STATE OF MICHIGAN

COURT OF CLAIMS

JAMAL DARIUS PARKER and GINGER SHAREE PARKER, formerly known as GINGER SHAREE HAMPTON, individually and on behalf of their minor children,

Plaintiffs,

v

Case No. 26-000062-MZ

Hon. James Robert Redford

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES, STATE OF MICHIGAN, and DANA NESSEL, in her official capacity as duly elected Attorney General,

Defendants.
_____ /

OPINION AND ORDER GRANTING DEFENDANTS' 4/28/26 MOTION FOR SUMMARY DISPOSITION

Plaintiffs, Jamal Darius Parker and Ginger Sharee Parker, formerly known as Ginger Sharee Hampton, filed this lawsuit individually and on behalf of their minor children against defendants—the Michigan Department of Health and Human Services (MDHHS), the State of Michigan, and Attorney General Dana Nessel, in her official capacity—alleging injuries arising from the appearance of their names in all capital letters on certain vital records. Defendants move for summary disposition at the outset of the case under MCR 2.116(C)(4), (7) (immunity), and (8), arguing that (1) this Court lacks subject-matter jurisdiction because plaintiffs failed to exhaust their administrative remedies, (2) defendants are immune from suit under the governmental tort liability act (GTLA), MCL 691.1401 *et seq*., (3) plaintiffs failed to timely file a written claim or

notice of intent (NOI) in this Court, and (4) plaintiffs have failed to state a claim on which relief may be granted. The Court dispenses with oral argument under Court of Claims LCR 2.119(E)(3). The Court GRANTS summary disposition and DISMISSES the complaint WITH PREJUDICE.

I. BACKGROUND

Plaintiffs are Arizona residents who were born in Michigan. Plaintiffs allege that their birth records and unspecified "related records" were "created, maintained, and transmitted" in Michigan using all capital letters (all-caps) to spell out plaintiffs' legal names. Plaintiffs do not allege any errors in the spelling of their legal names or the names of their minor children. Plaintiffs assert that the all-caps entries were used by "derivative governmental and commercial systems" for issues relating to their identities, benefits, and accounts. Plaintiffs allege that they would prefer to identify themselves in "standard proper noun form, including 'Jamal Darius Parker' and "Ginger Sharee Parker.' " However, they provide no evidence that they ever requested amendment of their vital records through MDHHS.

Defendants have provided this Court with a copy of plaintiff Jamal Parker's birth certificate, issued by the State, in which his legal name appears in standard proper-noun format rather than all-caps format. For plaintiff Ginger Parker, her name appears in all capital letters on her birth certificate, which was issued by Wayne County. Neither party has provided the Court with copies of the birth certificates for the minor children.

Plaintiffs assert that the use of the all-caps entries on their vital records has caused identity confusion, inaccuracies, and delays in related services and benefits. They further allege that "their family history reflects broader patterns of racial misclassification in official records, including historical family records identifying ancestors in ways inconsistent with family history and

asserted Indigenous ancestry." They acknowledge that Jamal Parker's birth certificate does not appear in all-caps format but assert that other vital documents *do* appear in this format, although they have not identified or provided this Court with copies of any other vital records.

Plaintiffs filed this lawsuit in the Wayne Circuit Court, and the case was transferred to this Court. As discussed later, plaintiffs requested entry of default before the case was transferred. In their verified[1] amended complaint, plaintiffs raise claims for declaratory relief (Count I), injunctive relief (Count II), and monetary damages (Count III). Plaintiffs assert that defendants breached a duty "to create, maintain, and transmit accurate vital records and related identity information," but the amended complaint does not assert a legal basis for relief, such as a constitutional right or a statute that defendants violated. Plaintiffs request that this Court enter a declaratory judgment stating that (1) the all-caps form of plaintiffs' names does not accurately reflect their proper names, (2) the proper names must be recognized in standard proper-noun capitalization in Michigan vital records, and (3) plaintiffs may seek correction of the records in question through appropriate court orders and lawful administrative implementation. Plaintiffs also request an injunction to order defendants to correct their vital records and "state-controlled systems" and enjoin defendants from using or transmitting the all-caps formatting. Plaintiffs request damages for "identity confusion, delays or barriers in benefits or services, emotional distress, and related economic harm." They do not allege any physical injuries or property damage.

Defendants move for summary disposition, arguing that plaintiffs failed to exhaust their administrative remedies because they did not request that MDHHS amend their vital records via

[1] The complaint was verified by Jamal Parker and not Ginger Parker. However, because dismissal is appropriate for the reasons discussed later, the Court will not require an amended verification.

the procedures outlined in Mich Admin Code, R 325.3254, including by seeking judicial review in the circuit court. Defendants further argue that governmental immunity bars plaintiffs' claims because they allege a negligence claim but have not asserted any valid exceptions to governmental immunity. Additionally, defendants contend that plaintiffs' claims are barred by the notice period in the Court of Claims Act (COCA), MCL 600.6431(4), because plaintiffs allege property damages or personal injuries for which the six-month notice period applied yet did not file a timely claim or NOI within six months of when their claims accrued. Defendants also argue, in the alternative, that plaintiffs' complaint failed to state a claim on which relief may be granted because plaintiffs do not articulate a legal basis for any duty and Jamal Parker's birth record was not created or maintained using all capital letters.

Plaintiffs respond that the issues involved in this case are larger than a "disagreement over capitalization on a birth record," and include concerns about the accuracy, treatment, and historical handling of family vital records, although they do not identify what those concerns are beyond the all-caps dispute. As it relates to defendants' exhaustion of administrative remedies argument, plaintiffs explain that they requested the relevant vital records through a system known as VitalChek back in February 2022. Jamal Parker's affidavit details the communications with MDHHS regarding the vital records, which occurred between February 28, 2022, and December 20, 2023. Plaintiffs argue that on August 26, 2025, they submitted a document that they refer to as a Judicial Notice packet in the Wayne Circuit Court, which they argue outlined the effects of the record issues on their credit and in relation to a child-support enforcement matter.

On the merits, plaintiffs do not challenge that the vital records attached to defendants' motion for summary disposition are inaccurate, but rather, argue that these single reproduced copies of their birth records do not resolve what the original entries looked like and how the records

were used historically or "in derivative systems." Plaintiffs further argue that this case does not involve a traditional tort claim for monetary damages and instead "principally seek[s]" declaratory and equitable relief. Regarding the notice requirement, plaintiffs allege that their claim accrued beginning in 2022 and continued to accrue through at least August 26, 2025, when they submitted the Judicial Notice packet in the Wayne Circuit Court.

Defendants replied, arguing that plaintiffs' response failed to address why they did not avail themselves of the administrative process to amend their vital records. Nor did they identify the incorrect records or how they would like MDHHS to amend them. Also, because plaintiffs assert that their claims accrued beginning in 2022 and 2023, they failed to meet the notice requirement for filing a claim or NOI in this Court. Defendants argue that the Judicial Notice filed in August 2025 in the Wayne Circuit Court is not adequate notice for purposes of the COCA.

Plaintiffs moved to file a limited sur-reply brief addressing the points made in the reply brief on exhaustion and the COCA notice requirements. Because the sur-reply provides helpful information to resolve this matter, the Court GRANTS plaintiffs' motion to file a sur-reply brief and accepts the sur-reply brief as filed. In the sur-reply brief, plaintiffs argue that they did not receive the requested records in response to their requests back in 2022. Plaintiffs acknowledge that this Court may validly dismiss some of the damages claims arising from the 2022 and 2023 events but argue that their present claims for declaratory and injunctive relief are tied to the Judicial Notice packet and "later downstream effects," and are therefore timely.

II. ANALYSIS

A. PLAINTIFFS' DEFAULT REQUEST

At the outset, the Court addresses plaintiffs' outstanding motion for a default judgment, which was filed in the Wayne Circuit Court but not decided before transfer. Plaintiffs requested entry of default on March 30, 2026, at 11:46 a.m., while the case was still pending in the Wayne Circuit Court. Plaintiffs later moved for a default judgment on April 7, 2026. Some defendants received the summons and complaint via certified mail on March 9, 2026, and others on March 13, 2026. The dates of receipt are the dates on which service was made. See MCR 2.105(A)(2) ("Service is made when the defendant acknowledges receipt of the mail."). Thus, the request for entry of default was premature. March 30, 2026 was 21 days after the earlier March 9, 2026 service date. Plaintiffs' request for default was premised on the argument that defendants had to respond within 21 days after being served with the summons and complaint. However, because defendants were served via certified mail, they had 28 days to respond after being served pursuant to MCR 2.108(A)(2).

On March 30, 2026, defendants timely filed a notice to transfer the case to this Court, thus taking other action permitted by law as a substitute for filing a responsive pleading. See MCR 2.108(A)(2). Defendants therefore took timely action in response to the complaint. The case was then transferred to this Court without further action on the default request. Plaintiffs then amended their complaint as a matter of course on March 31, 2026, and again on April 7, 2026, in response to this Court's show-cause order directing plaintiffs to file a second-amended complaint with a proper verification, as explained in the order. Defendants moved for summary disposition on April 28, 2026, i.e., within 21 days of plaintiffs' filing of their latest amended complaint. See

MCR 2.108(C)(3). Therefore, plaintiffs' request for entry of default and motion for default judgment are DENIED.

B. DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

Defendants move for summary disposition under MCR 2.116(C)(4), (7), and (8). A motion for summary disposition under MCR 2.116(C)(4) examines whether the court has subject-matter jurisdiction. *True Care Physical Therapy, PLLC v Auto Club Ins Co*, 347 Mich App 168, 176; 14 NW3d 456 (2023). "When a plaintiff has failed to exhaust its administrative remedies, summary disposition pursuant to MCR 2.116(C)(4) is proper." *Id*. This Court will examine the pleadings, affidavits, depositions, admissions, and other documentary evidence to determine whether they demonstrate a lack of subject-matter jurisdiction. *Id*. To the extent that examination of this issue involves a question of statutory interpretation, the Court adopts the following principles:

> The goal of statutory interpretation is to determine and apply the intent of the Legislature. The first step in determining legislative intent is to examine the specific language of the statute. If the statutory language is clear and unambiguous, judicial construction is neither required nor permitted, and courts must apply the statute as written. The provisions of a statute must be read in the context of the entire statute to produce a harmonious whole. [The] Court must consider the object of the statute and the harm it is designed to remedy, and apply a reasonable construction that best accomplishes the statute's purpose. [*Id*. (quotation marks and citation omitted).]

A motion for summary disposition under MCR 2.116(C)(7) is granted when the claim is barred by immunity granted by law. *Plunkett v Dep't of Transp*, 286 Mich App 168, 180; 779 NW2d 263 (2009). When reviewing a motion under this subrule, a court must accept the well-pleaded factual allegations as true and construe them in the plaintiff's favor, unless other evidence contradicts the allegations. *Dextrom v Wexford Co*, 287 Mich App 406, 428; 789 NW2d 211 (2010). "If any affidavits, depositions, admissions, or other documentary evidence are submitted,

the court must consider them to determine whether there is a genuine issue of material fact." *Id*. at 429. As the Michigan Court of Appeals has explained,

> [i]f no facts are in dispute, and if reasonable minds could not differ regarding the legal effect of those facts, the question whether the claim is barred is an issue of law for the court. However, if a question of fact exists to the extent that factual development could provide a basis for recovery, dismissal is inappropriate. [*Id*.]

As for the request for summary disposition under MCR 2.116(C)(8):

> A motion under MCR 2.116(C)(8) tests the *legal sufficiency* of a claim based on the factual allegations in the complaint. When considering such a motion, a trial court must accept all factual allegations as true, deciding the motion on the pleadings alone. A motion under MCR 2.116(C)(8) may only be granted when a claim is so clearly unenforceable that no factual development could possibly justify recovery. [*El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 665 (2019) (citations omitted).]

Turning first to defendants' challenge to this Court's subject-matter jurisdiction on the basis that plaintiffs were required to exhaust their administrative remedies, the general rule is that " 'when an administrative scheme of relief exists an individual must exhaust those remedies before a circuit court has jurisdiction.' " *Connell v Lima Twp*, 336 Mich App 263, 282; 970 NW2d 354 (2021) (citation omitted). In this case, a mandatory administrative scheme exists to amend vital records. The relevant statutes regarding vital records appear in Part 28 of the Public Health Code, MCL 333.1101 *et seq*. In the Public Health Code, the Legislature authorized MDHHS ("the department") to promulgate rules relating to the content of vital records and the procedures for filings. See MCL 333.2871.

MCL 333.2871(1) provides, "A certificate or record registered under this part may be amended only in accordance with this part or procedures adopted under [MCL 333.2896]." MCL 333.2896 explains:

> The department may promulgate rules necessary or appropriate to implement this part. The rules shall include, at a minimum, procedures relating to filings; form and content of vital records; minimum documentation required for the issuance or amendment of certificates or permits; inspection or disclosure of records and sealed files; fees; and the disposition of reports and applications not actively pursued.

The relevant administrative rule, Mich Admin Code, R 325.3254, provides:

> (1) Unless otherwise specified in these rules or statute, all requests for changes to vital records documents *must* be made on an application to correct a vital record document as prescribed by the state registrar. The application must set forth all the following:
>
> (a) All the information necessary to identify the registered record.
>
> (b) The incorrect information as recorded on the registered record.
>
> (c) The information as it should appear on the replacement record.
>
> (2) The completed application must be accompanied by both of the following:
>
> (a) The proper fee prescribed by law.
>
> (b) The minimum supporting documentary evidence required by these rules.
>
> (3) A request *must* be made on an application form prescribed by the state registrar and must be accompanied by the required fee. [Emphases added.]

The use of the word "must" throughout the rule supports that this process is mandatory and not merely permissive. See *True Care*, 347 Mich App at 182 ("Courts must give the ordinary and accepted meaning to the permissive word 'may' and the mandatory words 'shall' or 'must' unless doing so would frustrate the legislative intent as evidenced by other statutory language or by reading the statute as a whole.") (quotation marks and citation omitted).

MCL 333.2873(1), which relates to the amendment of vital records, provides:

> If an applicant does not submit the minimum documentation required by the department for amending a vital record or if the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statement or the

> documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for the refusal. The applicant shall have the right to appeal *to a circuit court*. [Emphasis added.]

MDHHS never decided whether amendment of the vital records was appropriate because plaintiffs did not request amendment through the required channels. Jamal Parker explains in his affidavit that on February 28, 2022, "an order for birth certificates was placed" through VitalChek. But a request for copies of the records is not the same as requesting to amend those records. Plaintiffs also acknowledge that the evidence they attached to their response brief relating to alleged connected child-support and credit-reporting issues are "not a substitute" for the amendment process under the Public Health Code. Put simply, plaintiffs never asked MDHHS to amend the vital records in question. They were required to do so under the administrative rule before seeking the same relief in the circuit court.

Nor do plaintiffs assert that the request to amend their vital records would have been futile, which this Court will not presume. See *L & L Wine & Liquor Corp v Liquor Control Comm*, 274 Mich App 354, 358; 733 NW2d 107 (2007) ("There is a judicially created exception to the exhaustion requirement for cases where appeal to the administrative agency would be futile.") (quotation marks and citation omitted). Most importantly, the Legislature contemplated that an appeal of a denial of an application to amend a vital record would be filed in the circuit court—not in this Court. So whether any exemptions would apply would be a matter for the circuit court to decide on appeal.

The COCA provides that this Court has the power and jurisdiction "[t]o hear and determine any claim or demand, statutory or constitutional, . . . or any demand for monetary, equitable, or declaratory relief . . . against the state or any of its departments or officers notwithstanding another

law that confers jurisdiction of the case in the circuit court." MCL 600.6419(1)(a). However, another provision within the same provision of the COCA clarifies this Court's jurisdiction as follows: "This chapter does not deprive the circuit court of exclusive jurisdiction over appeals from the district court and administrative agencies as authorized by law." MCL 600.6419(5). The Michigan Court of Appeals has clarified that the first avenue of relief for a litigant seeking judicial review of an administrative agency's decision is the method outlined by the applicable statutes. *Prime Time Int'l Distrib, Inc v Dep't of Treasury*, 322 Mich App 46, 55; 910 NW2d 683 (2017); *Teddy 23, LLC v Mich Film Office*, 313 Mich App 557, 567; 884 NW2d 799 (2015).

MCL 333.2873 vests the circuit court with exclusive jurisdiction over any appeal plaintiffs may file under the Public Health Code in relation to their applications to amend their vital records. Therefore, the statute clarifies that the circuit court is the proper and exclusive jurisdiction over appeals from the administrative agency. This Court does not need to examine the other potential avenues of relief, such as the method of review outlined in the Administrative Procedures Act, MCL 24.201 *et seq*., or an appeal under MCL 600.631, because the language of the statute is clear. See *Prime Time*, 322 Mich App at 55; *Teddy 23*, 313 Mich App at 567. Accordingly, plaintiffs must follow the procedure outlined in the administrative rule to request amendment of the vital records and related systems from all-caps to standard proper-noun capitalization, which is their requested relief in Counts I and II. Should plaintiffs pursue administrative relief from MDHHS through the Public Health Code, the appropriate jurisdiction for an appeal of the agency's decision will be the circuit court. Therefore, the Court DISMISSES plaintiffs' claims for declaratory and injunctive relief, in Counts I and II, for lack of subject-matter jurisdiction.

In Count III, plaintiffs also assert what appears to be a tort claim for damages for ongoing breach of duty relating to historical vital record handling and racial identity treatment. Although

plaintiffs deny that this case involves a traditional tort claim, the Court looks beyond the labels in the complaint and determines that the gravamen of the claim is one of negligence, which is a tort claim and would fall under the GTLA. See *Wiggins v City of Burton*, 291 Mich App 532, 561; 805 NW2d 517 (2011) ("[A] complaint must be read as a whole, and it is well settled that this Court will look beyond the mere procedural labels used in the pleadings.").

Plaintiffs appear to concede in their sur-reply brief that any tort claims for damages arising from their 2022 record request would be barred by the notice requirement in MCL 600.6431 because the alleged breach of duty occurred three to four years before plaintiffs provided notice as required under the COCA. Nevertheless, plaintiffs contend that there are ongoing breaches of duty that are not associated solely with the record processing events in 2022 and 2023 and continue to occur through at least their filing of the August 26, 2025 Judicial Notice, which is well within one year of when they filed this lawsuit and provided a verified complaint signed by Jamal Parker.

But even if plaintiffs can establish that their claims accrued within the statutory notice period, their claims are nevertheless subject to summary disposition. To start, the Attorney General is not a proper defendant in this lawsuit. Plaintiffs acknowledge that they are suing the Attorney General in her official capacity. "[A] suit against a state official in his or her official capacity is not a suit against the official but rather is a suit against the official's office. As such, it is no different from a suit against the State itself." *Mays v Snyder*, 323 Mich App 1, 88; 916 NW2d 227 (2018) (quotation marks and citation omitted), aff'd by equal division 506 Mich 157 (2020). The Attorney General's Office is not identified as a defendant in this lawsuit, which relates to alleged wrongdoing on the part of MDHHS. The Court therefore DISMISSES the claims against Attorney General Nessel under MCR 2.116(C)(8) because she is not a proper defendant to this lawsuit.

As for the State of Michigan and MDHHS, plaintiffs assert that these entities breached certain duties owed to plaintiffs in terms of their handling of vital records. Plaintiffs have the burden to plead their claims in avoidance of governmental immunity. *Kendricks v Rehfield*, 270 Mich App 679, 681; 716 NW2d 623 (2006). "To be effective, such pleading must state a claim that fits within a statutory exception to immunity or include facts that indicate the action at issue was outside the exercise of a governmental function." *Id*. Under the GTLA, unless an exception outlined in the statute applies, "a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function." MCL 691.1407(1). In this case, to the extent the claims go beyond plaintiffs' request to amend their vital records from all-caps to standard proper-noun formatting, the allegations fall within defendants' exercise or discharge of a governmental function—the creation, maintenance, and transmission of vital records. Plaintiffs have not articulated any exceptions to governmental immunity that would apply here, despite having amended their complaint twice. They do not argue in their response or sur-reply briefing that any exceptions apply and instead argue that their claim is not a tort claim. Accordingly, plaintiffs' claims in Count III are barred by governmental immunity, and summary disposition is GRANTED in defendants' favor.[2]

III. CONCLUSION

IT IS ORDERED:

1. Plaintiffs' motion to file a sur-reply brief is GRANTED. The sur-reply brief attached to the motion is accepted as filed.

[2] Because the Court concludes that defendants are entitled to governmental immunity, the Court need not address defendants' alternative argument that plaintiffs have failed to state a claim on which relief may be granted.

2. Plaintiffs' request for entry of default and motion for default judgment are DENIED.

3. Defendants' motion for summary disposition is GRANTED.

4. Plaintiffs' amended complaint is DISMISSED WITH PREJUDICE.

5. This order resolves the last pending claim and closes the case.

Date: June 8, 2026

James Robert Redford
Judge, Court of Claims