i>Fifth Circuit Strikes Down FTC’s Auto Retail Scam Rule: Key Implications for Dealers</i> (February 4, 2025), available at < https://www.hklaw.com/en/insights/publications/2025/02/fifth-circuit-strikes-down-ftcs-auto-retail-scam-rule >.....	16
Duffus, <i>US Financial Regulatory Enforcement Plummet Under Trump Report Finds</i> , Wolters Kluwer (August 7, 2025), available at < https://www.wolterskluwer.com/en/expert-insights/us-financial-regulatory-enforcement-plummet-under-trump-report-finds >.....	15
Fayad, <i>Amid Rising Cases, Detroit Workshop Helps Seniors Spot Scams</i> , Detroit News (June 17, 2025), available at < https://www.detroitnews.com/story/news/local/detroit-city/2025/06/17/detroit-workshop-focuses-helping-seniors-spot-scams/84235318007 >.....	5
Federal Trade Commission, <i>Letter from Acting Chairwoman Slaughter to the Senate Committee on Commerce, Science, and Transportation Regarding Section 13(b) of the Federal Trade Commission Act</i> (May 19, 2021), available at < https://www.ftc.gov/system/files/documents/public_statements/1590235/acting_chair_letter_to_senate_committee_re_13b_-_final_signed.pdf >	16
Federal Trade Commission, <i>FTC Submits Comment to FCC on Work to Protect Consumers from Potential Harmful Effects of AI</i> (July 31, 2024), available at < https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-submits-comment-fcc-work-protect-consumers-potential-harmful-effects-ai >.....	5
Federal Trade Commission, <i>New FTC Data Show a Big Jump in Reported Losses to Fraud to \$12.5 billion in 2024</i> (March 10, 2025), available at < https://www.ftc.gov/news-events/news/press-releases/2025/03/new-ftc-data-show-big-jump-reported-losses-fraud-125-billion-2024 >.....	5, 12
Federal Trade Commission, <i>Working Together to Protect Consumers: A Study and Recommendations on FTC Collaboration with the State Attorneys General, A Report to Congress</i> (April 10, 2024), available at < https://www.ftc.gov/system/files/ftc_gov/pdf/p238400_ftc_collaboration_act_report.pdf >.....	16
Hoyt, <i>Veto Override</i> , The Claire Sentinel (September 28, 1977).....	8
Legal Services Corporation, <i>House Appropriations Subcommittee Proposes 46% Cut to LSC Funding</i> (July 15, 2025), available at https://www.lsc.gov/press-release/house-appropriations-subcommittee-proposes-46-cut-lsc-funding	11

Lichter, *Michigan Clerks Warn About Rise in Property Fraud*, WZZM13 (June 25, 2025), available at <<https://www.wzzm13.com/article/news/crime/rise-in-property-fraud>>.....5

Massachusetts Office of the Attorney General, *National Consumer Protection Week: AG’s Office Issues Consumer Advocacy Report Highlighting Tips and Trends from 2024* (March 4, 2025), available at <<https://www.mass.gov/news/national-consumer-protection-week-ags-office-issues-consumer-advocacy-report-highlighting-tips-and-trends-from-2024>>.....12

Maveal, *Michigan Consumer Protection Act Gutted by Supreme Court “Globe-alization,”* 53 Wayne L Rev 833 (2007).....6

Michigan Association of United Ways, *The State of ALICE in Michigan: 2025 Update on Financial Hardship*, available at <<https://www.uwmich.org/alice-report>>.....4

Michigan Department of Attorney General, *Press Releases*, <<https://www.michigan.gov/ag/news/press-releases>> (accessed August 22, 2025).....13

Michigan Office of the Attorney General, *AG Nessel Shares Top Consumer Complaints of 2024* (March 3, 2025), <<https://content.govdelivery.com/accounts/MIAG/bulletins/3d5154a>>.....3, 12

Michigan State Bar Foundation, *Civil Legal Aid in Michigan: 2023 Report of Services*, available at <<https://www.msbf.org/wp-content/uploads/2024/10/2023-Grantee-Services-Report-.pdf>>...11

Notice, *The Vassar Pioneer Times* (June 19, 1990).....8

Office of the Attorney General, *2024 Consumer Protection*, p 2, available at <https://www.ohioattorneygeneral.gov/Files/Reports/Consumer-Annual-Reports/2024-Consumer-Protection-Annual-Report_WEB>.....12

Office of the Illinois Attorney General Kwame Raoul, *Attorney General Raoul Recognizes National Consumer Protection Week, Announces Top 10 List of Consumer Complaints* (March 3, 2025), available at <<https://illinoisattorneygeneral.gov/news/story/attorney-general-raoul-recognizes-national-consumer-protection-week-announces-top-10-list-of-consumer-complaints-3-3-25>>.....12

Office of the Indiana Attorney General, *Hoosier Car Buyers Get Restitution Thanks to Attorney General Todd Rokita’s Settlements with Allegedly Deceptive Dealers* (February 26, 2025), available at <<https://events.in.gov/event/hoosier-car-buyers-get-restitution-thanks-to-attorney-general-todd-rokitas-settlements-with-allegedly-deceptive-dealers>>.....13

Ohio Attorney General, *Consumer Protection: Yost Takes Legal Action in Three ‘Failure to Deliver’ Cases* (July 2, 2025), available at <<https://www.ohioattorneygeneral.gov/Media/News-Releases/July-2025/Consumer-Protection-Yost-Takes-Legal-Action-in-Thr>>.....13

Ohio Attorney General, *Yost Sues Wholesale Mortgage Lender Over Deceptive Business Practices* (April 17, 2025), available at <<https://www.ohioattorneygeneral.gov/Media/News-Releases/April-2025/Yost-Sues-Wholesale-Mortgage-Lender-Over-Deceptive>>.....13

US Senate Referee Allows Measure to Slash CFPB Budget, Lawmakers, Reuters (June 27, 2025), available at <<https://www.reuters.com/business/finance/us-senate-referee-allows-measure-slash-cfpb-budget-lawmakers-say-2025-06-27>>.....15

Serwin et al, *FTC’s “Click-to-Cancel” Rule Voided* (July 16, 2025), available at <<https://www.dlapiper.com/en-it/insights/publications/2025/07/ftcs-click-to-cancel-rule-voided>>.....16

Seren et al, *FTC’s Proposed Budget Trims Staff* (July 25, 2025), available at <<https://www.natlawreview.com/article/ftcs-proposed-budget-trims-staff>>.....16

STATEMENT OF THE QUESTION PRESENTED

- I.** Whether this Court's decisions in *Smith v Globe Life Ins Co*, 460 Mich 446 (1999), and *Liss v Lewiston Richards, Inc*, 478 Mich 203 (2007), were wrongly decided.

Plaintiff-Appellant: Yes.
Defendant-Appellee: No.
Amici: Yes.

- II.** Whether principles of stare decisis warrant retaining the erroneous decisions in *Smith v Globe Life Ins Co*, 460 Mich 446 (1999), and *Liss v Lewiston Richards, Inc*, 478 Mich 203 (2007).

Plaintiff-Appellant: No.
Defendant-Appellee: Yes.
Amici: No.

STATEMENT OF INTEREST

Amici curiae the Legal Services Association of Michigan (LSAM), Michigan State Planning Body (MSPB), and Michigan Poverty Law Program (MPLP) represent Michigan's civil legal aid community, which has as part of its central mission expanding access to justice, eliminating poverty, and increasing the well-being and economic security of all Michiganders.¹ Legal aid attorneys regularly counsel and represent low-income consumers who are victims of unfair, unconscionable, and deceptive business methods, acts, and practices.² They see first-hand the harms caused to low-income consumers by this Court's decisions in *Smith v Globe Life Ins Co* and *Liss v Lewiston-Richards, Inc*, which effectively gutted the Michigan Consumer Protection Act (MCPA).³ With this brief, amici seek to share this experience and urge this Court to restore the MCPA to its clear, intended purpose: providing robust protections for Michigan's consumers.

LSAM is a Michigan nonprofit organization incorporated in 1982. LSAM's members are eleven of the largest civil legal services organizations in Michigan and collectively provide legal services to low-income individuals and families in more than 50,000 cases per year.⁴ LSAM's members counsel and represent low-income individuals in consumer law matters, including debt collection actions, mortgage foreclosures, and credit reporting disputes. Their ability to represent

¹ LSAM, MSPB, and MPLP are authorized to file an amici curiae brief without leave pursuant to this Court's April 4, 2025 order inviting amici who have appeared in this case to file supplemental briefs.

² Pursuant to MCR 7.312(H)(5), amici state that no counsel for a party authored this brief in whole or in part, no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief, and no person other than amici, their members, or their counsel made any such monetary contribution.

³ *Smith v Globe Life Ins Co*, 460 Mich 446; 597 NW2d 28 (1999); *Liss v Lewiston-Richards, Inc*, 478 Mich 203; 732 NW2d 514 (2007).

⁴ LSAM's members are: Lakeshore Legal Aid, Legal Aid and Defender, Legal Aid of Western Michigan, Legal Services of Eastern Michigan, Legal Services of Northern Michigan, Michigan Advocacy Program, Michigan Indian Legal Services, Michigan Migrant Legal Assistance Program, Michigan Legal Services, Michigan Poverty Law Program, and the University of Michigan Clinical Law Program.

consumers and obtain relief for their consumer clients is significantly constrained by this Court's *Smith* and *Liss* decisions, which prevent them from raising MCPA claims in nearly all consumer cases.

The Michigan State Planning Body (MSPB) is an unincorporated association of forty-three individuals—leaders in the judiciary, the State Bar, state and regional advocacy programs, and community organizations—who are interested in Michigan's civil legal aid and indigent criminal defense systems. MSPB acts as a forum for planning and coordinating the state's efforts to deliver civil and criminal legal services to the poor. MSPB's mission is to plan, organize, and coordinate an effective civil legal services delivery system in the State of Michigan. In addition to coordinating pro bono services, MSPB advocates on behalf of the state's low-income population to the State Supreme Court, the State Bar, and the State Court Administrative Office.

The Michigan Poverty Law Program (MPLP) seeks to advance the health, safety, and economic security of low-income Michiganders and advance racial justice in the state. It does so by convening, training, and supporting the state's legal aid attorneys; advocating for legislative, administrative, and court policy changes; and bringing impact litigation to broadly enforce important rights and set legal and policy precedents. MPLP represents low-income consumers and provides training and support to Michigan's legal aid attorneys on consumer law issues.

The National Consumer Law Center (NCLC) is a national non-profit research and advocacy organization focusing on the needs of low-income consumers. NCLC works with legal services and private lawyers, consumer protection officials, public policymakers, consumer and business reporters, and consumer and low-income community organizations across the country to

ensure access to justice for all consumers.⁵ NCLC is the author of *Unfair and Deceptive Acts and Practices* (11 th ed. 2025), the leading treatise on laws like Michigan’s Consumer Protection Act in the fifty states. NCLC frequently appears as amicus curiae in consumer law cases before trial and appellate courts throughout the country.

With this brief, LSAM, MSPB, MPLP, and NCLC seek to advance their interest in ensuring Michigan consumers are adequately protected from unfair, unconscionable, and deceptive methods, acts, and practices. This case affords the Court an opportunity to restore critical protections to Michigan’s low-income consumers at a time of increasing fraud and a dramatic rollback in federal consumer protections. Restoring state-law protections will help improve the economic well-being of low-income Michiganders, safeguard the integrity of the marketplace, and benefit businesses that play by the rules.

⁵ Pursuant to MCR 7.312(H)(2)(f), NCLC is authorized to file an amicus curiae brief without leave “in calendar cases or cases being argued on the application.”

INTRODUCTION

Each year, tens of thousands of Michigan consumers are victims of unfair and deceptive acts and practices. Legal aid attorneys see these practices every day, including high-pressure, door-to-door home improvement contractors who fail to fulfill their promises; auto dealerships that misrepresent the conditions of vehicles; scammers using increasingly sophisticated calls and texts to try to drain seniors' bank accounts; and landlords charging hidden fees to tenants desperate for affordable housing. These practices harm low-income consumers and our state's economy. Last year, Michigan consumers reported to the Federal Trade Commission (FTC) that they lost \$204 million from fraudulent practices alone, with a median loss of \$350.⁶ These reported losses are only the tip of the iceberg and are rising.

This Court's inconsistent and incorrect decisions in *Smith* and *Liss* left Michigan consumers with some of the weakest protections from such practices in the nation. This is not what Michigan's legislature intended. In 1976, it adopted a robust consumer protection statute: the Michigan Consumer Protection Act (MCPA). For two decades Michigan's consumers, Attorney General, and local prosecutors used the MCPA to make defrauded consumers whole, penalize offending businesses, and deter future violations. Then in *Smith* and again in *Liss*, this Court looked past the plain language of the statute and interpreted a small exemption to the Act to include the transactions and conduct of all regulated businesses, even if the regulator does not police the specific transaction or conduct at issue and even if the transaction and conduct is unfair or deceptive.

⁶ Booth-Singleton, *Michigan Consumers Report \$204 Million Loss in 2024 Due to Scams, Report Says*, CBS News (March 10, 2025), <<https://www.cbsnews.com/detroit/news/michigan-consumers-fraud-losses-federal-trade-commission>>.

These erroneous decisions have resulted in Michigan's once strong MCPA now covering "almost no businesses," "almost no consumer transactions," and being "of little or no use to consumers."⁷ This means defrauded consumers are left to try to bring difficult common law claims to obtain relief. It also means that few low-income victims of unfair and deceptive practices can obtain representation. Because of the small monetary amounts at issue, lack of an MCPA claim, and lack of potential attorney fees, few private attorneys are willing to take their cases, and legal aid programs do not have the resources to provide representation. As the Attorney General and prosecuting attorneys have explained in their briefs, it also means that these state actors have limited ability to police such practices, placing Michigan consumers at a significant disadvantage to those in other states.

This Court has the chance to restore a common-sense interpretation of MCL 455.904(1)(a) and, in doing so, to restore the consumer protections Michigan's legislature intended. Low-income consumers need these protections now and should not be forced by this Court's erroneous decisions to go back to the legislature to obtain the protections that were clearly granted to them. In January 2025, citing growing threats to consumers, the federal Consumer Financial Protection Bureau (CFPB) declared, "the time to strengthen state-level consumer protection has come."⁸ With the subsequent rollback in federal regulations and enforcement, this is now truer than ever and nowhere is this truer than in Michigan.

⁷ Carter, *Consumer Protection in the States: A 50-State Evaluation of Unfair and Deceptive Practices Laws*, National Consumer Law Center (March 2018), pp 1, 58, available at <<https://www.nclc.org/resources/how-well-do-states-protect-consumers>>.

⁸ Consumer Financial Protection Bureau, *Strengthening State-Level Consumer Protections* (January 2025), p 20, available at <<https://www.consumerfinance.gov/data-research/research-reports/strengthening-state-level-consumer-protections>>.

ARGUMENT

I. **Unfair and deceptive practices cause widespread, significant harm to Michigan's low-income consumers.**

Tens of thousands of Michigan consumers are harmed by unfair and deceptive practices each year. In 2024 alone:

- The Counsel and Advocacy Law Line (CALL), which conducts intake for nearly all the state's legal aid providers, received 2,184 requests for legal assistance on consumer issues.⁹ Only housing and family law matters had more requests for assistance.¹⁰
- The Attorney General's Consumer Protection team received over 10,000 written and over 20,000 phone consumer complaints, with top concerns involving online purchases and communications, defective and undelivered products, vehicle sales and repairs, and credit and financial services concerns.¹¹
- The federal Consumer Financial Protection Bureau (CFPB) received 63,747 complaints from Michigan consumers.¹² The top five issues identified were credit reporting, debt collection, credit cards, bank accounts, and mortgages.¹³
- The Federal Trade Commission received 53,351 fraud complaints from Michigan consumers and reported that Michigan consumers lost \$204 million to fraud.¹⁴

⁹ Counsel and Advocacy Law Line, *CALL: 2024 Poverty Law Cases by Topic and Outcome* (Ex. 1).

¹⁰ *Id.*

¹¹ Michigan Office of the Attorney General, *AG Nessel Shares Top Consumer Complaints of 2024* (March 3, 2025), <<https://content.govdelivery.com/accounts/MIAG/bulletins/3d5154a>>.

¹² Consumer Financial Protection Bureau, *Consumer Complaint Database* <consumerfinance.gov/data-research/consumer-complaints> (accessed August 22, 2025).

¹³ *Id.*

¹⁴ Booth-Singleton, *Michigan Consumers Report \$204 Million Loss in 2024 Due to Scams, Report Says*, CBS News (March 10, 2025), available at

Legal aid attorneys meet these consumers every day. The consumers often include seniors taken in by contractors promising affordable repairs and renovations who then walk away with the senior's money or leave their home in worse shape than before due to shoddy workmanship. The consumers are often low-wage workers, desperate for transportation to get to their jobs, who buy used cars only to have the vehicles break down within months and then find the dealer unwilling to honor the service contract. And tenants across the state, squeezed by rising housing prices, often end up in rental housing with unsafe and unhealthy conditions and subject to an increasing array of hidden fees.

These unfair and exploitative practices are harmful and destabilizing for Michigan consumers. Forty-one percent of Michigan households face financial instability—meaning they make less than is required to cover the basic cost of living in their county.¹⁵ Because these households have little income or savings cushions, the fallout from unfair and deceptive transactions—having to replace an inoperable car or appliance, paying hundreds more in fees or interest each month, finding another contractor to complete emergency repairs—can be devastating. When consumers are living month-to-month, unexpected expenses of even just a few hundred dollars can lead to job and housing loss, homelessness, food insecurity, and an inability to pay for medical care. These disruptions, in turn, have ripple effects across our state's economy and result in social services costs that must be borne by Michigan taxpayers.

<<https://www.cbsnews.com/detroit/news/michigan-consumers-fraud-losses-federal-trade-commission>>.

¹⁵ Michigan Association of United Ways, *The State of ALICE in Michigan: 2025 Update on Financial Hardship*, available at <<https://www.uwmich.org/alice-report>>.

Unfortunately, such fraud and abuse are only expected to rise. FTC data shows consumers reported \$12.5 billion in losses to fraud in 2024—a 25% jump from the year before.¹⁶ The agency has warned that the misuse of artificial intelligence (AI) tools could further accelerate this trend, with scammers weaponizing AI to impersonate victims’ family members or carry out other schemes.¹⁷ In January 2025, the CFPB issued a report citing the growing threats to consumers from new technologies, increased market concentration, and the proliferation of junk fees.¹⁸ It called on states to strengthen consumer protections in response to these emerging challenges.¹⁹ In Michigan, from Detroit to Ottawa County, local law enforcement, local governments, and community organizations report similar increases in fraud, particularly related to property fraud and impersonation scams aimed at seniors.²⁰ In response, these organizations have had to devote their limited resources to try to protect consumers from abuse.

II. *Smith* and *Liss* were wrongly decided and have decimated protections for low-income consumers from these unfair and deceptive practices.

The MCPA created robust protections for Michigan consumers from unfair, unconscionable, and deceptive acts, methods, and practices. Unfortunately, the *Smith* and *Liss* decisions interpreted a narrow exemption for transactions and conduct specifically authorized by

¹⁶ Federal Trade Commission, *New FTC Data Show a Big Jump in Reported Losses to Fraud to \$12.5 billion in 2024* (March 10, 2025), available at <<https://www.ftc.gov/news-events/news/press-releases/2025/03/new-ftc-data-show-big-jump-reported-losses-fraud-125-billion-2024>>.

¹⁷ Federal Trade Commission, *FTC Submits Comment to FCC on Work to Protect Consumers from Potential Harmful Effects of AI* (July 31, 2024), available at <<https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-submits-comment-fcc-work-protect-consumers-potential-harmful-effects-ai>>.

¹⁸ *Strengthening State-Level Consumer Protections*.

¹⁹ *Id.*

²⁰ Fayad, *Amid Rising Cases, Detroit Workshop Helps Seniors Spot Scams*, Detroit News (June 17, 2025), available at <<https://www.detroitnews.com/story/news/local/detroit-city/2025/06/17/detroit-workshop-focuses-helping-seniors-spot-scams/84235318007>>; Lichter, *Michigan Clerks Warn About Rise in Property Fraud*, WZZM13 (June 25, 2025), available at <<https://www.wzzm13.com/article/news/crime/rise-in-property-fraud>>.

state or federal regulators so broadly as to read the Act nearly out of existence, leaving Michigan with some of the weakest consumer protections in the nation. This prevents consumers from obtaining meaningful relief and access to justice and the state from being able to maintain fairness in the marketplace and deter future bad actors.

a. The Michigan Consumer Protection Act was intended to be a powerful tool to protect Michigan's low-income consumers.

Before the passage of the MCPA, low-income consumers had few tools to protect themselves or secure relief from unfair or deceptive business practices. The Federal Trade Commission (FTC) Act prohibited unfair and deceptive acts and practices but contained no private right of action, and the FTC lacked the resources for effective nation-wide enforcement.²¹ Before the MCPA, Michigan's Attorney General could bring claims under statutes aimed at specific industries but lacked the ability to respond quickly to emerging unfair and deceptive practices across the marketplace.²² Individual low-income consumers could attempt to bring common law false advertising or fraud claims, but these causes of action were very difficult to prove and often barred by contract provisions immunizing sellers or creditors from liability.²³ Because the amounts in controversy were often low, even if consumers had meritorious claims, it was difficult to obtain representation because the potential benefits of the suit would often not outweigh the costs of litigation.²⁴

²¹ Maveal, *Michigan Consumer Protection Act Guttled by Supreme Court "Globe-alization,"* 53 Wayne L Rev 833 (2007).

²² Bladen, *How and Why the Consumer Protection Act Came to Be* (2005), pp 7-8, Amicus Brief of the Consumer Law Section of the State Bar of Michigan, Ex. 1.

²³ *Consumer Protection in the States*, p 10.

²⁴ *Id.*; *How and Why*, pp 7-8.

In response to growing complaints of unfair, unconscionable, and deceptive practices and these limited tools, Michigan adopted its Consumer Protection Act in 1976.²⁵ Drawing on model legislation developed by the FTC and deeply informed by the Office of Attorney General's experience advocating on behalf of Michigan consumers, it provided robust protections for Michigan's low-income consumers.²⁶ It prohibited a broad range of unfair, unconscionable, and deceptive practices, including misrepresenting the quality of goods; causing confusion as to terms of credit; price gouging; and taking advantage of a consumer's disability, illiteracy, or inability to understand the language of a transaction.²⁷ It created layered enforcement mechanisms that ensured that low-income consumers would be meaningfully protected by the Act. By including a private right of action, allowing consumers to bring claims individually or as a class, and providing for the awarding of attorneys' fees and costs, the Act ensured consumers, even those with few resources and small claims, would have access to the courts.²⁸ It also empowered the Attorney General and local prosecuting attorneys to investigate and bring claims on behalf of consumers,

²⁵ *How and Why*, pp 7-8.

²⁶ In 1967 testimony before Congress urging the adoption of state consumer protection statutes, Federal Trade Commission Chairman Paul Rand Dixon specifically highlighted the importance of state consumer protection statutes in protecting low-income consumers, arguing "the need to take action against deceptive practices by local businessmen, has become even more apparent in low-income markets where those least able to afford the loss are frequently the prime object of such practices." *Consumer Interests of the Elderly: Hearing Before the Subcomm. on Consumer Interests of the Elderly of the S. Special Comm. on Aging*, 90th Cong. 50 (1967). Similarly, in Michigan, Edward Bladen, a key author of the MCPA, cited concerns about practices targeting low-income consumers as motivation for the Act's adoption. These included businesses targeting the "inner-city poor" by attempting to pass off faulty and used merchandise as new, and predatory sales and lending practices that inflated the price of a refrigerator sold to a low-income mother of five from a retail price of \$400 to \$1,200. *How and Why*, p 3.

²⁷ MCL 445.903.

²⁸ MCL 445.911.

providing a critical tool to address widespread unfair and deceptive practices and deter future violations, further protecting consumers without the resources or ability to bring their own cases.²⁹

From its 1976 passage until this Court's 1999 *Smith* decision, the MCPA effectively protected low-income consumers and helped combat exploitative practices. Consumers and the Attorney General used the Act to obtain meaningful relief from unscrupulous practices, such as obtaining restitution for consumers who put down deposits and never received vehicles,³⁰ saving homes from foreclosure rescue scams,³¹ obtaining compensation when an allegedly new car became rapidly undriveable,³² and seeking new cars for consumers sold Oldsmobiles with Chevrolet engines.³³ These actions made consumers whole, put bad actors out of business, and helped deter future violations. Frustratingly, few, if any, of these cases could be brought today.

b. The Smith and Liss decisions turned Michigan's robust consumer protection statute into a near dead letter, causing significant harm to low-income consumers.

Smith and *Liss*'s overly broad interpretation of a narrow exemption to the MCPA's coverage has effectively rendered the MCPA a dead letter for most consumers. *Smith* and *Liss* both involved the interpretation of MCL 445.904(1)(a), which exempts from the Act "a transaction or conduct specifically authorized under laws administered by a regulatory board or officer acting under statutory authority of this state or the United States." In *Smith v Globe Life Ins Co*, in stark contradiction to the plain language of the statute, this Court ruled the exemption applies whenever a "general transaction is specifically authorized by law."³⁴ In *Liss v Lewiston-Richards, Inc* the

²⁹ MCL 445.907; MCL 445.905; MCL 445.908.

³⁰ Notice, *The Vassar Pioneer Times* (June 19, 1990), p 6.

³¹ *Allan v M & S Morg Co*, 138 Mich App 28, 359 NW2d 238 (1984); *Rutter v Troy Mortg Servicing Co*, 145 Mich. App. 116, 377 NW2d 846 (1985).

³² *King v Taylor Chrysler-Plymouth, Inc*, 184 Mich App 204, 457 NW2d 42 (1990).

³³ Hoyt, *Veto Override*, *The Claire Sentinel* (September 28, 1977), p 4.

³⁴ *Smith v Globe Life Ins Co*, 460 Mich 446, 165 (1999).

Court interpreted the exemption even more broadly, suggesting that the exemption applies to any business that is “regulated” under state or federal law.³⁵

As the National Consumer Law Center concluded in its 50-state survey of state consumer protection statutes, these decisions have resulted in a consumer protection act that covers “almost no businesses,” “almost no consumer transactions,” and that “is of little or no use to consumers.”³⁶ Applying *Smith* and *Liss*, courts have held the MCPA no longer applies to many businesses that are the most common subject of consumer complaints and often found to engage in unfair and deceptive practices, including home builders and improvement contractors,³⁷ new and used car dealers,³⁸ car makers,³⁹ lenders,⁴⁰ and mortgage brokers and servicers.⁴¹ Beyond these major players, courts have found a wide range of other businesses exempt from the Act, including real estate agents,⁴² plumbers,⁴³ doctors,⁴⁴ grocery stores,⁴⁵ casinos,⁴⁶ and lawn care companies that apply pesticides.⁴⁷ In other areas, including the Act’s application to landlords, confusing and

³⁵ *Liss v Lewiston-Richards, Inc*, 478 Mich 203, 213; 732 NW2d 514 (2007).

³⁶ *Consumer Protection in the States*, pp 1, 58.

³⁷ *Liss*, 478 Mich at 206.

³⁸ *Jimenez v Ford Motor Credit Co*, unpublished per curium opinion of the Court of Appeals, issued December 22, 2015 (Docket No. 322909).

³⁹ *Cyr v Ford Motor Co*, unpublished per curium opinion of the Court of Appeals, issued December 26, 2019 (Docket No. 345751), pp 8-9.

⁴⁰ *Dingman v OneWest Bank, FSB*, 859 F Supp 2d 912 (ED Mich, 2012); *Molosky v Washington Mut, Inc*, 664 F3d 109 (CA 6, 2011).

⁴¹ *Voydanoff v Select Portfolio Servicing, Inc*, unpublished per curium opinion of the Court of Appeals, issued December 22, 2011 (Docket No. 298098), p 30.

⁴² *Love v Ciccarelli*, unpublished per curium opinion of the Court of Appeals, issued May 6, 2004 (Docket No. 243970), p 8.

⁴³ *Woods v Williams & Sons*, unpublished per curium opinion of the Court of Appeals, issued January 23, 2007 (Docket No. 256394), p 8.

⁴⁴ *Lucas v Awaad*, 299 Mich App 345, 369; 830 NW2d 141, 155 (2013).

⁴⁵ *Alexander v Del Monte Corp*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued January 11, 2011 (Case No. 09-12303).

⁴⁶ *Kraft v Detroit Entertainment, LLC*, 261 Mich App 534, 543, 683 NW2d 200, 205 (2004).

⁴⁷ *Baumkel v Scotts Miracle-Gro Co*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued September 28, 2009 (Case No. 08-14137), p 26.

conflicting decisions have chilled enforcement, especially among legal aid programs, which often lack the resources to bring borderline cases.⁴⁸ This broad exemption has resulted in Michigan's consumer protection act now ranking among the weakest in the nation.⁴⁹

Hampered by these erroneous interpretations of the MCPA, consumers harmed by unfair and deceptive practices have few viable options to obtain relief. They are essentially in the same position as consumers before the passage of the MCPA: trying to bring difficult common law claims, facing contract provisions barring their claims, and unable to obtain an attorney because of the small amounts in controversy and inability to recover attorney's fees or costs. As Michigan courts recognized prior to the *Smith* and *Liss* decisions, without the ability to recover attorney fees and costs under the MCPA, "practically speaking, the door to the courtroom will be closed to all but those with either substantial damages, or those with sufficient economic resources to afford the litigation expenses involved."⁵⁰ The court went on to say, "Such a situation would indeed be ironic: it is but precisely those with ordinary consumer complaints and those who cannot afford their attorney fees for whom these remedial acts were intended."⁵¹

Because of the erroneous decisions in *Smith* and *Liss*, consumers today face the exact same situation: the door to the courtroom is barred for low-income victims of unfair and deceptive practices. Private consumer law attorneys have shared that they are regularly unable to represent consumers in meritorious cases that they would have taken pre-*Smith* and *Liss* because of the lack of availability of an MCPA claim and corresponding inability to recover attorney fees. The state's legal aid programs cannot fill the gap left by the lack of private attorney representation. Even if a

⁴⁸ *Davis v Boydell Dev Co, Inc*, unpublished opinion of the Court of Appeals, issued June 25, 2019 (Docket No. 344284).

⁴⁹ *Consumer Protection in the States*, p 1.

⁵⁰ *Jordan v Transnational Motors*, 212 Mich App 94, 98; 537 NW2d 471, 474 (1995).

⁵¹ *Id.* at 98-99.

low-income consumer has common law claims, like breach of contract, that may afford some relief, legal aid programs do not have the resources to take these cases at scale. Legal aid programs already have limited resources to meet the civil needs of Michigan’s low-income residents: in 2023 there was only one legal aid attorney for every 4,407 low-income Michigan residents who qualify for legal aid services.⁵² Of the 2,184 requests CALL received last year for legal assistance with consumer issues, legal aid offices were only able to accept 205 cases for full representation.⁵³ Moreover, programs are facing steep cuts as soon as next year.⁵⁴ Consumers face considerable hurdles when attempting to represent themselves, including having small claims actions removed to district court, where self-represented litigants are stymied by procedural and discovery requirements. This status quo denies low-income consumers access to justice and the ability to obtain compensation and other relief for the damage caused by unfair, unconscionable, and deceptive practices.

c. The Smith and Liss decisions leave Michigan’s low-income consumers uniquely vulnerable to unfair and deceptive practices.

As described in their briefs, the *Smith* and *Liss* decisions have also made it nearly impossible for the Attorney General and local prosecutors to investigate MCPA violations and enforce the Act. Public enforcement both protects individual consumers and deters future violations by sending a strong message that certain practices will not be permitted in our state and communities. Without the threat of enforcement actions and the economic and reputational harms

⁵² Michigan State Bar Foundation, *Civil Legal Aid in Michigan: 2023 Report of Services*, available at <<https://www.msbf.org/wp-content/uploads/2024/10/2023-Grantee-Services-Report-.pdf>>.

⁵³ *CALL: 2024 Poverty Law Cases by Topic and Outcome* (Ex. 1).

⁵⁴ President Trump has proposed eliminating all federal funding to legal aid programs in the FY2026 budget and the House of Representatives has proposed cutting funding by 46%. Legal Services Corporation, *House Appropriations Subcommittee Proposes 46% Cut to LSC Funding* (July 15, 2025), available at <<https://www.lsc.gov/press-release/house-appropriations-subcommittee-proposes-46-cut-lsc-funding>>.

they carry, businesses have far less incentive to refrain from engaging in unfair and deceptive practices in our state. Such deterrence particularly benefits low-income consumers by preventing them from becoming victims of unfair and deceptive practices.

The contrast between recent enforcement actions and recoveries by Michigan’s Attorney General and other states’ AGs illustrates the problem. In 2024, for example, the Michigan Attorney General reported that her Consumer Protection Team recovered \$1.9 million on behalf of Michigan consumers.⁵⁵ This represents less than 1% of the fraud Michiganders reported the FTC last year—and, as the FTC has said, reported fraud is just the tip of the iceberg.⁵⁶ Very few states have publicly available data, but those that do report dramatically greater recoveries for consumers than Michigan. As examples, Ohio reported \$50 million in consumer recoveries in 2024.⁵⁷ Illinois reported \$60 million in consumer recoveries.⁵⁸ And Massachusetts reported \$194 million in consumer recoveries.⁵⁹ Michigan’s recoveries represent 3.8%, 3.1%, and 0.9%, respectively, of those amounts. Eli Lilly points to the Attorney General’s recent recoveries as proof that the *Smith* and *Liss* decisions have created “a workable situation for consumers.” That is clearly not the case.

⁵⁵ *AG Nessel Shares Top Consumer Complaints*.

⁵⁶ *New FTC Data*.

⁵⁷ Office of the Attorney General, *2024 Consumer Protection*, p 2, available at <https://www.ohioattorneygeneral.gov/Files/Reports/Consumer-Annual-Reports/2024-Consumer-Protection-Annual-Report_WEB>.

⁵⁸ Office of the Illinois Attorney General Kwame Raoul, *Attorney General Raoul Recognizes National Consumer Protection Week, Announces Top 10 List of Consumer Complaints* (March 3, 2025), available at <<https://illinoisattorneygeneral.gov/news/story/attorney-general-raoul-recognizes-national-consumer-protection-week-announces-top-10-list-of-consumer-complaints-3-3-25>>.

⁵⁹ Massachusetts Office of the Attorney General, *National Consumer Protection Week: AG’s Office Issues Consumer Advocacy Report Highlighting Tips and Trends from 2024* (March 4, 2025), available at <<https://www.mass.gov/news/national-consumer-protection-week-ag-s-office-issues-consumer-advocacy-report-highlighting-tips-and-trends-from-2024>>.

Moreover, *Smith* and *Liss* have prevented the Attorney General from bringing cases against the types of bad actors that most commonly face enforcement actions in other states, creating a welcoming environment in Michigan for unscrupulous businesses. A review of the Attorney General's 2024 press releases shows no cases filed or settled against, for example, mortgage lenders, home improvement contractors, debt collectors, auto dealers, auto repair shops, real estate agents, or landlords.⁶⁰ This is in sharp contrast with our surrounding states where attorneys general have used their consumer protection acts to obtain critical relief against a broad range of bad actors and have publicized these actions, providing a powerful deterrent for future bad actors.⁶¹ Just this year, Ohio's Attorney General has brought cases under the state's consumer protection statute against a contractor who repeatedly failed to complete renovations,⁶² a car parts dealer who failed to deliver parts,⁶³ and a national mortgage lender for deceptive business practices.⁶⁴ In 2023, Indiana's Attorney General obtained settlements against four car dealers for unfair and deceptive practices that included representing false low mileage, failing to inform consumers they were purchasing vehicles with "rebuilt" titles, sending advertising that falsely represented recipients had won a prize, and charging increased prices to those who choose to finance their vehicles.⁶⁵ These

⁶⁰ Michigan Department of Attorney General, *Press Releases*, <<https://www.michigan.gov/ag/news/press-releases>> (accessed August 22, 2025).

⁶¹ See e.g., Consumer Federation of America, *Consumer Complaint Survey Report 2024* (June 2025), available at <<https://consumerfed.org/reports/consumer-complaint-survey-report-2024>>. (highlighting top consumer complaints and consumer protection successes from consumer agencies nationally).

⁶² Ohio Attorney General, *Consumer Protection: Yost Takes Legal Action in Three 'Failure to Deliver' Cases* (July 2, 2025), available at <<https://www.ohioattorneygeneral.gov/Media/News-Releases/July-2025/Consumer-Protection-Yost-Takes-Legal-Action-in-Thr>>.

⁶³ *Id.*

⁶⁴ Ohio Attorney General, *Yost Sues Wholesale Mortgage Lender Over Deceptive Business Practices* (April 17, 2025), available at <<https://www.ohioattorneygeneral.gov/Media/News-Releases/April-2025/Yost-Sues-Wholesale-Mortgage-Lender-Over-Deceptive>>.

⁶⁵ Office of the Indiana Attorney General, *Hoosier Car Buyers Get Restitution Thanks to Attorney General Todd Rokita's Settlements with Allegedly Deceptive Dealers* (February 26, 2025),

settlements included \$355,411 in restitution to consumers, \$17,250 in civil penalties, and an agreement that one dealer cease operations in the state.⁶⁶ Because of *Smith* and *Liss*, such relief could not have been obtained for Michigan consumers.

d. The Smith and Liss decisions undermine the plain language and intended purpose of the MPCA.

As the Attorney General and other amici have argued, the Court's interpretation of the MCPA in *Smith* and *Liss* contravenes the plain language of the statute, which provides that only individual transactions and conduct "specifically authorized" by certain state or federal regulations are exempt from the Act. The decisions also contravene the legislature's clear intent in adopting a robust consumer protection statute. As the Arkansas Supreme Court noted when it interpreted a similar exemption in its state's consumer protection statute, "The general-activity rule would undermine the [UDAP statute's] purpose by exempting all conduct subject to regulation by a state or federal regulator; virtually all conduct is regulated in some way, and the general-activity rule would essentially read the [UDAP statute] out of existence."⁶⁷ The federal and state officials who drafted the model "Unfair Trade Practices and Consumer Protection Act," on which Michigan's Act is based, did not intend to create legislation that covered "almost no businesses" and "almost no consumer protections."⁶⁸ Instead, they spent years drafting and refining broad and comprehensive state protections.⁶⁹ Similarly, Michigan's legislature could not have taken the time

available at <<https://events.in.gov/event/hoosier-car-buyers-get-restitution-thanks-to-attorney-general-todd-rokitas-settlements-with-allegedly-deceptive-dealers>>.

⁶⁶ *Id.*

⁶⁷ *Air Evac EMS, Inc v Usable Mut Ins Co*, 2017 Ark 368, 533 SW3d 572, 575 (2017) (interpreting Ark Code 4-88-101(3), which exempts, "Actions or transactions specifically permitted under laws administered by the Insurance Commissioner, the Securities Commissioner, the State Highway Commission, the Bank Commissioner, or other regulatory body or officer acting under statutory authority of this state or the United States, unless a director of these divisions specifically requests the Attorney General to implement the powers of this chapter.").

⁶⁸ *Consumer Protection in the States*, pp 1, 58.

⁶⁹ *Strengthening State-Level Consumer Protections*, pp 3-8.

to carefully define specific prohibited unfair, unconscionable, and deceptive practices and create a multifaceted enforcement regime designed to both secure individual relief and deter future bad actors, only to secretly intend it not to apply to the businesses most likely to engage in unfair and deceptive practices and practically to be “of little or no use to consumers.”⁷⁰

III. With federal regulatory agencies and enforcement in retreat, state consumer protections have never been more important.

Recent federal changes make it even more important for this Court to overrule *Smith* and *Liss* and restore the MCPA’s protections. In cases applying *Smith* and *Liss*, courts commonly point to the presence of federal laws and agencies to determine that a business constitutes a regulated entity exempt from the Act.⁷¹ The new Administration, however, has dramatically cut enforcement across the federal government, and particularly in the agencies responsible for consumer protection.

Recent analysis shows federal enforcement against financial services firms, for example, fell 37% in the first half of 2025, compared to the prior six months, and monetary penalties fell 32%.⁷² The Administration has drastically reduced enforcement by the CFPB, the federal agency responsible for enforcing consumer protections against mortgage lenders and servicers, credit reporting agencies, and debt collectors. It has attempted to fire 1,500 of the Bureau’s 1,700 staff, withdrawn key consumer protection guidance,⁷³ and sought to slash the Bureau’s funding.⁷⁴ The

⁷⁰ *Consumer Protection in the States*, p 58.

⁷¹ See e.g., *Newton v Bank West*, 262 Mich App 434; 686 NW2d 491 (2004).

⁷² Duffus, *US Financial Regulatory Enforcement Plummets Under Trump Report Finds*, Wolters Kluwer (August 7, 2025), available at <<https://www.wolterskluwer.com/en/expert-insights/us-financial-regulatory-enforcement-plummets-under-trump-report-finds>>.

⁷³ Consumer Financial Protection Bureau, *Interpretative Rules, Policy Statements, and Advisory Options; Withdrawal*, available at <<https://public-inspection.federalregister.gov/2025-08286.pdf>>.

⁷⁴ *US Senate Referee Allows Measure to Slash CFPB Budget, Lawmakers*, Reuters (June 27, 2025), available at <<https://www.reuters.com/business/finance/us-senate-referee-allows-measure-slash-cfpb-budget-lawmakers-say-2025-06-27>>.

FTC's ability to fight fraud has also been severely hobbled. In 2021, the U.S. Supreme Court eliminated the FTC's primary tool to return redress to consumers, and its only tool to disgorge profits from scammers.⁷⁵ As a result, the FTC has become far more reliant on partnering with states with independent statutory authority to recover redress.⁷⁶ Recent judicial decisions vacating anti-fraud rules have further limited the FTC's ability to protect consumers,⁷⁷ and expected budget cuts will make matters worse.⁷⁸ With federal watchdogs off the beat, it is critical that Michigan consumers have a strong and workable state statute to protect their interests.

⁷⁵ *AMG Cap Mgmt LLC v FTC*, 141 S Ct 1341, 1344 (2021) (limiting the ability of the agency to obtain monetary remedies such as disgorgement or restitution). *See also* Federal Trade Commission, Letter from Acting Chairwoman Slaughter to the Senate Committee on Commerce, Science, and Transportation Regarding Section 13(b) of the Federal Trade Commission Act (May 19, 2021), available at <https://www.ftc.gov/system/files/documents/public_statements/1590235/acting_chair_letter_to_senate_committee_re_13b_-_final_signed.pdf> (“The AMG decision deprived the FTC of its strongest tool to help consumers.”)

⁷⁶ Federal Trade Commission, *Working Together to Protect Consumers: A Study and Recommendations on FTC Collaboration with the State Attorneys General, A Report to Congress* (April 10, 2024), available at <https://www.ftc.gov/system/files/ftc_gov/pdf/p238400_ftc_collaboration_act_report.pdf>.

⁷⁷ *See, e.g.*, Serwin et al, *FTC's "Click-to-Cancel" Rule Voided* (July 16, 2025), available at <<https://www.dlapiper.com/en-it/insights/publications/2025/07/ftcs-click-to-cancel-rule-voided>>; DiResta et al, *Fifth Circuit Strikes Down FTC's Auto Retail Scam Rule: Key Implications for Dealers* (February 4, 2025), available at <<https://www.hklaw.com/en/insights/publications/2025/02/fifth-circuit-strikes-down-ftcs-auto-retail-scam-rule>>.

⁷⁸ Steren et al, *FTC's Proposed Budget Trims Staff* (July 25, 2025), available at <<https://www.natlawreview.com/article/ftcs-proposed-budget-trims-staff>>.

CONCLUSION AND RELIEF REQUESTED

This Court has an opportunity to restore protections to the tens of thousands of Michigan consumers harmed by unfair and deceptive practices each year. It can do so at a critical moment for consumers, as scams become increasingly sophisticated and the federal government dramatically rolls back its protections. Amici request that this Court overrule *Smith* and *Liss*, restore MCL 445.903(1)(a)'s narrow, common-sense interpretation, and provide meaningful protections to Michigan's low-income consumers once again.

Respectfully submitted,

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Dated: August 28, 2025

CERTIFICATE OF COMPLIANCE

I certify that this document contains 7,360 countable words as required under Michigan Court Rules 7.212.

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EXHIBIT 1*Counsel and Advocacy Law Line (CALL): 2024 Poverty Law Cases by Topic and Outcome*

Topic	CALL Closed ¹	Priority Cases Transferred from CALL to Local Office ²	Priority Cases Accepted by Local Office ³	Priority Cases No Resourced by Local Office ⁴	Total Cases = CALL Closed + Priority Cases Accepted ⁵	Total Cases Percentage of Total (%)
Consumer	1,979	430	205	225	2,184	14.0
Education	47	33	15	18	62	0.4
Employment	3	1	-	1	3	0.0
Family	4,215	1,419	768	651	4,983	32.0
Health	210	91	37	54	247	1.6
Housing	4,563	2,554	1,428	1,126	5,991	38.5
Income Maintenance	811	460	189	271	1,000	6.4
Individual Rights	126	110	98	12	224	1.4
Juvenile	157	25	12	13	169	1.1
Other	561	250	142	108	703	4.5
Total	12,672	5,373	2,894	2,479	15,566	100

1. Cases closed by CALL with advice or brief services.
2. Cases that meet local legal aid office priorities transferred to those offices.
3. Priority cases transferred to local offices that are accepted for legal assistance.
4. Priority cases transferred to local offices that local offices are unable to accept because of a lack of resources.
5. Cases closed by CALL with advice or brief services and priority cases transferred to local offices accepted for legal assistance.