RECEIVED by MSC 9/22/2025 3:30:03 PM

STATE OF MICHIGAN
IN THE SUPREME COURT
Appeal from the Michigan Court of Appeals
Riordan, P.J., O'Brien, and N.P. Hood, JJ.

STATE OF MICHIGAN, DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL,	Supreme Court No. 167917
Plaintiff-Appellant,	Court of Appeals No. 364206
v	Ingham Circuit Court No. 22-000441-CZ
NRK RX, INC. AND RAAD KOUZA,	
Defendants-Appellees. _____/	

REPLY BRIEF OF APPELLANT MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL

ORAL ARGUMENT REQUESTED

Stephanie L. Seery (P73408)
Assistant Attorney General
Attorney for State of Michigan
Plaintiff-Appellant
Revenue and Tax Division
P.O. Box 30754
Lansing, MI 48909
(517) 335-7584

Dated: September 22, 2025

RECEIVED by MSC 9/22/2025 3:30:03 PM

TABLE OF CONTENTS

Page

Index of Authorities iii

Argument 1

I. The Attorney General venue statutes' plain language, along with their legislative purpose, establish venue in this case. 1

A. The State preserved its arguments regarding the Attorney General venue statutes. 1

B. The Attorney General venue statutes' plain language indicates that they establish venue in this case. 2

1. The plain language provides that the Attorney General can bring *any* action in Ingham County. 2

2. This reading harmonizes both statutes because the Attorney General venue statutes are more specific. 3

3. This reading harmonizes both statutes because it avoids an absurd result. 6

4. This reading harmonizes both statutes because it gives maximum effect to both. 6

C. The legislative purpose and background of both statutes support the conclusion that the Attorney General venue establish venue. 7

II. Even applying the tort venue provisions as Defendants ask, venue is proper in Ingham County because that is where the original injury occurred. 9

III. The Attorney General venue statutes, referring to suits brought "in the name of the state or of the people of the state," apply to cases including, but not limited to, where the Attorney General is not the party litigant but is instead suing in the name of a state agency. 10

A. The Attorney General venue statutes apply no matter whether the Attorney General is a party litigant and whether she files as counsel for the State or the people of the State. 11

B. The Attorney General venue statutes apply when the party litigant is a state agency. 11

Conclusion and Relief Requested 13

Word Count Statement 13

RECEIVED by MSC 9/22/2025 3:30:03 PM

RECEIVED by MSC 9/22/2025 3:30:03 PM

INDEX OF AUTHORITIES

Page

Cases

Andrie Inc v Dep't of Treasury
496 Mich 161 (2014) 7

Aspey v Memorial Hosp
477 Mich 120 (2007) 6, 9

Assoc of Bus Advocating Tariff Equity v Mich, PSC
298 Mich App 338 (2012) 4

Attorney General ex rel Muskegon Booming Co v Evart Booming Co
34 Mich 462 (1876) 12

Attorney General v Mich Pub Serv Comm
243 Mich App 487 (2000) 12

Attorney General v Soule
28 Mich 153 (1873) 12

Bank of America, NA v First American Title Ins Co
499 Mich 74 (2016) 2

Beach v Twp of Lima
489 Mich 99 (2011) 3

Belcher v Ford Motor Co
333 Mich App 717 (2020) 3

Charter Twp of Meridian v Ingham Co Clerk
285 Mich App 581 (2009) 4

City of Detroit v O'Conner
302 Mich 531 (1942) 5, 6, 8

Dep't of Health and Human Servs v NRK Rx, Inc et al
__ Mich App __ (2024) 1

Dimmitt & Owens Fin, Inc v Deloitte & Touche (ISC), LLC
481 Mich 618 (2008) 9

Hartfiel v City of Eastpointe
333 Mich App 438 (2020) 4

Jenkins v Patel
256 Mich App 112 (2003) 3

Johnson v Recca
492 Mich 169 (2012) 6

Lorencz v Ford Motor Co
439 Mich 370 (1992) 4

Miller v Allstate Ins Co
481 Mich 601 (2008) 9

Milne v Robinson
513 Mich 1 (2024) 5

Nationsbanc Mortg Corp v Luptak
243 Mich App 560 (2000) 4

Oakland Co Bd of Co Rd Comm'rs v Mich Prop & Cas Guaranty Ass'n
456 Mich 590 (1998) 5, 6, 8

Olsen v Doerfler
225 F Supp 540 (ED Mich, 1963) 12

People ex rel Hughes v May
3 Mich 598 (1855) 7

People v Garrison
495 Mich 362 (2014) 3

People v Metamora Water Serv
276 Mich App 376 (2007) 1

Radzanower v Touche Ross & Co
426 US 148 (1976) 5

Sefcik v Home–Owners Ins Co
unpublished per curiam decision of the Court of Appeals, issued January 28, 2021 (Docket No. 351137) 11

Statutes

MCL 14.102 ..... 1, 2, 3, 5, 6, 7, 10, 11, 13

MCL 600.1615 11

MCL 600.1621 10

RECEIVED by MSC 9/22/2025 3:30:03 PM

MCL 600.1629 ..... 4, 13

MCL 600.1629(1)(a)(ii) 10

MCL 600.1629(1)(d) 10

MCL 600.1631(a) 1, 2, 10, 11, 13

MCL 600.6431(1) 11

Other Authorities

Dunbar, *Michigan: A History of the Wolverine State*
William B. Eerdmans Publishing Company, 1980 8

Merriam-Webster's Collegiate Dictionary (11th ed) 2

Constitutional Provisions

963 Const, art V, § 3 7

RECEIVED by MSC 9/22/2025 3:30:03 PM

RECEIVED by MSC 9/22/2025 3:30:03 PM

ARGUMENT

I. The Attorney General venue statutes' plain language, along with their legislative purpose, establish venue in this case.

The plain language of the Attorney General venue provisions unambiguously state that the Attorney General can bring any action in Ingham County. And by their terms they are more specific than the general venue provisions and thus control. This reading harmonizes both statutes, avoiding an absurd result, and is supported by the legislative purpose.

A. The State preserved its arguments regarding the Attorney General venue statutes.

Defendants argue that the State failed to preserve its arguments as to the Attorney General's enabling act, MCL 14.102, as well as MCL 600.1631(a) (collectively "the Attorney General venue statutes"). (Defs' Brief on Appeal at 11–12.) But this Court has already granted the State's application and ordered the parties to address specific issues, including the Attorney General venue statutes. This Court's review is also appropriate because the Court of Appeals addressed and ultimately ruled on the arguments related to MCL 600.1631(a) and MCL 14.102. See *Dep't of Health and Human Servs v NRK Rx, Inc et al*, __ Mich App __, __ (2024) (majority opinion), slip op at 7–10. See *People v Metamora Water Serv*, 276 Mich App 376, 382 (2007) (an issue is preserved for appeal if it was raised, addressed, and decided by the lower court).

RECEIVED by MSC 9/22/2025 3:30:03 PM

B. The Attorney General venue statutes' plain language indicates that they establish venue in this case.

A review of the plain language of the Attorney General venue statutes confirms that they establish venue in this case.

1. The plain language provides that the Attorney General can bring *any* action in Ingham County.

Where the plain language of a statute is so clear and unambiguous that legislative intent is clear, then the Court need not attempt to construe the statute in some other fashion. *Bank of America, NA v First American Title Ins Co*, 499 Mich 74, 85 (2016). When there is no ambiguity, then there is no reason for courts to look outside the plain terms of the statute. *Id*.

In this case, the Attorney General enabling act, MCL 14.102, is clear in providing that the Attorney General may bring *any* action at law in Ingham County:

> Any action at law brought by the attorney general in the name of the state or of the people of the state, for the use and benefit thereof, may be begun in the circuit court in and for the county of Ingham, and may be prosecuted to final judgment and satisfaction thereof, with like effect as though the cause of action arose in such county . . . . [MCL 14.102.]

The plain meaning of the word "any" is all inclusive, or "one or some indiscriminately of whatever kind" or "one, some, or all indiscriminately of whatever quantity." *Merriam-Webster's Collegiate Dictionary* (11th ed).

This is echoed in the RJA, MCL 600.1631(a):

> The county in which the seat of state government is located is a proper county in which to commence and try the following actions: (a) when the action is commenced by the attorney general in the name of the state or of the people of the state for the use and benefit thereof[.] [MCL 600.1631(a).]

RECEIVED by MSC 9/22/2025 3:30:03 PM

Thus, there is no ambiguity in the Attorney General venue statutes, particularly in MCL 14.102, in providing that the Attorney General may bring *any* action in Ingham County.

2. This reading harmonizes both statutes because the Attorney General venue statutes are more specific.

When two statutes can be construed to avoid a conflict, that construction should control. *People v Garrison*, 495 Mich 362, 385 (2014); *Belcher v Ford Motor Co*, 333 Mich App 717, 723 (2020). When two statutes are in pari materia but appear to conflict, then the more specific statute controls over the more general statute. *Belcher*, 333 Mich App at 723. A specific provision prevails over the general, even when the specific provision was enacted earlier in time. *Beach v Twp of Lima*, 489 Mich 99, 142 (2011).

In this case, construing the Attorney General venue statutes as controlling harmonizes the Attorney General venue statutes with the RJA because the Attorney General venue statutes are more specific.

The Attorney General venue statutes and RJA address different subject matters: the Attorney General's powers and duties versus civil procedure rules. Therefore, before determining specificity, it helps to clearly establish *what aspects* of the statutes must be compared.

In *Jenkins v Patel*, 256 Mich App 112, 128–129 (2003), the Court of Appeals held that, when determining which statute is more specific, the focus is on the aspect or feature of the statutes that is pertinent to the case at issue. For example,

RECEIVED by MSC 9/22/2025 3:30:03 PM

in *Jenkins*, the issue was about damages and therefore the Court found that the act that specifically denoted the type of damages prevailed. Similarly, in *Charter Twp of Meridian v Ingham Co Clerk*, 285 Mich App 581, 599–600 (2009), the Court of Appeals found that an act with provisions specific to annexations by petition and referendum was more specific than a more general Michigan election statute. Another example is *Hartfiel v City of Eastpointe*, 333 Mich App 438, 451 (2020), where the court found that an act that addressed municipal water and sewer liens was more specific than another act that applied to a variety of public improvements.[1] These cases looked at the most pertinent feature or category of each statute to determine which was more specific.

Here, the relevant feature is venue. In addressing venue, the Attorney General venue statutes specifically define proper venue as in Ingham County, while the RJA does not define a proper venue but instead leaves venue open for analysis under MCL 600.1629. See *Lorencz v Ford Motor Co*, 439 Mich 370, 377 (1992) (the original purpose of the RJA was to avoid forum shopping, but in its final form it allows for multiple choices).

For that reason, understanding that the Attorney General venue statutes are more specific harmonizes both statutes and avoids a repeal by implication, because

---

[1] See also *Nationsbanc Mortg Corp v Luptak*, 243 Mich App 560, 566 (2000) (the court rule that more specifically governed garnishment proceedings prevailed over the rule over motions and pleadings); *Assoc of Bus Advocating Tariff Equity v Mich, PSC*, 298 Mich App 338, 353 (2012) (an act pertaining to electric transmission lines was more general than an act pertaining to wind energy, a type of energy that uses electric transmission lines).

RECEIVED by MSC 9/22/2025 3:30:03 PM

the Attorney General enabling act, MCL 14.102, was already on the books and the Legislature was aware of its existence when it created the RJA. Additionally, a general rule of statutory construction is that the State and its agencies are not to be within the purview of a statute unless clearly stated. *Oakland Co Bd of Co Rd Comm'rs v Mich Prop & Cas Guaranty Ass'n*, 456 Mich 590, 605 (1998), citing *City of Detroit v O'Conner*, 302 Mich 531, 536 (1942). This supports the conclusion that the Attorney General enabling act was more specific and therefore the RJA was not intended to supersede it.

It is true that the preamble to the RJA states that it repeals all prior conflicting laws. But that is not applicable here, where it would repeal a statute created specific to the Attorney General and the rule that the more specific legislation will usually take precedence over the more general rests on "the quite reasonable assumption that the legislature's attention was probably focused more directly on the subject matter of the specific than one aspect of a much broader subject matter." *Milne v Robinson*, 513 Mich 1, 13 (2024), quoting *Radzanower v Touche Ross & Co*, 426 US 148, 159 n 2 (1976).

In other words, the Legislature did not need to address the more specific Attorney General enabling act when enacting the RJA unless the Legislature specifically intended for the RJA to supersede the Attorney General enabling act and, in that case, the Legislature would have made it clear in the RJA that it was to supersede the Attorney General's enabling act. This is supported by the rule of statutory construction that the State and its agencies are presumed not to be within

RECEIVED by MSC 9/22/2025 3:30:03 PM

the purview of a general statute. *Oakland Co Bd of Co Rd Comm'rs*, 456 Mich at 605, citing *O'Conner*, 302 Mich at 536.

In sum, the Attorney General venue statutes are more specific than the RJA because they identify the exact county that is proper for venue in actions specific to the Attorney General. This reading harmonizes both statutes, giving effect to both.

3. This reading harmonizes both statutes because it avoids an absurd result.

The Attorney General venue statutes control because this interpretation avoids an absurd result. *Johnson v Recca*, 492 Mich 169, 192 (2012). Defendants' proposed rule leads to an absurd result: when the Attorney General brings a single *tort* claim, then the Attorney General can avoid the *tort* venue provisions within the RJA altogether. One cannot reasonably expect that the Legislature intended this result. Instead, as described above, it is more likely that the Legislature intended that the Attorney General's enabling act, MCL 14.102, specifying venue in Ingham County, would prevail over the general venue rules laid out in the RJA.

4. This reading harmonizes both statutes because it gives maximum effect to both.

The Attorney General venue statutes control because this reading gives maximum effect to both statutes. As the dissent stated in *Aspey v Memorial Hosp*, 477 Mich 120, 143 (2007), some harmonization requires that one statute will be subordinate to another. In that situation, the least impactful "nullification" should be effectuated. Here, if the RJA controls over the Attorney General venue statutes,

RECEIVED by MSC 9/22/2025 3:30:03 PM

then that would impact a large swath of the Attorney General's cases. In contrast, if the Attorney General venue statutes control, then this will carve out a much smaller slice of the panoply of cases subject to the RJA.

C. The legislative purpose and background of both statutes support the conclusion that the Attorney General venue establish venue.

As discussed, the Attorney General venue statutes are unambiguous in that they establish venue in this case and this interpretation harmonizes both statutes according to their plain language, giving maximum effect to both. But if the court finds an ambiguity, then it may look to legislative background and purpose. *Andrie Inc v Dep't of Treasury*, 496 Mich 161, 180 (2014).

Here, the legislative background and purpose of each law support that the Legislature intended that the Attorney General venue statutes establish venue.

The office of the Attorney General was created in 1835 with Michigan's first constitution. *People ex rel Hughes v May*, 3 Mich 598, 606 (1855). In the Constitution, 1963 Const, art V, § 3, the governor has the power of appointment of heads of principal departments and of board members, *except* for the three constitutionally elected officials, one of which is the Attorney General.

The Attorney General's enabling act, MCL 14.102, was created in 1919, enumerating the rights and duties of the Attorney General in bringing actions on behalf of the State and its agencies and, in doing so, created substantive law. Within the creation of the Attorney General's rights and duties, the enabling act

RECEIVED by MSC 9/22/2025 3:30:03 PM

also specified the exact county in which the Attorney General could bring claims, Ingham County.

By specifying venue in Ingham County for Attorney General actions, the Legislature facilitated government efficiency by not requiring travel across the state in a time when travel by vehicle or train was especially onerous. Dunbar, *Michigan: A History of the Wolverine State* (Grand Rapids: William B. Eerdmans Publishing Company, 1980) ch 24, p 551.

The RJA was created years later—and not as substantive law, but to outline procedural rules for civil actions brough in this state. It follows that the RJA was not intended to circumvent or affect the substantive rights created by the Attorney General's enabling act. See *City of Detroit v O'Conner*, 302 Mich 531, 536 (1942) (holding that the judicature act for setting aside default judgments was not applicable to tax foreclosure proceedings brought by the State); see also *Oakland Co Bd of Co Rd Comm'rs v Mich Prop & Cas Guaranty Ass'n*, 456 Mich 590, 605 (1998).

Moreover, when the RJA was amended in 1995, the Legislature was concerned with large jury awards and forum shopping related to personal injury cases. (Appellant's Appx, p 386.) Therefore, it stands to reason that the Legislature's focus was on cases involving *private citizens*, not the Attorney General.

Defendants argue that the legislative history supports that the RJA supersedes the Attorney General venue statutes simply because it was enacted later and therefore should have specified that the Attorney General enabling act was excepted from its venue provisions. But a specific statute that conflicts with the

RECEIVED by MSC 9/22/2025 3:30:03 PM

terms of a general statute is considered an exception to the general statute, even if it was enacted prior to the general statute. *Miller v Allstate Ins Co*, 481 Mich 601, 613 (2008).

In sum, the Legislature did not need to explicitly state in the RJA that the more specific Attorney General enabling act was an exception to the RJA and, in doing so, the Legislature kept with the general principle that the State and its agencies are not subject to general statutes. *Aspey*, 477 Mich at 131.

II. Even applying the tort venue provisions as Defendants ask, venue is proper in Ingham County because that is where the original injury occurred.

Application of the tort venue statute hinges on the definition of "injury." Defendants do not define "injury," but instead rely on *Ground Development*, an unpublished decision, and the lower court's opinion. (Defs' Brief on Appeal at 22.) But Defendants, in relying on *Ground Development*, implicitly define injury as "wrongful conduct." This is in direct contradiction of the precedent set forth in *Dimmitt & Owens Fin, Inc v Deloitte & Touche (ISC), LLC*, 481 Mich 618 (2008).

Defendants then grapple with the *type* of conversion in this case, which occurs after a plaintiff demands return of the property but a defendant refuses to return the property. That information is relevant to the time of the *wrongful conduct*. But what is relevant under the venue provisions is *where* the State was located when it experienced the resulting injury. This is supported by the caselaw cited in the State's brief, and Defendants' attempt to distinguish those cases because they pertained to personal jurisdiction are irrelevant to the position that

RECEIVED by MSC 9/22/2025 3:30:03 PM

they do support: the location of the plaintiff when it experiences the injury. (Defs' Brief on Appeal at 25.)

Defendants argue that the State failed to address whether venue is proper under MCL 600.1629(1)(a)(ii), designating venue when the location of the defendant and the original injury occur in the same place. (*Id.* at 26.) But the State's argument is that the State was injured in Ingham County, and there is no dispute that Defendants are not located in Ingham County, so it follows that (1)(a)(ii) does not apply.

Along the same lines, Defendants allege that the State omitted "any analysis under MCL 600.1621." (Defs' Brief on Appeal at 27.) But no such analysis is needed because MCL 600.1629(1)(d) states that venue may be proper under *either* 1621 *or* 1627 and, the State's argument is that venue is proper under 1627 and thus no analysis is needed under 1621.

III. The Attorney General venue statutes, referring to suits brought "in the name of the state or of the people of the state," apply to cases including, but not limited to, where the Attorney General is not the party litigant but is instead suing in the name of a state agency.

Under MCL 14.102 and MCL 600.1631(a), the Attorney General venue statutes apply to cases in which the Attorney General is counsel for a party plaintiff as well as in cases where the Attorney General files in the name of state agencies.

RECEIVED by MSC 9/22/2025 3:30:03 PM

A. The Attorney General venue statutes apply no matter whether the Attorney General is a party litigant and whether she files as counsel for the State or the people of the State.

Defendants argue that, under MCL 14.102 and MCL 600.1631(a), "commenced by the Attorney General" means when the Attorney General is the party litigant. (Defs' Brief on Appeal at 29.)

But that is only half the language. The other half refers to suits brought "in the name of the state or of the people of the state." MCL 14.102; MCL 600.1631(a).

Thus, both statutes apply to cases where the Attorney General is not a party but rather is counsel for a party. This is based on the plain meaning of "on behalf of" and "in the name of" which are synonymous terms meaning when an action is brought "in the place of someone else." *Sefcik v Home-Owners Ins Co*, unpublished per curiam decision of the Court of Appeals, issued January 28, 2021 (Docket No. 351137), p 3 (defining "on behalf of" as "in the name of, on the part of, as the agent or representative of") (Appellant's App'x, p 409).

B. The Attorney General venue statutes apply when the party litigant is a state agency.

Defendants assert that "[w]hen the Legislature intends to include state departments and agencies in a statute, it says so." (Defs' Brief on Appeal at 30.) But, as the State has argued, Defendants rely on provisions where *the State is a defendant in the litigation*. See MCL 600.1615 (pertaining to actions against governmental units); MCL 600.6431(1) (pertaining to the Court of Claims Act).

In contrast, when the State is a party plaintiff, the Legislature has not distinguished the State from its agencies, as this Court noted long ago. See, e.g.,

RECEIVED by MSC 9/22/2025 3:30:03 PM

Attorney General ex rel Muskegon Booming Co v Evart Booming Co, 34 Mich 462 (1876); see also *Attorney General v Soule*, 28 Mich 153 (1873). Along those lines, Michigan Courts have treated a "state agency" as "the state" when holding that the Attorney General cannot sue a state agency as a party litigant and represent that agency at the same time without disclosing the conflict. See, e.g., *Attorney General v Mich Pub Serv Comm*, 243 Mich App 487, 506–507 (2000); see also *Olsen v Doerfler*, 225 F Supp 540, 541 (ED Mich, 1963) (a suit by an agent of the state as a nominal party in the name of the state presents a controversy to which the state is a party and cannot be removed based on a controversy between citizens). Therefore, the terms of the Attorney General venue statutes apply when the Attorney General is suing on behalf of a state agency.

RECEIVED by MSC 9/22/2025 3:30:03 PM

CONCLUSION AND RELIEF REQUESTED

The State asks this Court to hold that Ingham County is a proper venue for the Attorney General to bring its claims under MCL 14.102 and MCL 600.1631(a). Alternatively, this Court should hold that Ingham County is the place of the original injury in a Medicaid conversion case because it is where the Plaintiff is located at the time of the first actual injury under MCL 600.1629.

Respectfully submitted,

/s/ Stephanie L. Seery

Stephanie L. Seery (P73408)
Assistant Attorney General
Attorney for State of Michigan
Plaintiff-Appellant
Revenue and Tax Division
P.O. Box 30754
Lansing, MI 48909

Dated: September 22, 2025

WORD COUNT STATEMENT

This document complies with the type-volume limitation of Michigan Court Rules 7.312(A) and 7.212(G) because, excluding the part of the document exempted, this **merits reply brief** contains no more than 3,200 words. This document contains 3,170 words.

Stephanie L. Seery (P73408)
Assistant Attorney General
Attorney for State of Michigan
Plaintiff-Appellant
Revenue and Tax Division
P.O. Box 30754
Lansing, MI 48909