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January 30, 2024

VIA ELECTRONIC FILING

Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: *Powell v. Whitmer*, No. 23-486 (U.S.): Errata

Dear Clerk:

On behalf of petitioners in the above-captioned action, this letter notifies the Court and the parties of interrelated errors in the petition and appendix concerning the portion of the record cited by respondent City of Detroit's served and filed motions for sanctions under FED. R. CIV. P. 11(c)(2). As explained below, petitioners' counsel misunderstood a reference to page 2933 of ECF #39 to refer to page 2833.¹

That misunderstanding led to placing bracketed markers in the appendix where ECF #39's cover begins, where its body begins, and where page "2933" ends. *See* App:344a, 346a, 364a. The last marker occurs where page 2833 ends and therefore marks off additional pages of ECF 39 (namely, the balance of App:364a through 380a) that Detroit apparently intended to incorporate by reference. As a consequence, the petition's summary of arguments referenced in ECF #39 omits issues that Detroit apparently intended to incorporate by reference. *See* Pet. 3-4.

By way of background, Detroit's served and filed motions for sanctions both cited Detroit's "Response to Plaintiffs' Emergency Motion for Declaratory, Emergency, and Permanent Injunctive Relief" as "ECF No. 39, PageID.2808-2933." *See* App:341a (served); App:389a (filed). Detroit's response (ECF #39) indeed commences on ECF page 2808 and runs to ECF page 2852. That response is followed by thirteen exhibits (ECF #39-1 through #39-13), with the last exhibit commencing on ECF page 2928 and running to ECF page 2933. Because ECF #39 has a page number ending in "33" (*i.e.*, ECF page 2833) and ECF #39 ends at ECF page 2852, the undersigned counsel misread Detroit's page range as spanning the 26 pages (and one document) from 2808 through 2833 in ECF #39, not the 126 pages (and 14 documents) from 2808 through 2933 in ECF #39 through ECF #39-13.

¹ "ECF" refers to the Electronic Case Filing system, which inserts headers that assign a document number and sequential pagination to each e-filed document.

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Although the U.S. District Court for the Eastern District of Michigan does not appear to have an applicable rule, Detroit's citation format may derive² from a local rule of the U.S. Court of Appeals for the Sixth Circuit for referencing e-filed district court documents:

In an appeal from the district court, a brief must cite the "Page ID #" shown on the header or footer of the page(s) of the original record being referenced, along with a brief title and the record entry number of the document referenced. ... [¶] The description of relevant district court documents in the addendum shall include (i) a brief description of the document, (ii) the docket entry number of the document, and (iii) the "Page ID #" range for the relevant pages.

Sixth Circuit Rule 28(a)(1). While petitioners do not concede that this Sixth Circuit rule or the district judge's Practice Guideline applies here or that Detroit complied with the Sixth Circuit rule or Practice Guideline for citing previously filed Exhibits, petitioners concede that their appendix placed the "[End of ECF No. 39, PageID.2933]" marker in the wrong place, App:364a (emphasis omitted), and that their petition's summary of Detroit's served motion truncated arguments that Detroit apparently intended to incorporate by reference (*e.g.*, arguments from the misplaced marker at App:364a through the end of App:380a).

The undersigned counsel apologizes for the error.

Yours sincerely,

/s/ Lawrence J. Joseph

Lawrence J. Joseph
Counsel for Petitioners

cc: Counsel of Record

² The district judge's webpage links to a Practice Guideline for Motion Practice, which was not filed in this matter as a standing order and which states for Exhibits that "[p]reviously filed papers should be referenced using the CM/ECF docket number PageID number(s). In other words, if an exhibit has been already filed by any party, a second copy should not be filed and all citations must be to the original filing."

CERTIFICATE OF SERVICE

The undersigned certifies that, on January 30, 2024, in addition to filing the foregoing document via the Court's electronic filing system, one true and correct copy of the foregoing document was served by U.S Priority Mail, postage pre-paid, with a PDF courtesy copy served via electronic mail on the following counsel:

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The undersigned further certifies that, on January 30, 2024, arrangements were made for the delivery of an original and ten true and correct copies of the foregoing document to the Court via messenger.

Executed January 30, 2024,

/s/ Lawrence J. Joseph

Lawrence J. Joseph