STATE OF MICHIGAN

COURT OF CLAIMS

KRAKOWIAK TRAVEL AGENCY INC. d.b.a. SPECIALIZED ROAD TEST SERVICES, and ELIAS UDDIN,

Plaintiffs,

v

Case No. 26-000175-MZ

Hon. Sima G. Patel

MICHIGAN DEPARTMENT OF STATE, and JOCELYN BENSON, JUSTIN NOVAK, BENJAMIN TURNER, KHAILI MEYERS, VIRGINA HENRY, KRYSTAL HOWARD, TRAVIS RAWSON, ANALYST ROCKAFELLOW, and ANALYST ROZIER, individually and in their official capacities,

Defendants.
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OPINION AND ORDER DENYING PLAINTIFFS' MOTION FOR A TRO AND GRANTING DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

Plaintiffs—Krakowiak Travel Agency, doing business as Specialized Road Test Services (SRTS), and its principal and owner Elias Uddin—filed this lawsuit against defendants—the Michigan Department of State (MDOS), Secretary of State (SOS) Jocelyn Benson, and MDOS employees Justin Novak, Benjamin Turner, Khaili Meyers, Virgina Henry, Krystal Howard, Travis Rawson, Analyst Rockafellow, and Analyst Rozier—after MDOS terminated the driver testing business (DTB) agreement (DTBA) with SRTS. Before the Court are plaintiffs' August 17, 2026 motions for a temporary restraining order (TRO) or preliminary injunction and to exceed the page limit; defendants' September 8, 2026 motion for summary disposition under MCR 2.116(C)(7),

(8), and (10), and to exceed the page limit; and defendants' September 18, 2026 motion to exceed the page limit in their reply brief.

The Court GRANTS all three motions to exceed the page limit, DENIES plaintiffs' motions for a TRO or preliminary injunction, GRANTS defendants' motion for summary disposition, and DISMISSES plaintiffs' claims in their entirety and with prejudice.

I. BACKGROUND

SRTS is a Michigan DTB owned and operated by Uddin. Plaintiffs allege that they have operated SRTS and worked with MDOS for 15 years. On June 17, 2021, Uddin executed a three-year DTBA with MDOS allowing SRTS to conduct driver-skills testing on behalf of MDOS. The DTBA provided, in part, that SRTS "must ensure its practices comply with requirements and standards prescribed by [MDOS], and not stray or detract from any testing materials, including driving route forms [and] test forms. . ." and "shall ensure that each test is administered in strict accordance with the [Michigan Vehicle Code, MCL 257.1 *et seq*.], current [Department of Transportation, Federal Motor Carrier Safety Administration, American Association of Motor Vehicle Administrators, and Motorcycle Safety Foundation] standards, and the methods and examination criteria prescribed by [MDOS]."

The DTBA provided that SRTS is an independent contractor and not an employee or agent of MDOS. It stated that MDOS could examine, inspect, or audit SRTS with or without prior notice through either covert or overt methods, provided that the methods employed were reasonable. The DTBA required 30 days' notice of voluntary termination by either party. It further stated that the DTBA would remain in effect until its expiration date unless it was voided, terminated, canceled, or amended. The DTBA provided, "If [MDOS] determines that the DTB has failed to comply

with this [DTBA] or for violation of federal, state, and/or local civil rights, fair labor, or other applicable laws, [MDOS] may immediately terminate this [DTBA], or take other action prescribed by this [DTBA]." Here, the DTBA expired on June 17, 2024, but the parties continued operating under it.

Beginning in 2022, MDOS issued a string of Notices of Non-Compliance (NNCs) to plaintiffs and their employees. The DTBA required each examiner to "provide a satisfactory medical examination report prepared by a medical professional." MDOS issued NNCs on May 23, 2022, and January 5, 2023, because four examiners, including Uddin, had not submitted the required reports. The DTBA required all DTB owners and examiners to complete state and federal criminal history checks every four years. On February 15, 2024, MDOS issued an NNC regarding a missing criminal history check for examiner Shahin Ahmed. The DTBA requires SRTS to maintain certain insurance coverage and to submit to MDOS "certificates of insurance verifying insurance coverages required in this [DTBA]." MDOS issued an NNC on February 15, 2024, regarding plaintiffs' failure to submit a physical certificate of insurance. Plaintiffs allege that they quickly remedied these deficiencies.

SRTS was required under the DTBA to enter results from driving tests administered each day by 11 p.m. on MDOS's Customer and Automotive Records System (CARS). MDOS issued five NNCs asserting that five different examiners failed to enter test results by 11 p.m. on February 21, 2023. Plaintiffs assert that any failures to timely enter test results into CARS were caused by technical issues with the site.

On February 12, 2026, MDOS issued a Notice of Intended Action (NOIA) alerting plaintiffs that it deauthorized plaintiffs' examiners effective February 3, 2026, and terminated the

DTBA effective February 12. MDOS advised that its intended actions included requiring retesting with a different DTB at SRTS's expense of all applicants whose driving tests did not meet MDOS standards. In support, MDOS asserted it had conducted covert and overt inspections on March 18, 19, 25, and 27, April 1 and 23, May 28, and December 8 and 17, 2025, and observed "numerous deviations and violations of testing standards." Among the issues identified were Uddin's provision of his CARS login credentials to his employees, something allegedly forbidden under the CARS user agreement. The NOIA further noted that MDOS had received approximately 14 customer complaints regarding SRTS between 2022 and 2025.

The inspectors observed all six SRTS examiners deviate from testing standards on at least one date. These deviations included "skipping vehicle inspection (VI), failing to read Standardized Verbal Instructions (SVIs), deviating [from] Basic Control Skills (BCS), and shortcutting road test routes yet still scoring the routes as completed." The inspectors observed road tests that they scored as failures and yet the SRTS examiner marked as passing, as well as misidentifying the applicant taking the test. On April 23, 2025, the inspectors noted that an SRTS examiner double-booked exams and scheduled more test times than possible to conduct on the CARS system, suggesting fraud. Defendants covertly inspected the examinations on several days and discovered that "[n]umerous tests observed did not match score sheets provided by [SRTS] for the day's tests." The test deviations violated MCL 257.309(8), which makes it a felony for a driving examiner to "var[y] from, shorten[], or in any other way change[] the method or examination criteria prescribed in" the DTBA.

Plaintiffs submitted a petition for administrative review and a proceeding was conducted on March 10, 2026. Plaintiffs contend they were denied a meaningful hearing and opportunity to confront the evidence and witnesses against them. MDOS, on the other hand, stated in the April

8, 2026 Notice of Final Action (NOFA) that the proceeding "was discontinued due to disruptive conduct by [plaintiffs'] counsel." While "[f]ew items were discussed during the review" as a result, MDOS permitted plaintiffs to file "a written submission identifying any facts or information they wished [MDOS] to consider."

On March 20, 2026, plaintiffs' counsel submitted a document entitled MDOS Admin Review Memo, which, MDOS asserted in the April 8 NOFA, "provided no new information or proofs to counter [MDOS's] positions regarding any items detailed in the NOIA" with one exception. MDOS explained that plaintiffs' counsel provided a January 6, 2023 email from Uddin to Meyers which stated, "All examiners are good to work. I have two front desk assistants [who] will schedule and operate CARS program." Plaintiffs' counsel argued that this email notified defendants that SRTS employees, and not Uddin, would use Uddin's CARS login credentials to schedule tests and enter results. MDOS disagreed with plaintiffs' position that the email language placed MDOS on notice that employees would access CARS using Uddin's login credentials and not their own. MDOS interpreted the email as the notice required under the DTBA that the DTB's principal, Uddin, would be out of the country for an extended period. And, MDOS stated, it did not learn until much later and after an investigation that Uddin was the only SRTS employee with CARS login credentials. Following an update to the CARS system requiring multifactor authentication, Uddin admittedly provided the authorization code texted to his cell phone to SRTS employees accessing CARS using his login credentials. MDOS concluded, "This change in login procedures would, regardless of any past practices or assumptions, be a reset of the rules of CARS use by the DTB" and provide notice to DTBs "that anyone accessing CARS would need their own login and register their own multi-factor authorization information." Uddin, on the other hand,

contended that he addressed defendants' security concern by installing front desk security cameras "to safeguard against misuse."

A review of the March 20, 2026 memo reveals that plaintiffs challenged the five February 21, 2023 NNCs issued for failure to enter test results by 11 p.m. that day. Plaintiffs insisted that they had no record of such events occurring on February 21, 2023, but that they located a January 23, 2023 email exchange with MDOS regarding test results that had not been entered the day before. The email explained that although tests were scheduled in CARS for January 22, 2023, those tests had been cancelled due to inclement weather. In relation to the other NNCs, plaintiffs again contended that they quickly remedied all violations and urged that none were sufficiently material to amount to a breach of contract warranting termination.

Plaintiffs' memo also addressed the allegation that 14 customer complaints had been filed between 2022 and 2025. Plaintiffs noted that MDOS had not provided the complaints and plaintiffs' counsel could not locate them. Plaintiffs argued that they had been in operation for over 15 years in a customer-service industry and that reviews and even complaints were to be expected. SRTS's positive online reviews significantly outweighed the negative. And many negative reviews stated that SRTS's examiners were too harsh in failing applicants, running counter to defendants' claims that SRTS passed applicants who actually had failed their driving exams. Plaintiffs further noted that they received a letter from MDOS on September 23, 2024, indicating that three complaints had been submitted and that the complaining applicants were entitled to refunds. Using contact information provided by MDOS, plaintiffs were able to connect with and issue a refund to only one applicant. "In any event," plaintiffs emphasized, the DTBA does not categorize a customer complaint as a breach of contract.

Plaintiffs also addressed each day on which covert and overt observations occurred, and the inconsistencies and statutory violations noted by the inspectors. For example, in relation to the March 18, 2025 observation of Examiner Ahmed, plaintiffs assert that no fraud occurred; rather, the examiner committed a scrivener's error and switched the test times for a male and a female applicant that day, explaining the discrepancy noted by the inspector. In relation to defendants' challenges to specific driver's examinations, plaintiffs contended that their ability to respond was hampered by defendants' failure to provide more specific notes. In relation to the alleged April 23, 2025 overbooking allegation, plaintiffs asserted that the "CARS scheduling entries do not reflect the actual number of tests administered by any one examiner," and that "[i]n practice, examiners are often used as placeholders" and tests are reassigned to available examiners on the day of the test.

Ultimately, MDOS reaffirmed in the NOFA that any applicants tested by SRTS "outside of [MDOS] standards" were required to retest with another DTB at SRTS's cost. MDOS also reaffirmed its decision to terminate the DTBA effective February 12, 2026, and to deauthorize SRTS's driving examiners effective February 3, 2026.

On May 5, 2026, plaintiffs submitted a request to MDOS under the Freedom of Information Act (FOIA), MCL 15.231 *et seq*., for information regarding defendants' investigation of SRTS and Uddin. The FOIA request sought several subcategories of information, including all records regarding the MDOS observations of plaintiffs' business activities; internal communications referring to plaintiffs; recordings of a January 7, 2026 in-person meeting at SRTS's offices and the March 10, 2026 administrative review meeting; the CARS-system information relied on by defendants; all internal policies, procedures, guidance, and training materials in effect during the times in question governing driver testing oversight, enforcement, issuance of NNCs, and the use

of the CARS scheduling system; and any documents or communications that formed the basis for defendants' decisions in this matter.

On May 26, 2026, MDOS granted plaintiffs' FOIA request "as to existing, nonexempt public records" in MDOS's possession. MDOS estimated a processing fee of $17,655.60 because plaintiffs' "request involves a large amount of documents and potentially exempt information" that would have to be collected, reviewed, and redacted before release. Upon receipt of the 50% deposit, MDOS estimated it would take 10 business days to fulfill the request. Plaintiffs submitted an internal appeal of the FOIA fee assessment as excessive and challenged MDOS's failure to itemize and more clearly explain the hours and fees charged. MDOS denied the appeal on June 2, 2026, and upheld its fee assessment.

Plaintiffs waited more than four months after MDOS's NOFA to file suit in this Court. They also filed a contemporaneous ex parte motion for a TRO and preliminary injunction. The Court declined to consider the matter on an ex parte basis but ordered a shortened briefing period.

In the complaint, plaintiffs allege that defendants discriminated against them and selectively enforced rules and regulations against them because plaintiffs are "an immigrant-serving, Muslim- and Bangladeshi-owned business." Plaintiffs assert that "several of the same MDOS personnel involved in Plaintiffs' investigation were previously accused of discriminatory bias and retaliatory enforcement in [similar] litigation involving another immigrant-serving driver testing business"—*Jonny's Road Testing, LLC v Mich Dep't of State*, Court of Claims Docket No. 25-000035-MZ (State *Jonny's*); and *Jonny's Road Testing LLC v Benson*, United States District Court for the Eastern District of Michigan Docket No. 2:25-cv-12320 (Federal *Jonny's*). Specifically, in those actions, plaintiffs alleged that MDOS Analyst Benjamin Turner expressed

anti-immigrant hostilities and targeted immigrant-serving DTBs for heightened scrutiny. Plaintiffs further accused defendants of gaming the system by arguing in Federal *Jonny's* that there was no comparator evidence of disparate treatment, and subsequently initiating an investigation into the current plaintiffs, essentially creating comparator evidence after the fact.[1]

Based on these allegations, in Count III of the complaint, plaintiffs allege a violation of their right to equal protection of the law as guaranteed by US Const, Am 14 and Const 1963, art 1, § 2. In Count IV, plaintiffs allege that defendants violated the Elliott-Larsen Civil Rights Act (ELCRA), MCL 37.2101 *et seq*., by interfering with their ability to continue operating a DTB based on racial and ethnic discrimination.

In Count I, plaintiffs allege that defendants breached the DTBA. Plaintiffs contend that they substantially performed their duties under the contract for more than 15 years. The deficiencies cited by defendants involved administrative or technical matters and plaintiffs remedied each issue upon notice. Other alleged contract violations, such as the alleged testing deviations cited by defendants, involved subjective disagreements regarding testing administration, route timing and variations, or subjective wording of standardized instructions. Plaintiffs contend that the alleged deficiencies did not deprive defendants of the benefit of the parties' agreement and were not substantial breaches. Moreover, plaintiffs allege that defendants

[1] Plaintiffs' argument mischaracterizes the chain of events. Defendants conducted covert investigations of Jonny's Road Testing in December 2023 and February 2024, Federal *Jonny's*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued September 28, 2026 (Docket No. 2:25-cv-12320), pp 3-4, and the plaintiff did not file suit in that case until 2025. Defendants' investigation of SRTS began in March 2024 and, therefore, was essentially contemporaneous with the investigation of Jonny's Road Testing and occurred more than a year before Jonny's Road Testing filed suit.

knowingly accepted their substantial performance and thereby waived strict enforcement as well as mutually modifying and renewing the agreement through a course of conduct. Plaintiffs contend that they reasonably relied on defendants' conduct and that defendants are equitably estopped from retroactively characterizing long-permitted practices and cured deficiencies as material contract breaches. Plaintiffs also argue that defendants have unreasonably delayed in asserting their rights and now are barred by the doctrine of laches from strictly enforcing the contract.

In Count II, plaintiffs contend that defendants violated their rights to procedural and substantive due process. They assert that they have a protected property interest in the DTBA. Plaintiffs further argue that defendants are judicially estopped from denying that the DTBA is a protected property interest because they acknowledged this fact in Federal *Jonny's*. Defendants' position in this case, plaintiffs contend, is materially inconsistent.

Plaintiffs continue that the administrative review was not a meaningful evidentiary hearing because no sworn testimony was taken, plaintiffs were not permitted to confront the witnesses against them, and plaintiffs were not given access to the evidence against them. MDOS's decision was based on "disputed covert observations and conclusory allegations," rendering the proceeding insufficient to protect plaintiffs' rights.

In Count V, plaintiffs allege that defendants tortiously interfered with plaintiffs' business relationships and expectations by disrupting and destroying plaintiffs' business operations. Plaintiffs contend that defendants engaged in ultra vires conduct by selectively targeting businesses on the basis of race and ethnicity and therefore were not entitled to immunity under the Governmental Tort Liability Act (GTLA), MCL 691.1401 *et seq*.

II. STANDARDS OF LAW

Plaintiffs seek a declaration of their rights, as well as a TRO and injunctive relief.

MCR 2.605 governs a trial court's power to enter a declaratory judgment. The court rule provides, in pertinent part, that "[i]n a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." MCR 2.605(A)(1). See also *Van Buren Charter Twp v Visteon Corp*, 319 Mich App 538, 545; 904 NW2d 192 (2017). The language in this rule is permissive, and the decision whether to grant declaratory relief is within the trial court's sound discretion. *PT Today, Inc v Comm'r of Office of Fin & Ins Servs*, 270 Mich App 110, 126; 715 NW2d 398 (2006). An actual controversy exists "when a declaratory judgment is necessary to guide the plaintiff's future conduct in order to preserve the plaintiff's legal rights." *Shavers v Attorney General*, 402 Mich 554, 588-589; 267 NW2d 72 (1978).

Both injunctions and TROs are "an extraordinary and drastic use of judicial power that should be employed sparingly and only with full conviction of its urgent necessity." *Davis v Detroit Fin Review Team*, 296 Mich App 568, 613; 821 NW2d 896 (2012) (cleaned up). Courts may grant these "extraordinary remed[ies]" "only when justice requires, there is no adequate remedy at law, and there is a real and imminent danger of irreparable injury." *Janet Travis, Inc v Preka Holdings, LLC*, 306 Mich App 266, 274-275; 856 NW2d 206 (2014). A party seeking a preliminary injunction bears the burden of demonstrating entitlement to relief based on the following factors:

> (1) the likelihood that the party seeking the injunction will prevail on the merits, (2) the danger that the party seeking the injunction will suffer irreparable harm if the injunction is not issued, (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be

> by the granting of the relief, and (4) the harm to the public interest if the injunction is issued. [*Davis*, 296 Mich App at (cleaned up).]

A party seeking a TRO must make a similar showing of "immediate and irreparable injury, loss, or damage" from a delay in relief. MCR 3.310(B)(1). Normally, the grant or denial of a preliminary injunction or TRO is only the first step in a process that requires a separate, expedited review of the substantive issue on the merits. *Detroit Fire Fighters Ass'n, IAFF Loc 344 v Detroit*, 482 Mich 18, 21-22; 753 NW2d 579 (2008).

The Court of Appeals has outlined various factors relevant to a decision to enter a permanent injunction, including:

> (a) the nature of the interest to be protected, (b) the relative adequacy to the plaintiff of injunction and of other remedies, (c) any unreasonable delay by the plaintiff in bringing suit, (d) any related misconduct on the part of the plaintiff, (e) the relative hardship likely to result to defendant if an injunction is granted and to plaintiff if it is denied, (f) the interests of third persons and of the public, and (g) the practicability of framing and enforcing the order or judgment. [*Janet Travis, Inc*, 306 Mich App at 274 (cleaned up).]

The Court must "balance the benefit of an injunction to a requesting plaintiff against the damage and inconvenience to the defendant, and will grant an injunction if doing so is most consistent with justice and equity." *Id*. at 274-275.

Defendants seek dismissal of plaintiffs' claims pursuant to MCR 2.116(C)(7), (8), and (10).

Summary disposition is warranted under MCR 2.116(C)(7) when the defendant is entitled to immunity granted by law. When reviewing such a motion, this Court examines the affidavits, depositions, admissions, and other documentary evidence to determine whether the moving party is entitled to immunity as a matter of law. *Forton v St Clair Co Pub Guardian*, 339 Mich 73, 82; 981 NW2d 103 (2021).

"A motion under MCR 2.116(C)(8) tests the *legal sufficiency* of a claim based on the factual allegations in the complaint." *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 665 (2019) (cleaned up). The Court must accept all factual allegations in the complaint as true, and grant relief when the asserted "claim is so clearly unenforceable that no factual development could possibly justify recovery." *Id.* at 160 (cleaned up).

"A motion under MCR 2.116(C)(10), on the other hand, tests the *factual sufficiency* of a claim." *Id*. at 160. The Court considers the "evidence submitted by the parties in the light most favorable to the party opposing the motion" and grants dismissal "when there is no genuine issue of material fact." *Id.* "A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ." *Id*. (cleaned up).

III. ANALYSIS

A. TRO OR PRELIMINARY INJUNCTION

At the outset, the Court finds that plaintiffs are not entitled to a TRO or preliminary injunction, and would not have been entitled to such relief even if the Court had considered those motions when this action was first filed. The goal of both is to maintain the status quo pending a final hearing on the parties' rights. *Slis v State*, 332 Mich App 312, 336-337; 956 NW2d 569 (2020). Plaintiffs waited more than four months after their contract was terminated and their business shuttered before seeking relief from the Court. The damage had already been done and the status quo by that point was a DTB without authority to conduct such business.

B. BREACH OF CONTRACT

In Count I, plaintiffs contend that defendants breached the DTBA by terminating the contract. To support a breach-of-contract claim, a plaintiff must demonstrate: (1) the existence of a contract; (2) a breach of that contract, and (3) damages suffered as a result of the breach. Defendants have identified several instances of plaintiffs violating the DTBA and plaintiffs do not deny the events in question. Defendants assert that these violations justified the termination of the DTBA without 30 days' notice, negating plaintiffs' breach-of-contract claim. Plaintiffs argue instead that defendants excused their contractual violations in the past and permitted plaintiffs to remedy contract violations, thereby amending or modifying the DTBA.

"In order to create a term or condition of employment [or in a state contract] through past practice, the practice must be mutually accepted by both partes." *Port Huron Ed Ass'n MEA/NEA v Port Huron Sch Dist*, 452 Mich 309, 325; 550 NW2d 228 (1996). The plaintiff must show that there has been a meeting of the minds with regard to alleged new contractual terms. *Id*. at 326-327. "The party seeking to supplant the contract language must submit proofs illustrating that the parties had a meeting of the minds with respect to the new terms or conditions—intentionally choosing to reject the negotiated contract and knowingly act in accordance with the past practice." *Id*. at 329. Stated differently, plaintiffs must demonstrate that "the parties' past practice is so widely acknowledged and mutually accepted that it amends the contradictory and unambiguous contract language," i.e. "that the parties had a meeting of the minds with respect to the new terms or conditions and that the past practice was so prevalent and widely accepted that there was an agreement to modify the contract." *Detroit Police Officers Ass'n v Detroit*, 452 Mich 339, 340-341; 551 NW2d 349 (1996).

Plaintiffs have not alleged a widely acknowledged and mutually accepted practice of ignoring plaintiffs' violations of the DTBA to support a meeting of the minds for new contract terms.

Defendants cited several contractual and statutory violations in support of their decision to terminate plaintiffs' DTBA. First, defendants alleged that plaintiffs violated the CARS User Agreement and operating parameters by failing to timely enter test results into the system and by Uddin sharing his login credentials with his employees. Defendants failed to provide the CARS User Agreement or any CARS instructional materials to support its claims in this regard. However, defendants quoted the relevant provision of the "CARS user terms and agreement" in the NOIA and plaintiffs do not challenge the authenticity of that quote. The CARS user terms and agreement state:

> 2. Access to MiLogin is limited to registered users. You agree that . . . you will not register under the name of, nor attempt to enter the MiLogin under the name of any other person. . . . You are responsible for maintaining the confidentiality of your password and account log-in information. . . .
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> 3. The State grants you a limited . . . non-transferable license to access and make personal use of MiLogin for the purposes of creating login information that is unique to you and accessing your MiLogin account profile and applications available through MiLogin.

Plaintiffs concede that Uddin provided his MiLogin credentials to his employees who were not registered users of the system. This violated the provision of the CARS user agreement limiting access to registered users. And the Court agrees with defendants that it was not clear from Uddin's January 6, 2023 email that his employees would be using his login credentials instead of their own to access CARS.

The evidence presented by the parties does support, however, that plaintiffs had a long history of belatedly filing documents required by the DTBA only after defendants issued an NNC. There was no express or "widely acknowledged and mutually accepted" agreement to forever excuse this history of conduct. Indeed, the repeated violations documented over time supports termination under the contract in a way that a single violation may not.

Moreover, there is no evidence or allegation that defendants ever excused any violation of the driver's examination standards outlined in the DTBA and in statutes. MCL 257.309(4) permits the SOS to enter a contract with a DTB to conduct driver skills testing. MCL 257.309(6) requires a driving skills test to "include a behind-the-wheel road test." And MCL 257.309(8) states: "A designated examining officer appointed or designated by the [SOS] who conducts a driving skills test under an agreement entered into under this section or [MCL 257.310e]" and "who varies from, shortens, or in any other way changes the method or examination criteria prescribed in that agreement in conducting a driving skills test is guilty of a felony."

Section 4.G of the DTBA provides the parameters for test administration. It required plaintiffs to "ensure that each test is administered in strict accordance with" the Michigan Motor Vehicle Code and several industry standards. Examiners are prohibited from providing feedback or coaching during the test. Section 4.H required plaintiffs to secure approval for "all driving skills testing sites and driving skills test routes, prior to using them" and before changing any sites or routes.

The MDOS *Driving Skills Test Study Guide*, available at < https://www.michigan.gov/-/media/Project/Websites/sos/01preston/Driving-Skills-Test-Study-Guide.pdf?rev=3618c8e37fc644768eaca77f420bef6d> (accessed October 29, 2026), p 4, instructs

that each driving skills exam must include a vehicle inspection, basic control skills, and on-street driving. It further directs that the examiner "must always" (1) "Read standard instructions to each applicant for each part of the test" from a list of instructions provided by MDOS; (2) "Use only [MDOS]-approved forms and test procedures"; and (3) "Use only [MDOS]-approved off-street exercises and on-street driving test routes." *Id*. Further, any DTB or examiner "who intentionally misrepresents a driving skills test by omitting any test requirement . . . is subject to severe penalties including loss of testing authorization. . . ." *Id*.

Defendants' inspectors observed plaintiffs and their examiners conduct driving skills tests over several days. The inspectors discovered examiners varying from and shortening the approved routes in violation of MCL 257.309(8) and § 4.H of the DTBA. They observed examiners fail to conduct visual inspections and basic control skills, skipping to the on-street driving portion of the exam. These are not subjective elements like assessing an examinee's ability to conduct a left-hand turn. They cannot be explained away as scrivener's errors. And there is no allegation or evidence that defendants had ever ignored, excused, or allowed correction of such breaches of the DTBA in the past.

Ultimately, viewing the evidence in the light most favorable to plaintiffs, defendants established plaintiffs' history of violations. Eve though plaintiffs remedied many of its violations, defendants were not precluded from exercising their right to terminate the DTBA. The Court GRANTS defendants' motion for summary disposition pursuant to MCR 2.116(C)(8) and (10).

C. PROCEDURAL AND SUBSTANTIVE DUE PROCESS

Defendants also seek dismissal of plaintiffs' due process challenge. The first step in demonstrating a procedural or substantive due process violation is to establish a protected property

interest. *Bonner v City of Brighton*, 495 Mich 209, 225-226; 848 NW2d 380 (2014). Plaintiffs assert they had a protected property interest "in their [DTBA], ongoing business operations, professional reputation, goodwill, and ability to continue operating their business."

Plaintiffs contend that defendants are judicially estopped from denying their property interest because, they claim, defendants admitted the existence of the same protected property interest in the Federal *Jonny's* lawsuit. Plaintiffs rely on defendants' September 30, 2025 motion to dismiss the federal lawsuit for this proposition. However, defendants did not concede that plaintiffs have a protected property interest. Rather, in response to plaintiffs' due-process claim, defendants assumed for the sake of argument that there was a protected property interest.

In the April 22, 2026 opinion and order dismissing State *Jonny's*, Chief Judge MICHAEL F. GADOLA ruled that the plaintiffs failed to plead the existence of a protected property interest arising from their DTBA:

> Plaintiffs assert that they had a recognized property interest "in the continued operation of their [DTBs], its goodwill, customer relations and test site authorizations." However, plaintiffs have not provided a legal basis for a finding that they had a property interest arising from their state contract. MCL 259.309(4) provides that the [SOS] may enter into agreements with private companies to conduct driving skills tests. There is no language in the statute that would entitle plaintiffs to a state contract. Nor did plaintiffs have a license that might create a protected property interest. See *Maxwell v Dep't of Environmental Quality*, 264 Mich App 567, 571-572; 692 NW2d 68 (2004).
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> [P]laintiffs cannot point to any statutory or contractual basis to support their claim that they had a right to an ongoing contractual relationship with the State. The agreement, which was for only a three-year term, stated that it did not create an employment relationship and outlined the circumstances under which the agreement could be terminated. In addition to immediate termination for failure to follow the agreement or the law, either party could terminate the agreement with 30 days' written notice, meaning that the contract did not vest plaintiffs with any ongoing legal rights. And while plaintiffs assert that their business was mostly (or

> entirely) with the State, the State did not foreclose plaintiffs' freedom to take advantage of other employment opportunities in the private sector. Nor is there any allegation that the State made any public charges that would harm plaintiffs' business reputation. Plaintiffs did not have a vested property right or liberty interest in their agreement with the State. [State *Jonny's*, Opinion and Order, April 22, 2026 (Docket No. 25-000035-MZ), pp 24-25.]

The same statute and contractual language are at issue in this case. Just as in State *Jonny's*, the Court concludes that plaintiffs did not have a vested property right or liberty interest in the continuation of their DTBA with the State. Absent a vested, protected property interest, plaintiffs have not alleged and cannot support a due process claim upon which relief could be granted.

Accordingly, the Court GRANTS defendants' motion for summary disposition of Count II pursuant to MCR 2.116(C)(8) and (10).

D. EQUAL PROTECTION/SELECTIVE ENFORCEMENT

"The equal protection clauses of the Michigan and United States constitutions provide that no person shall be denied the equal protection of the law." *Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 486 Mich 311, 318; 783 NW2d 695 (2010). "The Equal Protection Clause requires that all persons similarly situated be treated alike under the law." *Id*. Plaintiffs allege that defendants violated their right to equal protection under the law by selectively enforcing statutes and contractual provisions against them because they are a Muslim, Bangladeshi-owned business that serves an immigrant community. Violation of equal protection arising from the selective enforcement of law based on a protected characteristic is a recognized cause of action in this State. See *Oakland Co Prosecutor v 46th Dist Judge*, 76 Mich App 318, 331; 256 NW2d 776 (1977).

Although plaintiffs contend that defendants selectively enforced provisions of the law and the DTBA against them based on race, religion, and ethnicity, they failed to allege that defendants

treated any other DTB differently. This case is analogous to Federal *Jonny's*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued September 28, 2026 (Docket No. 2:25-cv-12320), in this regard. In that case, the federal district court dismissed the plaintiffs' equal protection claim because the plaintiffs alleged they were treated differently "from similarly situated DTBs without actually identifying and describing said DTBs." *Id*. at p 12. In this case, plaintiffs similarly claim that they were treated differently because they were minority owned and served minority clients. However, just as in Federal *Jonny's*, plaintiffs have identified no other DTBs who were not minority owned, committed violations similar to plaintiffs, and yet were not investigated or had their contracts terminated.

The existence of similarly situated, non-Minority DTBs who received differential treatment is a necessary element to plead and establish a selective-enforcement equal-protection claim. Because plaintiff failed to adequately plead or support this element, the Court GRANTS defendants' motion for summary disposition of plaintiffs' Count III under MCR 2.116(C)(8) and (10).

E. ELCRA

Plaintiffs contend that Uddin is a member of a protected class based on his religion, ethnicity, and national origin, and that he was qualified to continue operating a DTB. Plaintiffs assert that defendants treated them adversely and terminated their DTBA under circumstances giving rise to an inference of discrimination in violation of the ELCRA.

Defendants urge the Court to dismiss plaintiffs' ELCRA claim because the DTBA identifies plaintiffs as independent contractors, and not as employees of MDOS such that the

ELCRA does not apply based on *Badiee v Brighton Area Schs*, 265 Mich App 343, 360-361; 695 NW2d 51 (2005).

MCL 37.2202(1) prohibits "an employer" from committing various acts "with respect to employment" based on the religion, race, color, or national origin of an individual. In *Badiee*, 265 Mich App at 360, the Court of Appeals held that a claim "against an employer" under this statute "may only be brought by employees." The Court held, "An independent contractor is not an employee, and may not bring a claim against an employer under § 202." *Id*. at 361.

However, in *McClements v Ford Motor Co*, 473 Mich 373, 389; 702 NW2d 166 (2005), the Michigan Supreme Court held that the test of employment is not so simplistic and is not based on labels: "a worker is entitled to bring an action against a nonemployer defendant if the worker can establish that the defendant affected or controlled a term, condition, or privilege of the worker's employment." The plaintiff in *McClements* worked in a cafeteria at a facility owned and operated by the defendant but was the employee of an independent contractor. An employee of the defendant committed acts of sexual harassment against her. The Michigan Supreme Court held that the plaintiff was an employee of the defendant for the purpose of filing an action based on this harassment under the ELCRA.

Further, the Michigan Court of Appeals held that the "economic reality test" should be considered in determining whether a plaintiff filing suit under the ELCRA shares an employer-employee relationship with the defendant. See *Ashker v Ford Motor Co*, 245 Mich 9; 627 NW2d 1 (2001).

> Although the totality of the circumstances is considered, in applying the economic realities test, the courts generally consider the following four factors (1) the control of a worker's duties, (2) the payment of wages, (3) the right to hire and fire and the

> right to discipline, and (4) the performance of the duties as an integral part of the employer's business towards the accomplishment of a common goal. [*Clark v United Techs Auto, Inc*, 459 Mich 681, 688; 594 NW2d 447 (1999) (cleaned up).]

Here, the DTBA identifies SRTS as an independent contractor. Uddin owns and operates SRTS. Although the DTBA provides parameters for the DTB's operations, defendants have no internal control over SRTS and have no day-to-day control over SRTS's employees. STRS pays the wages of Uddin and the lower-level employees from fees collected from examinees. SRTS retains the right to hire, fire, and discipline its employees, although MDOS may terminate the DTBA under certain conditions. Plaintiffs' "performance of the duties" of owning and operating a DTB are not "an integral part of [MDOS's] business toward the accomplishment of a common goal"; rather, MDOS is the arm of the state responsible for issuing driver's licenses and plaintiffs have a contract to provide a service to customers on the path to securing a driver's license.

Ultimately, plaintiffs cannot demonstrate that this relationship meets the legal requirements for defendants to be considered an employer of plaintiffs for purposes of the ELCRA. Accordingly, the Court GRANTS defendants' motion for summary disposition of Count IV under MCR 2.116(C)(8) and (10).

F. TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIPS AND EXPECTANCIES/ULTRA VIRES ACTIVITIES

Plaintiffs contend that defendants tortiously interfered with their business relationships and expectancies. To plead this tort claim in avoidance of governmental immunity, plaintiffs allege that defendants engaged in ultra vires activity.

The plaintiffs unsuccessfully raised the same claims in State *Jonny's*:

> The [GTLA] provides that governmental entities are "immune from tort liability" for claims that arise from activities in which they are "engaged in the exercise or

> discharge of a governmental function." MCL 691.1407(1). The only exceptions to this general rule are the exceptions expressly delineated in the GTLA, as well as constitutional torts. *Pohutski v Allen Park*, 465 Mich 675, 689-690; 641 NW2d 219 (2002). The definition of governmental function should be applied broadly, and "only requires that there be some constitutional, statutory, or other legal basis for the activity in which the governmental agency was engaged." *Herman v Detroit*, 261 Mich App 141, 144; 680 NW2d 71 (2004) (quotation marks and citation omitted). A governmental entity is only liable in tort for ultra vires activities. *Id.*
>
> "A determination of whether an activity was a governmental function must focus on the general activity and not the specific conduct involved at the time of the tort." *Id.* An ultra vires activity is an "activity not expressly or impliedly mandated or authorized by law." *Richardson v Jackson Co*, 432 Mich 377, 381; 443 NW2d 105 (1989). An exception to governmental immunity applies when the governmental agency is involved in the performance of a proprietary function. MCL 691.1413. Plaintiffs invoke this exception to governmental immunity to the extent the alleged wrongdoing constituted a governmental activity. [State *Jonny's*, April 22, 2026 Opinion and Order, p 26.]

Just as in State *Jonny's*, plaintiffs failed to allege and support that defendants lacked legal authority for their actions:

> MCL 257.309(4) expressly permitted MDOS to enter into agreements with [DTBs] and to regulate the "method and examination criteria" to be used by the examiner. Plaintiffs allege that defendants imposed improper compliance standards, improperly enforced CARS despite several glitches, and failed to follow the correct procedures for investigations and sanctions. But these are all claims relating to the performance of a governmental function. [*Id*. at 27.]

The actions taken by defendants that plaintiffs use to support their claims all arise from the authority granted by MCL 257.309(4) and the DTBA entered into as a result of that authority. No conduct was ultra vires.

Accordingly, plaintiffs have not pleaded their tort claim in avoidance of governmental immunity. As such, defendants are entitled to dismissal of Count V pursuant to MCR 2.116(C)(7).

G. FOIA CHALLENGE

In Count VI, plaintiffs contend that defendants constructively denied their FOIA request by charging an excessive fee and denying plaintiffs' appeal. Defendants' initial review uncovered 3,700 potentially responsive electronic records and estimated the fee to fulfill this request would be $17,665.60. Defendants requested a 50% deposit to begin gathering the information.

Plaintiffs' claim is actually a challenge that defendants imposed an excessive and unjustified fee. A fee-reduction claim must be raised within 45 days of a department's determination of an appeal. MDOS denied the appeal on July 2, 2026. The 45-day deadline to file suit ended on August 17, 2026. Plaintiffs filed suit on August 17, 2026, but the complaint was not properly verified under MCL 600.6431 of the Court of Claims Act and therefore did not invoke the jurisdiction of the Court. See *Elia Cos, LLC v Univ of Mich Regents*, 511 Mich 66, 68; 993 NW2d 392 (2023); *Fairley v Dep't of Corrections*, 497 Mich 290, 298; 871 NW2d 129 (2015). Plaintiffs did not remedy the deficiency until August 25, 2026, eight days later. Plaintiffs thereby did not invoke the jurisdiction of the Court to consider their FOIA challenge until 53 days after defendants' denial of plaintiffs' FOIA appeal.

Although defendants do not seek summary disposition on this ground, "a court at all times is required to question sua sponte its own jurisdiction (whether over a person, the subject matter of an action, or the limits on the relief it may afford)." *Straus v Governor*, 459 Mich 526, 532; 592 NW2d 53 (1999). The Court did not have jurisdiction over this matter until August 25, 2026, eight days beyond the 45-day deadline to challenge defendants' FOIA determination. Accordingly, the Court GRANTS defendants' motion for summary disposition of Count VI but on a different ground than raised by defendants—MCR 2.116(C)(4) (lack of subject matter jurisdiction).

IV. CONCLUSION

Accordingly:

1. The Court GRANTS plaintiffs' August 17, 2026 and defendants' September 8, 2026 and September 18, 2026 motions to exceed the page limits and accepts the accompanying pleadings for filing.

2. The Court DENIES defendants' August 17, 2026 motion for a TRO or preliminary injunction.

3. The Court GRANTS defendants' September 8, 2026 motion for summary disposition.

4. The Court DISMISSES plaintiffs' complaint in its entirety and with prejudice.

5. This is a final order resolving all issues in this case.

Date: November 3, 2026

Sima G. Patel
Judge, Court of Claims