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**LEGISLATORS SUBMIT PUBLIC COMMENT TO MICHIGAN CIVIL RIGHTS COMMISSION
OPPOSING ACLU/EQUALITY MICHIGAN'S REQUEST
TO UNCONSTITUTIONALLY AMEND ELLIOTT-LARSEN ACT**

The Great Lakes Justice Center Asks the Commission to deny the Request to Unconstitutionally Exercise Legislative Authority it does not have to Amend Michigan's Civil Rights Law

Today the Great Lakes Justice Center submitted a Public Comment to the Michigan Civil Rights Commission on behalf of several State legislators. The Justice Center's Comment affirms that legislative authority in the State of Michigan resides solely in the State Legislature. The Comment responds to a 7/24/17 ACLU/Equality Michigan news release and legal memo. Therein, EM invites the Michigan Civil Rights Commission (Commission) to add "gender identity and sexual orientation" to the protected categories in the Elliott-Larsen Civil Rights Act (ELCRA) by issuing an "interpretative statement." On behalf of the State legislators, the Justice Center's Comment calls on the Commission to decline to unconstitutionally exercise legislative authority reserved solely to the State Legislature.

EM incorrectly claims the Commission has the legal authority under both state and federal law to add the new categories. Its news release also falsely claims that such an interpretive statement would provide special protection and remedies for those claiming to fall within the new categories. A simple review of the law demonstrates the untrustworthiness of EM's claims.

The Great Lakes Justice Center's Comment explains that the Commission is not the Legislature and is not politically accountable to the people. Under Michigan law an interpretive statement issued by the Commission is not binding law, and cannot, therefore, make LGBT discrimination "unlawful in Michigan." The Commission cannot legally bind employers and individuals in our state or provide legal remedies to alleged victims of discrimination. Moreover, EM wrongly claims that federal court interpretations of the Title VII employment discrimination law are relevant, binding and controlling law regarding ELCRA. Michigan's Supreme Court has repeatedly ruled that federal court interpretations of federal law are not binding on its interpretation of ELCRA. Moreover, the position of the Federal Department of Justice is that Title VII does not include sexual orientation or gender identity as protected classes, rather, "the word 'sex' means biologically *male* or *female*." Additionally, the Michigan Legislature considered and rejected legislation eleven times since 1999 to add the requested classifications to ELCRA. The Commission is bound to follow Michigan law.

David Kallman, Senior Counsel with the Great Lakes Justice Center, stated: "The Commission must reject EM's invitation to 'interpret' ELCRA to mean something our legislature explicitly rejects. Even if the Commission agrees with the request, the Commission has the constitutional duty to enforce the laws passed by the legislature, not make up its own laws." He further stated: "We must not permit the Commission to usurp the Rule of Law and the Legislature's constitutional role as our politically accountable body via administrative fiat. Any attempt to enact and enforce such legislation under the guise of an interpretive statement will be rejected as unlawful by our courts."

The Great Lakes Justice Center is a non-profit corporation promoting good governance practices and protecting constitutional and civil rights of citizens. To support the Great Lakes Justice Center's work to protect our nation's first freedoms, please visit their website at www.greatlakesjc.org.