

**STATE OF MICHIGAN
IN THE SUPREME COURT
APPEAL FROM MICHIGAN COURT OF APPEALS
Hoekstra, P.J., and Wilder and Zahra, J.J.**

MICHIGAN FEDERATION OF TEACHERS AND
SCHOOL RELATED PERSONNEL, AFT, AFL-CIO

Supreme Court
Case No. 133819

Plaintiff-Appellee,

Court of Appeals
Case No. 258666

v.

UNIVERSITY OF MICHIGAN,

Washtenaw County Circuit Court
Case No. 04-314-CZ

Defendant-Appellant.

John E. Eaton (P45427)
Mark H. Cousens (P12273)
Attorneys for Plaintiff-Appellee
26261 Evergreen Rd., Suite 110
Southfield, MI 48076
(248) 355-2150

Debra A. Kowich (P43346)
The University of Michigan
Office of the Vice President and General Counsel
Attorney for Defendant-Appellant
503 Thompson Street, Suite 5010
Ann Arbor, MI 48109-1340
(734) 764-0304

**BRIEF OF AMICUS CURIAE IN SUPPORT OF DEFENDANT-APPELLANT
UNIVERSITY OF MICHIGAN, BY MICHIGAN STATE UNIVERSITY,
THE BOARD OF TRUSTEES OF WESTERN MICHIGAN UNIVERSITY,
CENTRAL MICHIGAN UNIVERSITY BOARD OF TRUSTEES, SAGINAW
VALLEY STATE UNIVERSITY, MICHIGAN TECHNOLOGICAL UNIVERSITY,
THE BOARD OF TRUSTEES OF OAKLAND UNIVERSITY, THE BOARD OF
CONTROL OF NORTHERN MICHIGAN UNIVERSITY, EASTERN MICHIGAN
UNIVERSITY BOARD OF TRUSTEES, WAYNE STATE UNIVERSITY BOARD
OF TRUSTEES, AND FERRIS STATE UNIVERSITY**

TABLE OF CONTENTS

INDEX OF AUTHORITIES..... ii

STATEMENT OF JURISDICTION..... 1

QUESTIONS PRESENTED FOR REVIEW 2

STATEMENT OF MATERIAL PROCEEDINGS AND FACTS 3

INTRODUCTION 4

ARGUMENT 7

 I. *BRADLEY* WRONGLY DECIDED THE MEANING OF
 “PERSONAL IN NATURE” 7

 II. THIS COURT SHOULD CONSTRUE “PERSONAL IN
 NATURE” ACCORDING TO ITS PLAIN AND ORDINARY
 MEANING..... 9

 III. THE COURT OF APPEALS ERRED IN INSTRUCTING,
 ON REMAND, THAT DEFENDANT CAN WITHHOLD
 THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS
 ONLY IF EMPLOYEES DEMONSTRATE “TRULY
 EXCEPTIONAL CIRCUMSTANCES.” 11

 IV. DISCLOSURE OF HOME ADDRESSES AND TELEPHONE
 NUMBERS IS INCONSISTENT WITH THE “CUSTOMS,
 MORES, AND ORDINARY VIEWS OF THE COMMUNITY.” 13

RELIEF REQUESTED..... 16

INDEX OF AUTHORITIES

Michigan Cases

Bradley v Bd of Educ of Saranac Community Schools, 455 Mich 285;
565 NW2d 650 (1997)4-5, 7-13

Bukowski v City of Detroit, 478 Mich 268; 732 NW2d 75 (2007)9

DiBenedetto v West Shore Hosp, 461 Mich 394; 605 NW2d 300 (2000)11

Kestenbaum v Michigan State Univ, 414 Mich 510; 327 NW2d 783 (1982).....7, 8, 12

Lansing Mayor v Public Serv Comm’n, 470 Mich 154; 680 NW2d 840 (2004).....11

Oakland Rd Comm’rs v MPCGA, 456 Mich 590; 575 NW2d 751 (1998).....9

People v Denio, 454 Mich 691; 564 NW2d 13 (1997).....9

Swickard v Wayne County Medical Examiner, 438 Mich 536;
475 NW2d 304 (1991)7

Tobin v Michigan Civil Serv Comm’n, 416 Mich 661; 331 NW2d 184 (1982).....11, 12

Federal Cases

Ditlow v Schultz, 517 F2d 176 (DC Cir 1975).....4, 7, 8

United States Dep’t of State v Washington Post Co, 456 US 595;
102 Sct 1957; 72 LEd2d 358 (1982).....8

Statutes

MCL 15.23513

MCL 15.2437

MCL 445.6114

MCL 445.6715

MCL 445.6914

MCL 445.8114

INDEX OF AUTHORITIES, continued

Other

Webster's Collegiate Dictionary (10th ed)(1998)9

The American Heritage Dictionary, Second College Edition (1985).....9

Black's Law Dictionary (8th ed).....9

STATEMENT OF JURISDICTION

The Universities *Amicus Curiae* adopt the Statement of Jurisdiction of Defendant University of Michigan.

QUESTIONS PRESENTED FOR REVIEW

The Universities *Amicus Curiae* adopt the Questions Presented for Review of Defendant University of Michigan.

STATEMENT OF MATERIAL PROCEEDINGS AND FACTS

The Universities *Amicus Curiae* adopt the Statement of Material Proceedings and Facts of Defendant University of Michigan.

INTRODUCTION

The Universities *Amicus Curiae* submit this brief in support of the University of Michigan's appeal. This appeal will determine whether, when, and how the Universities may protect their employees' home addresses and telephone numbers from disclosure under FOIA's privacy exemption. Like Defendant University of Michigan, the Universities are public institutions of higher education in Michigan, each having thousands of employees. Many of these public employees have elected to keep their home addresses and telephone numbers from university publications. They have done so for a variety of reasons. For some, it is not a stretch to say that their safety depends on it; for others, it means much less. Whatever the reason, the court of appeals' decision cannot stand. It ignores the plain language of the privacy exemption, imposes an impossible burden on public employers, and disregards recent legislative and societal trends that evidence the increasing need to protect personal information.

The court of appeals, relying on the *Bradley* Court's 1997 decision, held that restricted home addresses and telephone numbers are not "personal in nature" under the privacy exemption because they do not reveal intimate or embarrassing details of an individual's private life. But, now is the time to revise the *Bradley* definition. Traced back to its origin, the use of "intimate or embarrassing" derives from a federal case (*Ditlow v Schultz*) interpreting the federal FOIA. And, while decisions interpreting the federal FOIA are frequently helpful in construing the Michigan FOIA, that simply is not the case with *Ditlow*. It was effectively overruled by the United States Supreme Court – even before *Bradley*.

Rather than adhering to a construction wholly unrelated to the Michigan FOIA, the Court should follow its settled rule of statutory construction and interpret "personal in nature" according to its plain and ordinary meaning. The common meaning of "personal in nature" is

“pertaining to a particular person” or “private” and encompasses restricted home addresses and telephone numbers. Identifying information about one’s home is relevant only to an employee’s private life, and reveals nothing about the public body or the person’s public employment.

The court of appeals also held that, for some employees, “truly exceptional circumstances” may exist that warrant protection of home addresses and telephone numbers. This Court similarly inquired whether “ordinarily impersonal” information might take on an “intensely personal character” based on the facts of this case. The Court should reject this approach for several reasons. The plain language of FOIA’s privacy exemption does not include any of these words; nor does it provide for a case-by-case examination of the significance of each person’s particular privacy interest. Because no standard exists for “intensely personal” or “truly exceptional,” the outcomes are sure to be uneven. Moreover, imposing on public bodies the obligation to assess, in a matter of days after receiving a FOIA request, whether an employee meets such an uncertain test is impractical and financially burdensome. Likewise, asking employees to supply highly sensitive supporting information before even receiving a FOIA request, with no assurance as to the outcome, compounds the severity of the privacy invasion.

Last, if the *Bradley* definition remains unchanged, the Court should define “personal in nature” according to today’s “community customs, mores, and ordinary views.” Several federal and state laws were enacted in recent years that afford individuals greater protection over their personal information, not less. These legislative changes were made to curb identity theft and other frauds. But, financial safety is not the only concern of university employees who have restricted dissemination of their home information. For many, protection of their home address and telephone number also means freedom from harassment at home; and more importantly, for others, it is critical to their physical security, as well as to the security of their children. Based on

today's community standards and the plain words of the statute, the Court should have no doubts in concluding that the home addresses and telephone numbers of public employees are "personal in nature" under FOIA's privacy exemption, and reverse the decision of the court of appeals.

ARGUMENT

I. **BRADLEY WRONGLY DECIDED THE MEANING OF “PERSONAL IN NATURE.”**

Public records are protected by the privacy exemption when (1) the records contain information of a personal nature; and (2) disclosure of the information would constitute a clearly unwarranted invasion of privacy.¹ This Court has asked whether it should reconsider its previous interpretation of “information of a personal nature.” The answer is yes.

Ten years ago, in *Bradley v Bd of Educ of Saranac Community Schools*, 455 Mich 285; 565 NW2d 650 (1997), the Court said it was combining two previously used definitions of “personal nature” into the following test:

Combining the salient elements of each description into a more succinct test, we conclude that information is of a personal nature if it reveals intimate or embarrassing details of an individual’s private life. We evaluate this standard in terms of “the ‘customs, mores, or ordinary views of the community’”

Id at 294(citations omitted). The *Bradley* Court’s definition was shaped primarily by Justice Ryan’s plurality opinion in *Kestenbaum v Michigan State Univ*, 414 Mich 510; 327 NW2d 783 (1982), as well as *Swickard v Wayne County Medical Examiner*, 438 Mich 536; 475 NW2d 304 (1991).² In *Kestenbaum*, the plaintiff sought under FOIA the university’s computer magnetic tape used to produce the student directory containing student names and addresses. Based on *Ditlow v Schultz*, 517 F2d 176 (DC Cir 1975), a District of Columbia Circuit case interpreting

¹ MCL 15.243(1)(a) allows a public body to exempt from disclosure “[i]nformation of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual’s privacy.”

² In *Swickard, supra* at 557, the Court recognized that the American Heritage Dictionary defined “personal in nature” as “of or pertaining to a particular person; private; one’s own... concerning a particular individual and his intimate affairs, interests, or activities; intimate...;” but also that in *Kestenbaum, supra* at 549, the Court defined it as “personal, intimate, or embarrassing” information.

the federal FOIA's privacy exemption.³ Justice Ryan wrote that names and addresses are not personal information, and required that information contain "intimate or embarrassing" details in order for it to be personal in nature. Justice Ryan borrowed from *Ditlow* and the federal FOIA even though the language "information of a personal nature" is unique to Michigan's privacy exemption. See *Kestenbaum, supra* at 544 & n.15, 546, 547. *Ditlow* has limited value in interpreting Michigan's privacy exemption, but more importantly, the United States Supreme Court effectively overruled it in 1982.⁴

The *Bradley* Court did not explain why it relied entirely on Justice Ryan's plurality opinion in *Kestenbaum*, and not at all on the plurality and prevailing opinion of Chief Justice Fitzgerald. Chief Justice Fitzgerald wrote:

As society has expanded and distance contracted because of advances in communication and travel, the right to privacy for many reasons has become the ability to choose with whom and under what circumstances they will communicate....

[D]espite changing attitudes and changing laws, there has remained throughout this country's legal history one recognized situs of individual control – the dwelling place. Without exception, this bastion of privacy has been afforded greater protection against outside assaults than has any other location....

[A]ny intrusion into the home, no matter the purpose or extent, is definitionally an invasion of privacy. *A fortiori*, the release of names and addresses constitutes an invasion of privacy, since it serves as a conduit into the sanctuary of the home.

Kestenbaum, supra at 524 (citations omitted).

The Court should grab this rare opportunity to fix the *Bradley* definition once and for all. Justice Ryan's standard, which *Bradley* blindly incorporated, was not based on the words of the

³ *Kestenbaum, supra* at 544-47 ("We are satisfied that names, addresses, telephone numbers, and other standard identifying information simply are not embarrassing information 'of a personal nature' for the overwhelming majority of students at Michigan State University.")

⁴ See *United States Dep't of State v Washington Post Co*, 456 US 595, 600; 102 SCt 1957; 72 LEd2d 358 (1982)(rejecting the argument that the federal privacy exemption's protection is "limited to files containing 'intimate details' and 'highly personal information.'")

Michigan FOIA statute or the cases interpreting it. Rather, Justice Ryan relied wholly on a federal case interpreting the more narrow federal FOIA privacy exemption, a case that is no longer good law. Last, and more importantly, the *Bradley* definition warrants revision because it does not reflect the plain meaning of the words of the FOIA statute.

II. THIS COURT SHOULD CONSTRUE “PERSONAL IN NATURE” ACCORDING TO ITS PLAIN AND ORDINARY MEANING.

Michigan law is well-settled that the courts should give statutory language its plain and ordinary meaning:

Whether or not statutory construction is difficult, we are certain that, far and away, the most “reliable source” of legislative intent is the plain language of a statute. Judicial power is most menacing when a court feels free to roam in search of interpretive cues that are unmoored to the statutory language. Therefore, we are not inclined to inform ourselves of extratextual sources where the language of the statute is plain. When grammar is the constructive tool of choice, all can readily ascertain what a statute commands. But when extratextual tools are brought to bear on otherwise unambiguous language, only judges can say what the statute “means” – and then only after the fact. We prefer interpretive methods available to all.

Bukowski v City of Detroit, 478 Mich 268, 273-74; 732 NW2d 75 (2007).

In determining the plain and ordinary meaning of a word, the Court often has enlisted the help of dictionaries. *Oakland Rd Comm’rs v MPCGA*, 456 Mich 590, 604; 575NW2d 751 (1998); *People v Denio*, 454 Mich 691, 699; 564 NW2d 13 (1997). Dictionaries define “personal” as “of, relating to, or affecting a person.” *Webster’s Collegiate Dictionary* (10th ed)(1998); *see also The American Heritage Dictionary, Second College Edition* (1985)(“of or pertaining to a particular person; private; one’s own... concerning a particular individual and his intimate affairs, interests, or activities; intimate”); *Black’s Law Dictionary* (8th ed) (“[o]f, relating to, or affecting a person”). No source uses the term “embarrassing” to define personal.

Applying *Bradley*, the court of appeals held that, by themselves, home addresses and telephone numbers ordinarily do not reveal intimate or embarrassing details of an individual's private life. App 82a. When *Bradley* is set aside, however, and the plain meaning of the statutory language is used, there can be no doubt that restricted home addresses and telephone numbers of university employees are information that is personal in nature. Simply put, it is information that pertains to persons in their private affairs. This is especially true when restricted addresses are at issue. For reasons ranging from fear for their safety to freedom from solicitation, public employees affirmatively acted to keep their home addresses and numbers private by preventing their listing in the University of Michigan directory.

The court of appeals also failed to consider in its analysis that, in addition to home addresses and telephone numbers, the FOIA requestor demanded and received under FOIA a significant amount of information relating to each university employee's job, including title, location, hours, and compensation. This information, when combined with a home address and telephone number, gives thieves, stalkers and others with less than good intentions a clear roadmap of the day-to-day lives of their targets or victims. And even if mere harassment or solicitation is the only goal, that is more easily accomplished with access to a home address and telephone number whose disclosure an employee has taken great care to prevent. The Legislature surely could not have intended to facilitate these outcomes simply because a person is a public employee.

Grafting the limiting word "embarrassing" onto the definition of "personal" ignores the settled standards of statutory construction. The word "embarrassing" is nowhere to be found in the actual language of the privacy exemption. Nor is it included in any dictionary definition.

Accordingly, this Court should reconsider its *Bradley* decision and adopt the plain and ordinary meaning of “personal.”

III. THE COURT OF APPEALS ERRED IN INSTRUCTING, ON REMAND, THAT DEFENDANT CAN WITHHOLD THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS ONLY IF EMPLOYEES DEMONSTRATE “TRULY EXCEPTIONAL CIRCUMSTANCES.”

The Court also has asked whether information, normally thought to be impersonal, might take on an “intensely personal character” based on the facts in this case. The court of appeals essentially answered yes when it held, on remand, that the University of Michigan may determine whether any of its employees not included in the directory have demonstrated “truly exceptional circumstances” to prevent the disclosure of their home addresses and telephone numbers.⁵ App 82a. For a number of reasons, whether information is “intensely personal” or “truly exceptional circumstances” exist on a case-by-case basis, must not be not relevant factors in applying FOIA’s privacy exemption.

First, the plain terms of the privacy exemption do not require public bodies to show that information is “intensely personal” in nature. Using this Court’s own words, courts may not “rewrite the plain statutory language and substitute [their] own policy decisions for those already made by the Legislature.” *DiBenedetto v West Shore Hosp*, 461 Mich 394, 405; 605 NW2d 300 (2000); accord *Lansing Mayor v Public Serv Comm’n*, 470 Mich 154, 161; 680 NW2d 840

⁵ The court of appeals relied on *Tobin v Michigan Civil Serv Comm’n*, 416 Mich 661; 331 NW2d 184 (1982), a reverse FOIA case, in which the plaintiffs sought to prevent the commission from releasing a list containing the names and home addresses of state classified civil service employees. *Tobin* is not useful to this case, however; as the *Tobin* Court correctly recognized:

The FOIA provides no assistance for the plaintiff in a reverse FOIA lawsuit. In effect, a reverse FOIA suit to prevent disclosure of information within a FOIA exemption must be evaluated as if the FOIA did not exist.

Id at 670. Instead, the Court examined whether disclosure would give rise to a claim for invasion of privacy under the common law or constitution. *Id* at 671-72.

(2004). Indeed, adding the word “intensely,” or the phrase “truly exceptional circumstances,” mimics the mistake made by *Bradley* and Justice Ryan in *Kestenbaum*.

Second, assessing whether information takes on an “intensely personal character” in a particular situation or if “truly exceptional circumstances” exist would place an enormous burden on public bodies. The court of appeals, quoting from *Tobin, supra*, commented that “truly exceptional circumstances” may be an “imminent threat of physical danger as opposed to a generalized and speculative fear or harassment or retribution.” App 82a. But, what is the basis for this standard and what does it mean? Must all public employees who end bad personal relationships notify their employers that their ex-significant other may have an irrational temper? What about employees who have not received a specific threat but are working in research or other programs that may be highly controversial and have very active opposition groups? Should their addresses be released so their homes can become the protest sites? What about employees in high profile positions in the University, such as coaches in major sports? Would a coaching decision in the last minute of a national championship game, subjecting them and their families to unlimited angry phone calls, rise to the necessary level? There are no answers, easy or otherwise, to these questions; and consequently, neither courts nor public bodies will determine whether such information is personal in nature with any degree of certainty or consistency.

Last, many public bodies, including the Universities *Amicus Curiae*, have tens of thousands of employees. At the University of Michigan, over 16,000 employees elect to maintain the secrecy of their home addresses and telephone numbers. At Michigan State University, more than 7000 employees restrict their home telephone number, address, or both. Given the short deadlines for responding to a FOIA request, i.e., five business days or fifteen business days with an extension, most public bodies lack the resources to gather the supporting

data needed to satisfy such a standard before the FOIA response deadline. *See* MCL 15.235. The Universities' only choice would be to substantiate the "truly exceptional" or "intensely personal" nature of restricted home addresses and telephone numbers before they even receive a FOIA request for this information. Requiring them to collect, retain, monitor, and update supporting information that would support this imprecise standard in order to ready themselves for a FOIA request that might never come would be an unwise use of already limited public resources.

This Court also would be asking public employees to disclose highly sensitive information about themselves and maybe their families, without any guarantee that the information would not be shared with others. When contesting disclosure, the public body might have to make some or all of the supporting data available to the court and the FOIA requester. If it does not meet a court's test for "intensely personal" or "truly exceptional," the public body will have disclosed not only the employee's home address and telephone number, but also the sensitive information provided in the attempt to prevent disclosure.

Any standard other than the plain words of the privacy exemption would impose an impractical and weighty obligation on Michigan's public bodies. More importantly, it would be incredibly unfair to the tens of thousands of state employees who diligently act to keep their home information private.

IV. DISCLOSURE OF HOME ADDRESSES AND TELEPHONE NUMBERS IS INCONSISTENT WITH THE "CUSTOMS, MORES, AND ORDINARY VIEWS OF THE COMMUNITY."

Finally, based on concurring Judge Wilder's suggestion, the Court has asked, if *Bradley's* definition is correct, whether the recent national do-not-call registry and the developments in

identity theft make disclosure of home addresses and telephone numbers inconsistent with the “customs, mores, and ordinary views of the community.” The answer is yes.

Today’s technological advances make it easy to obtain, store, and use vast amounts of personal identifying data in more efficient ways. If information is power, the increasing availability of personal data creates a real danger that this power will be abused. Although the law generally has been slow to catch up with these concerns, the federal government has recognized this growing threat and has passed several laws designed to safeguard the privacy of personal information, including: Fair Credit Reporting Act, Gramm-Leach Bliley Act, Do-Not-Call Implementation Act of 2003, and Health Insurance Portability and Accountability Act (HIPAA).⁶

Michigan’s Legislature similarly has enacted its own laws to protect against misuse of personal information – namely, the Social Security Number Privacy Act, MCL 445.81 *et seq.* and Identity Theft Protection Act, MCL 445.61 *et seq.* Several years ago, the Office of the Governor reported that Michigan ranked sixth in the nation for identity theft cases. Now, the Identity Theft Protection Act makes it a felony,⁷ to use personal indentifying information, such

⁶ The U.S. Federal Trade Commission’s Identity Theft Website, <http://www.ftc.gov/bcp/edu/microsites/idtheft/>, informs consumers, under the topic “How do thieves steal an identity,” that one of the ways identity thieves can steal an individual’s identity is by: “Changing Your Address. They [identity thieves] divert your billing statements to another location by completing a change of address form.” Once an identity thief obtains an individual’s home address, the identity thief is able to file a change of address form with the post office and begin receiving that individual’s mail at the identity thief’s designated address. By the time the victim realizes something is afoot, the thief may very well have acquired the information he or she needs to complete the theft, *e.g.*, credit card statements, bank statements, utility bills.

⁷ The felony is punishable by up to five years in prison, a fine of up to \$25,000, or both. MCL 445.69

as a home address or telephone number,⁸ to obtain or attempt to obtain personal identifying information with the intent to use that information to commit identity theft or another crime. MCL 445.67(a).⁹ Recent legislation is just one example showing how community views have changed. For instance, this Court’s own administrative rules acknowledge the personal nature of its employees’ home addresses and telephone numbers. Section 7 of Administrative Order 1997-10 exempts from disclosure personal information, including home addresses and telephone numbers, if public disclosure would be an unwarranted invasion of an individual’s privacy.¹⁰

Identity theft is not the only crime on the rise; so is workplace and domestic violence. Many of the affidavits submitted by Defendant’s employees set forth important reasons for

⁸ “Personal identifying information” is defined broadly as “a name, number, or other information that is used for the purpose of identifying a specific person or providing access to a person’s financial accounts, including, but not limited to, a person’s name, *address, telephone number*, driver license or state personal identification card number, social security number, place of employment, employee identification number, employer or taxpayer identification number, government passport number, health insurance identification number, mother’s maiden name, demand deposit account number, savings account number, financial transaction device account number or the person’s account password, stock or other security certificate or account number, credit card number, vital record, or medical records or information.” MCL 445.63(k)(emphasis added).

⁹ The Identity Theft Act also makes it a felony to sell or transfer, or attempt to sell or transfer, personal identifying information of another person if the person knows or has reason to know that the specific intended recipient will use, attempt to use, or further transfer the information to another person for the purpose of committing identity theft or another crime. MCL 445.67(b).

¹⁰ “(7) The following are exempt from disclosure:

- (a) personal information if public disclosure would be an unwarranted invasion of an individual’s privacy. Such information includes, but is not limited to:
 - (i) The home address, home telephone number, social security account number, financial institution record, electronic transfer fund number, deferred compensation, savings bonds, W-2 and W-4 forms, and any court-enforced judgment of a judge or employee.”

wanting their home addresses and telephone numbers exempted from disclosure. Some employees are exposed to a clear and present danger of harm or harassment because of the work they do, while others' safety is at risk because of unfortunate personal or domestic situations. The inability to protect a home address and telephone number would put these employees at a greater risk for harm only because they are public employees.

In short, these unfortunate trends play an important role in establishing today's community customs, mores, and ordinary views. Now more than ever, the community view and expectation is that individuals must be entitled to keep information about their personal lives private. This view is underscored by the new laws put in place to curb and punish behavior that uses this personal information for illicit purposes. Thus, respecting a public employee's ability to control access to home information not only honors the ancient right to be left alone, but today is critical to personal safety and financial well-being.

RELIEF REQUESTED

For the reasons set forth above, the Universities *Amicus Curiae* request this Court to reverse the court of appeals' decision directing Defendant University of Michigan to determine whether any of its employees, whose home addresses and telephone numbers are not included in the directory, have demonstrated "truly exceptional circumstances" to prevent disclosure of their home addresses and telephone numbers.

Date: December 14, 2007

By _____
Theresa Kelley (P60696)
Office of the General Counsel
Michigan State University
494 Administration Building
East Lansing, MI 48824-1046
(517) 353-3530

**On behalf and with permission of the following
Attorneys for *Amici*
Board of Trustees of Michigan State University
Board of Trustees of Western Michigan University
Central Michigan University Board of Trustees
Saginaw Valley State University
Michigan Technological University
Board of Trustees of Oakland University
Board of Control of Northern Michigan University
Eastern Michigan University Board of Trustees
Wayne State University Board of Trustees
Ferris State University**

Carol Hustoles (P32135)
General Counsel for Western Michigan University

Dr. Eileen K. Jennings (P39410)
General Counsel for Central Michigan University

William Collins (P30423)
General Counsel for Saginaw Valley State University

Paul J. Tomasi (P21494)
General Counsel Michigan Technological University

Victor A. Zambardi (P35158)
General Counsel for Oakland University

Catherine L. Dehlin (P69223)
General Counsel for Northern Michigan University

Kenneth A. McKanders (P28589)
General Counsel for Eastern Michigan University

Louis Lessem (35377)
General Counsel for Wayne State University

Miles J. Postema (P40690)
General Counsel for Ferris State University