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| <b>STATE OF MICHIGAN</b><br>JUDICIAL DISTRICT<br>35th<br>JUDICIAL CIRCUIT<br>COUNTY PROBATE | <b>SUMMONS</b> | <b>CASE NO.</b><br>21- <sup>-CZ</sup><br><b>21 - 5977 -</b> |
|---|----------------|---|

**Court address** 208 N Shiawassee St, Corunna, MI 48817 **Court telephone no.** (989) 743-2239

Plaintiff's name(s), address(es), and telephone no(s).  
 NICHOLE RUGGIERO  
 (Contact through Counsel)  
*c/o PO Box 107*  
*Hemlock, MI 48626*

Defendant's name(s), address(es), and telephone no(s).  
 SHIAWASSEE COUNTY BOARD OF  
 COMMISSIONERS, JEREMY R. ROOT,  
 GARY HOLZHAUSEN, BRANDON MARKS,  
 CINDY L. GARBER, and JOHN B. PLOWMAN  
 c/o 201 North Shiawassee Street  
 Corunna, MI 48817

v

Plaintiff's attorney, bar no., address, and telephone no.  
 Outside Legal Counsel PLC  
 Philip L. Ellison (P74117)  
 PO Box 107  
 Hemlock, MI 48626  
 (989) 642-0055 // pellison@olcplc.com

**Instructions:** Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

**Domestic Relations Case**

- There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (form MC 21) listing those cases.
- It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

**Civil Case**

- This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in  this court,  \_\_\_\_\_ Court, where

it was given case number \_\_\_\_\_ and assigned to Judge \_\_\_\_\_.

The action  remains  is no longer pending.

Summons section completed by court clerk.

**SUMMONS**

**NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

|                                 |                                       |  |
|---------------------------------|---------------------------------------|--|
| Issue date<br><i>07/22/2021</i> | Expiration date*<br><i>10/21/2021</i> | Court clerk<br><i>Caroline D. Wilson</i> |
|---------------------------------|---------------------------------------|--|

\*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF SHIAWASSEE**

NICHOLE RUGGIERO,  
Plaintiff,

v.

SHIAWASSEE COUNTY BOARD OF  
COMMISSIONERS,  
JEREMY R. ROOT,  
GARY HOLZHAUSEN,  
BRANDON MARKS,  
CINDY L. GARBER, and  
JOHN B. PLOWMAN,  
Defendants

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Case No. **21-5977**  
Honorable **JUDGE MATTHEW J. STEWART**  
**STATE BAR NO P-58047**  
**COMPLAINT**

OUTSIDE LEGAL COUNSEL PLC  
PHILIP L. ELLISON (P74117)  
Attorney for Plaintiff  
PO Box 107  
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(989) 642-0055  
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**COMPLAINT FOR VIOLATIONS OF THE *OPEN MEETINGS ACT***

NOW COMES Plaintiff NICHOLE RUGGIERO, by and through counsel, and complains as follows:

**PARTIES**

1. Plaintiff NICHOLE RUGGIERO is a resident of the State of Michigan.
2. Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS is a statutory public body formed, existing, and operating under the laws of the State of Michigan.
3. Defendants JEREMY R. ROOT, GARY HOLZHAUSEN, BRANDON MARKS, CINDY L. GARBER, and JOHN B. PLOWMAN are voting and/or serving members of the Board of Commissioners for the County of Shiawassee.

## JURISDICTION

4. This Court has jurisdiction pursuant to MCL 15.270(1), MCL 15.271(2), MCL 15.273(3), MCL 600.601, and MCL 600.605.
5. Venue is proper in this County.

## GENERAL ALLEGATIONS

6. The purpose of the *Open Meetings Act* (OMA) is to promote governmental accountability by facilitating public access to official decision making and to provide a means through which the general public may better understand issues and decisions of public concern.

7. Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS met on July 15, 2021 in Corunna, Michigan to conduct public business.

8. In preparation for the July 15, 2021 public, members of Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS received an agenda.

9. On said agenda, it listed an "executive session" for "personnel and legal opinion."

10. There is no such thing as "executive session" but rather a "closed session" as authorized, in limited respects, under the *Open Meetings Act*.

11. At approximately 5:30p.m., Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS went into closed session whereby the public was excluded from the observation and scrutiny of the deliberations of the participating Commissioners serving Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS.

12. According to now publicly-made accounts of the "closed session," members of the Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS were given a packet with a cover sheet listing several items for consideration in closed session.

13. One such item was what has become known as "COVID Hazard Pay."

14. On information and belief, the County of Shiawassee received over millions of dollars via what is known as the *American Rescue Plan Act of 2021*.

15. The *American Rescue Plan Act of 2021* is approximately \$2 trillion economic stimulus package provided by the US Government to speed up the United States' recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession.

16. The purpose for going into closed session was to deliberate about how to utilize and/or spend the more than half million dollars in funding received by Defendant

SHIAWASSEE COUNTY BOARD OF COMMISSIONERS pursuant to *American Rescue Plan Act of 2021*.

17. On information and belief, when one commissioner, Marlene Webster, reviewed the closed session agenda items, she protested that Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS should not be in closed session for such deliberations.

18. Yet, on information and belief, deliberations continued for 15-20 more minutes regarding the distributions of public funds received under the *American Rescue Plan Act of 2021* as well as "other matters" which will be revealed in the course of discovery.

19. On information and belief, it was deliberated and presented—in closed session—that an average of \$2,148.00 per employee was to be distributed as "COVID Hazard Pay" from the funds received by Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS pursuant to *American Rescue Plan Act of 2021*.

20. Just after 6:00p.m., Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS returned into open session, though it was unclear if any member of the public was informed of the same.

21. Once returning to open session, members of the Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS undertook further discussions but at no point was any information publicly provided which revealed how *American Rescue Plan Act* funds received by Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS were going to be distributed as "COVID Hazard Pay" to county employees or to be disposed of in the manner which was ultimately effectuated.

22. Upon return, County Administrator Brian Boggs indicated that it was suggested as a "recommended motion" that three million dollars "from the COVID money... for the balancing out" of the budget be transferred to the general fund as a means of "not having to use other funds."

23. A motion was made to use the *American Rescue Plan Act* funds for, among other things, "COVID Hazard Pay for county employees."

24. At no point were the amounts of "COVID Hazard Pay" deliberated, decided, or confirmed at a meeting open to the public.

25. At no time was the task delegated to any person, commission, commission, or subcommittee.

26. Yet, the motion passed by unanimous vote.

27. However, in the days that followed, what was understood as "COVID Hazard Pay" of "\$2,148 per employee" was not distributed as deliberated and decided in the closed session but rather by a new decided formula which distributed funds as follows:

- a. Top county officials like Defendant JEREMY R. ROOT, Sheriff Brian Begole, Buildings/Grounds Superintendent Timothy Hill, Heath Department Director Larry Johnson, County Controller Brian Boggs, and Finance Director Tracy Bublitz each received a distribution of \$25,000.
- b. Other county officials like Undersheriff Corey Carson, Register of Deeds Lori Kimble, Prosecutor Scott Koerner, County Clerk Caroline Wilson, and County Treasurer Julie Sorensen each received a distribution of \$12,500.
- c. Defendant JOHN B. PLOWMAN, Defendant BRANDON MARKS, and Emergency Management Director Jeffrey Weiss each received a distribution of \$10,000.
- d. Gabrielle Reynolds, Derek Burton, Jodi L. Defrenn, Casey D. Elliott, Nicole Greenway, Commissioner Gregory Brodeur, Defendant CINDY L. GARBER, Douglas Corwin, Defendant GARY W. HOLZHAUSEN, and Marlene J. Webster each received a distribution of \$5,000.
- e. Many others received \$2,500, and \$1,000 each.

28. On information and belief, a secret private meeting was held by three commissioners who self-decided the new distributed amounts outside the view of the public during any public meeting. Plaintiff intends to amend the complaint to add additional claims as the facts of this secret “three commissioners” meeting is revealed.

**COUNT I  
VIOLATIONS OF THE OPEN MEETINGS ACT  
GOING INTO CLOSED SESSION FOR UNLAWFUL REASON  
(DEFENDANT BOARD)**

29. The prior allegations are pled word for word herein.

30. During the July 15, 2021 meeting of the Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS, commissioners voted to go into “executive session” (instead of closed session) for what it describes as “personnel and legal opinion.”

31. The real purpose for going into closed session was to deliberate how public funds received by Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS from the *American Rescue Plan Act* were going to be distributed, including as “COVID Hazard Pay.”

32. A public body like Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS can, upon a sufficient number votes, only generally go into closed session for the purposes listed in Section 8 of the *Open Meetings Act*.

33. Deliberating how public monies received from the *American Rescue Plan Act* funds were going to be distributed, including as “COVID Hazard Pay,” is not and was not a valid or lawful purpose for going into closed session.

34. Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS violated the *Open Meetings Act* pursuant to MCL 15.268.

35. This Court seeks entry of an injunctive order to compel compliance or to enjoin further noncompliance with the *Open Meetings Act* pursuant to MCL 15.271.

**COUNT II  
VIOLATIONS OF THE OPEN MEETINGS ACT  
GOING INTO CLOSED SESSION FOR UNLAWFUL REASON  
(DEFENDANTS ROOT, HOLZHAUSEN, MARKS, GARBER, and PLOWMAN)**

36. The prior allegations are pled word for word herein.

37. For the same reasons outlined in Count I, Defendants ROOT, HOLZHAUSEN, MARKS, GARBER, and PLOWMAN each intentionally violated MCL 15.268 by going into closed session for an invalid or unlawful purpose.

38. Defendants ROOT, HOLZHAUSEN, MARKS, GARBER, and PLOWMAN each are liable for actual and/or exemplary damages of any appropriate amount, plus court costs and actual attorney fees for such violation(s) pursuant to MCL 15.273(1).

**COUNT III  
VIOLATIONS OF THE OPEN MEETINGS ACT  
DELIBERATING IN CLOSED SESSION  
(DEFENDANT BOARD)**

39. The prior allegations are pled word for word herein.

40. MCL 15.263(3) mandates that “all deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.”

41. During the July 15, 2021 closed session of Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS, commissioners conducted deliberations *inter alia* whether/how public monies received from the *American Rescue Plan Act* were going to be distributed, including as “COVID Hazard Pay,” and that such deliberations should have occurred at during the open session portion of the July 15, 2021 meeting of the Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS.

42. By conducting such deliberations, Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS violated MCL 15.263(3) which requires that all deliberations of a quorum of Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS take place at a meeting open to the public except as provided in this section and sections 7 and 8; no exceptions under OMA’s sections 7 and 8 applied.

43. This Court seeks entry of an injunctive order to compel compliance or to enjoin further noncompliance with the *Open Meetings Act* pursuant to MCL 15.271.

44. This Court also seeks an entry of order invalidating the distribution of “COVID Hazard Pay” to all of the following county officials/employees—Defendant JEREMY R. ROOT, Sheriff Brian Begole, Buildings/Grounds Superintendent Timothy Hill, Heath Department Director Larry Johnson, County Controller Brian Boggs, Finance Director Tracy Bublitz, Undersheriff Corey Carson, Register of Deeds Lori Kimble, Prosecutor Scott Koerner, County Clerk Caroline Wilson, County Treasurer Julie Sorensen, Defendant JOHN B. PLOWMAN, Defendant BRANDON MARKS, and Emergency Management Director Jeffrey Weiss each received a distribution of \$10,000, Gabrielle Reynolds, Derek Burton, Jodi L. Defrenn, Casey D. Elliott, Nicole Greenway, Commissioner Gregory Brodeur, Defendant CINDY L. GARBER, Douglas Corwin, Defendant GARY W. HOLZHAUSEN, and Marlene J. Webster.

**COUNT IV**  
**VIOLATIONS OF THE OPEN MEETINGS ACT**  
**DELIBERATING IN CLOSED SESSION**  
**(DEFENDANTS ROOT, HOLZHAUSEN, MARKS, GARBER, and PLOWMAN)**

45. The prior allegations are pled word for word herein.

46. For the same reasons outlined in Count III, Defendants ROOT, HOLZHAUSEN, MARKS, GARBER, and PLOWMAN each intentionally violated MCL 15.263(3).

47. Defendants ROOT, HOLZHAUSEN, MARKS, GARBER, and PLOWMAN each are liable for actual and/or exemplary damages of any appropriate amount, plus court costs and actual attorney fees for such violation(s) pursuant to MCL 15.273(1).

**COUNT V**  
**VIOLATIONS OF THE OPEN MEETINGS ACT**  
**FAILURE TO IDENTIFY PURPOSE FOR GOING INTO CLOSED SESSION**  
**(DEFENDANTS GARBER & ROOT)**

48. The prior allegations are pled word for word herein.

49. At the July 15, 2021 meeting of Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS, Defendant CINDY L. GARBER made a motion to go into “executive” session but failed to identify under which provision of Section 8 of the *Open Meetings Act* such motion was being made to go into closed session.

50. The *Open Meetings Act* requires Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS to inform the public of the reason for entering a closed session, and to identify the applicable closed-session exemption in MCL 15.268.

51. Defendant CINDY L. GARBER’s motion failed to meet this obligation and such failure violates the *Open Meetings Act*.

52. Defendant JEREMY R. ROOT, as chairman of Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS has the legal duty to “preside” at a meeting of Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS, see MCL 46.3(5).

53. Defendant JEREMY R. ROOT’s also failed to meet this same obligation as the presiding officer and such failure also violates the *Open Meetings Act*.

54. Defendants ROOT and GARBER are each liable for actual and/or exemplary damages of an appropriate amount, plus court costs and actual attorney fees for such violation(s) pursuant to MCL 15.273(1).

### RELIEF REQUESTED

55. WHEREFORE, Plaintiff NICHOLE RUGGIERO respectfully requests this Court to—

- a. Enter an order, pursuant to MCL 15.270, against Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS invalidating the distribution of “COVID Hazard Pay” to all of the following county officials and/or employees—Defendant JEREMY R. ROOT, Sheriff Brian Begole, Buildings/Grounds Superintendent Timothy Hill, Heath Department Director Larry Johnson, County Controller Brian Boggs, Finance Director Tracy Bublitz, Undersheriff Corey Carson, Register of Deeds Lori Kimble, Prosecutor Scott Koerner, County Clerk Caroline Wilson, County Treasurer Julie Sorensen, Defendant JOHN B. PLOWMAN, Defendant BRANDON MARKS, Emergency Management Director Jeffrey Weiss, Gabrielle Reynolds, Derek Burton, Jodi L. Defrenn, Casey D. Elliott, Nicole Greenway, Commissioner Gregory Brodeur, Defendant CINDY L. GARBER, Douglas Corwin, Defendant GARY W. HOLZHAUSEN, and Marlene J. Webster.
- b. Award relief to compel compliance or to enjoin further noncompliance against violations of the *Open Meetings Act* by Defendant SHIAWASSEE COUNTY BOARD OF COMMISSIONERS for all the reasons outlined herein;
- c. Find that each individual Defendant(s) violated the *Open Meetings Act* in one or more of the ways plead herein and impose damages (actual and/or exemplary) for each of their respective individual intentional violations of the *Open Meetings Act* pursuant to MCL 15.273;
- d. Award court costs and actual attorney fees in bringing the action pursuant to MCL 15.271(4), MCL 15.273(1), and all other laws which are applicable; and
- e. Grant such other further relief as warranted by the case.



Date: July 22, 2021

RESPECTFULLY SUBMITTED:

*Philip L Ellison*

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