STATE OF MICHIGAN

COURT OF CLAIMS

MICHIGAN CHAPTER, NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION,

Plaintiff,

v

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY,

Defendant.
_____/

OPINION AND ORDER

Case No. 25-000037-MZ

Hon. Sima G. Patel

OPINION AND ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY DISPOSITION

Plaintiff filed suit on March 11, 2025, seeking a declaratory judgment and injunctive relief to prevent defendant from applying the Earned Sick Time Act (ESTA), MCL 408.961 *et seq*., in the manner described on defendant's website. Plaintiff and defendant both moved for summary disposition under MCR 2.116(C)(10), and the Court accepted amicus curiae briefs from the International Brotherhood of Electrical Workers (IBEW) and the Michigan Nurses Association. The Court heard oral argument on the competing summary disposition motions on June 25, 2025. The Court GRANTS defendant's motion for summary disposition, DENIES plaintiff's motion for summary disposition, and DISMISSES plaintiff's complaint with prejudice.

I. BACKGROUND

Plaintiff, Michigan Chapter, National Electrical Contractors Association (NECA), represents electrical contractors in collective bargaining negotiations with local unions of the electricians that work for those contractors—the IBEW. Defendant, Michigan Department of Labor and Economic Opportunity (LEO), is the state agency tasked with enforcing the ESTA, a voter-initiative that took effect February 21, 2025. ESTA's history was not straightforward, however.

In 2018, after a petition drive, the Legislature received an initiative petition proposing the provision of paid earned sick time (EST) to employees in this state. *Mothering Justice v Attorney General*, ___ Mich ___; ___ NW3d ___ (2024) (Docket No. 165325), slip op at 2.[1] The initiative stated that "Each employer shall provide [EST] to each of the employer's employees in this state" in the amount of one hour for every 30 hours worked. Sec. 3(1)(a). An "employee" was defined as "an individual engaged in service to an employer in the business of the employer," except federal employees. Section (2)(f). Section 11 of the voter initiative stated:

> (1) This act provides minimum requirements pertaining to [EST] and shall not be constructed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard, including a collective bargaining agreement [(CBA)], that provides for greater accrual or use of time off, whether paid or unpaid, or that extends other protections to employees.
>
> (2) This act does not do any of the following:
>
> (a) Prohibit an employer from providing more [EST] than is required under this act.

[1] The electorate also presented petitions for an increased minimum wage and allowing for compensatory time in lieu of overtime. *Mothering Justice*, slip op at 2. Those provisions are not at issue in this case.

(b) Diminish any rights provided to any employee under a [CBA].

(c) Subject to section 12, preempt or override the terms of any [CBA] in effect prior to the effective date of this act. . . .

Section 12, in turn, stated:

> If an employer's employees are covered by a [CBA] in effect on the effective date of this act, this act applies beginning on the stated expiration date in the CBA, notwithstanding any statement in the agreement that it continues in force until a future date or event or the execution of a new [CBA].

The Michigan Supreme Court later described the 2018 ESTA as follows:

> This act required employers to grant employees 1 hour of paid sick time for every 30 hours worked each week, subject to certain maximums per year. It also stipulated that employees could use those hours for any issue relating to physical or mental health, whether their own or that of a family member. Moreover, if the employee or anyone in the employee's family was a victim of domestic violence or sexual assault, the accrued sick time could be used to address issues relating to that violence or assault, such as attending counseling appointments, court proceedings, or school visits. Finally, the [ESTA] specified that the same time-measurement increments used to determine the number of hours an employee worked each week had to be used when measuring the amount of [EST] the employee used during a particular absence from work. Although the act did allow employers to require reasonable supporting documentation when absences exceeded three days, it generally prohibited employers from interfering with an employee's attempt to use the accrued sick time. [*Mothering Justice*, slip op at 6.]

Const 1963, art 2, § 9 gave the Legislature three options upon receiving the initiative petition: adopt the measure as presented, reject it but place it on the general election ballot, or propose alternative language and place both the initiative and Legislature-selected language on the ballot. Despite that (or maybe because) polls showed the initiative would easily be approved at the 2018 general election, the Legislature selected the first option and enacted the initiative as presented. *Mothering Justice*, slip op at 6-7.

Two months later, right after the 2018 general election, the Legislature voted to dramatically alter the new statutes, "virtually eliminat[ing] the changes" sought by the electorate. *Mothering Justice*, slip op at 8. As described by the Supreme Court:

> [T]he Amended [ESTA] made the act applicable only to employers who employ more than 50 people, MCL 408.962(f); it only required an employer to allow employees to use 40 hours of sick time each year, MCL 408.963(2); and it specified that paid sick time must be used in one-hour increments, MCL 408.964(3). [*Mothering Justice*, slip op at 8.]

The Legislature also changed the definition of "eligible employee" to exclude individuals not employed by a public agency who are covered by CBAs. Section (2)(e)(*ii*). Accordingly, the ESTA did not apply to private employers and their employees who had negotiated a CBA.

The Supreme Court deemed the Legislature's adopt-and-amend ploy unconstitutional. *Mothering Justice*, slip op at 13, 25. The Court restored the ESTA as originally adopted by the Legislature consistent with the petitions presented to it. *Id*., slip op at 30. The Court further ordered that the act would take effect 205 days after the opinion's release—February 21, 2025. *Id*., slip op at 31. The Court further held that as employers were not to blame for this "constitutional mischief," "employers cannot be held liable for their reasonable reliance upon the state government's assurances that the" amended acts "were good law." *Id*.

The Legislature made limited revisions to the ESTA before the February 21, 2025 effective date. "[J]ust before midnight on February 20, 2025," the Legislature adopted 2025 HB 4002. Governor Whitmer signed the act into law the next morning—2025 PA 2. As a result of this last-minute revision, the relevant provisions of the ESTA that took effect on February 21, 2025, state:

MCL 408.962(f) defines an "employee" as:

an individual engaged in service to an employer in the business of the employer. Employee does not include any of the following:

(*i*) An individual employed by the United States government.

(*ii*) An individual who works in accordance with a policy of an employer if both of the following conditions are met:

(A) The policy allows the individual to schedule the individual's own working hours.

(B) The policy prohibits the employer from taking adverse personnel action against the individual if the individual does not schedule a minimum number of working hours.

(*iii*) An unpaid trainee or unpaid intern.

(*iv*) An individual who is employed in accordance with the youth employment standards act . . . MCL 409.101 to 409.124.

MCL 408.963 (Section 3 of the Act) states:

(1) An employer shall provide [EST] to each of the employer's employees in this state.

(2) Except as otherwise provided in [MCL 408.972], this subsection, and subsection (4), an employee of a small business must accrue a minimum of 1 hour of paid [EST] for every 30 hours worked, not including hours used as paid time off, but may not use more than 40 hours of paid [EST] in a year unless the employer selects a higher limit. As an alternative to the accrual of paid [EST], a small business may provide an employee not less than 40 hours of paid [EST] at the beginning of a year for immediate use. Notwithstanding the requirements of subsection (6), this act does not require a small business to do any of the following until October 1, 2025:

(a) Allow an employee to accrue paid [EST] in accordance with this subsection.

(b) Provide paid [EST] to an employee as an alternative to the accrual of paid [EST].

(c) Calculate and track an employee's accrual of paid [EST].

(3) Except as otherwise provided in this subsection and subsection (4), all other employees must accrue a minimum of 1 hour of paid [EST] for every 30 hours worked, not including hours used as paid time off, but may not use more than 72 hours of paid [EST] in a year, unless the employer selects a higher limit. As an

alternative to the accrual of paid [EST], an employer may provide an employee not less than 72 hours of paid [EST] at the beginning of a year for immediate use.

* * *

(6) [EST] as provided in this section begins to accrue on the effective date of this act, or upon commencement of the employee's employment, whichever is later. An employee may use accrued [EST] as it is accrued, except that an employer may require an employee hired after the effective date of the 2025 amendatory act that amended this section to wait until 120 calendar days after commencing employment before using accrued [EST].

(7) An employer is in compliance with this section if the employer meets either of the following conditions:

* * *

(b) The employer is a signatory to a [CBA] that requires contributions to a multiemployer plan as that term is defined in . . . 29 USC 1002, that may be used under the same conditions as provided for under this act, in an amount equal to or greater than what is required to be provided under this act, and that accrues at a rate equal to or greater than the rate described in subsections (2) and (3). This act does not require a multiemployer plan that provides benefits in accordance with this act to pay accrued paid sick leave benefits if an employer does not remit required contributions to the plan. If an employer does not make required contributions to the multiemployer plan as provided in this subdivision, the employer is not considered to be in compliance with the employer's obligations under this act. . . .

MCL 408.971 (Section 11) states:

(1) This act provides minimum requirements pertaining to [EST] and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard, including a [CBA], that provides for greater accrual or use of time off, whether paid or unpaid, or that extends other protections to employees.

(2) This act does not do any of the following:

(a) Prohibit an employer from providing more [EST] than is required under this act.

(b) Diminish any rights provided to any employee under a [CBA].

(c) *Subject to section 12, preempt or override the terms of any [CBA] in effect prior to the effective date of this act.* . . . [Emphasis added.]

MCL 408.972 (Section 12) is titled "Collective Bargaining Agreement" and states:

(1) *If an employer's employees are covered by a [CBA] in effect on the effective date of this act* ***and the [CBA] conflicts with this act****, this act applies beginning on the stated expiration date in the [CBA], notwithstanding any statement in the [CBA] that it continues in force until a future date or event or the execution of a new [CBA].*

(2) If an employer's employee is covered by a contract, not including an employer policy signed by the employee, and all of the following requirements are satisfied, this act applies beginning on the stated expiration date in the contract, notwithstanding any statement in the contract that the contract continues in force until a future date or event or the execution of a new contract:

(a) The employer and employee signed the contract on or before December 31, 2024.

(b) The contract is effective for not longer than 3 years.

(c) The contract conflicts with this act.

(d) The employer notifies the department of the contract. . . . [Emphasis added.]

In the meantime, defendant was tasked with enforcing the ESTA in each of its iterations. To assist citizens with understanding the new ESTA, defendant published a list of Frequently Asked Questions (FAQs) on its website. Initially, the FAQs included no information about the applicability of the ESTA to employees covered by CBAs. In November 2024, following the Supreme Court's opinion in *Mothering Justice*, defendant added the question, "What effect does the ESTA have on [CBAs] on or after February 21, 2025?" The answer quoted MCL 408.971 in full and the introductory paragraph to MCL 408.972(2). The answer continued:

Applying these sections depends on the specific terms and conditions of the [CBA], and these two sections preclude interference with current [CBAs] when the parties have negotiated sick leave benefits. Thus, the Wage and Hour Department has identified two scenarios that determine whether the ESTA applies to employees beginning on Feb. 21, 2025:

1. The [CBA] includes terms regarding sick time or sick leave benefits:

Provided that the [CBA] includes terms related to sick leave, sick time, PTO with uses for sick time, or a similar benefit, the [CBA] terms apply, even if the benefit is less than what is required by the ESTA, until the [CBA] expires or is

renewed, extended, or otherwise renegotiated. The [CBA] also applies in situations where the [CBA] expressly excludes sick leave benefits.

2. The [CBA] is silent as it relates to sick time or sick leave benefits:

Employees covered by a [CBA] that is completely silent on sick leave, either for the entire unit or for specific classifications covered by the [CBA], are covered by the ESTA and begin accruing benefits on Feb. 21, 2025.

Following the last-minute revisions to the ESTA, defendant revised its FAQs to state:

If an employer's employees are covered by a [CBA] in effect on the effective date of this act and the [CBA] conflicts with this act, this act applies beginning on the stated expiration date in the [CBA].

The [CBA] includes terms regarding sick time or sick leave benefits: Provided that the [CBA] includes terms related to sick leave, sick time, PTO with uses for sick time, or a similar benefit, the [CBA] terms apply, even if the benefit is less than what is required by the ESTA, until the [CBA] expires or is renewed, extended, or otherwise negotiated. The [CBA] also applies in situations where the [CBA] expressly excludes sick leave benefits.

The [CBA] is silent as it relates to sick time or sick leave benefits: Employees covered by a [CBA] that is completely silent on sick leave, either for the entire unit or for specific classifications covered by the [CBA], are covered by the ESTA and begin accruing benefits on February 21, 2025, unless they are a small employer as outlined above.

Plaintiff further asserts that LEO Deputy Director Sean Egan has publicly stated that LEO "will look at the 'totality' of a CBA, and that if a CBA provides paid sick leave benefits to one classification of employees, but is silent concerning other classifications of employees, only the latter group immediately began accruing benefits pursuant to ESTA."

The world went on while the *Mothering Justice* challenges to the ESTA proceeded through litigation and appeals. In 2023 and 2024, plaintiff negotiated 10 CBAs with local IBEW unions. The sample contracts provided to this Court are silent on the issue of EST or anything like it. Indeed, plaintiff conceded in its complaint that the CBAs were "silent" on this issue.

II. THE PARTIES' POSITIONS

Plaintiff filed a preemptive lawsuit, seeking a declaratory judgment regarding the proper interpretation of the ESTA and an injunction against applying the ESTA provisions related to employees covered by CBAs that are silent on the issue of EST in the manner promoted by defendant. The parties then filed competing motions for summary disposition under MCR 2.116(C)(10). The dispute centers on the proper interpretation of MCL 408.972(1)'s directive that the ESTA will not immediately apply if there is an existing CBA and "the [CBA] conflicts with this act."

Plaintiff contends that a CBA conflicts with the ESTA if it provides anything other than the exact EST benefits provided in the statute. This includes CBAs that are silent on the issue of EST. Defendant, on the other hand, contends that silence on the issue does not result in a CBA conflicting with the ESTA because it could signal that the parties did not negotiate the term or reach a conflicting result.

Plaintiff further contends that if the Court interprets the ESTA as urged by defendant, the act would be rendered unconstitutional under the Contracts Clauses and Equal Protection Clauses of the federal and state constitutions, and would lead to the ESTA being preempted by federal labor law.

III. STANDARDS OF REVIEW

A motion for summary disposition under MCR 2.116(C)(10) tests the factual sufficiency of a claim. Summary disposition is warranted when, viewing the evidence in the light most favorable to the nonmoving party, there are no genuine issues of material fact and the moving party

is entitled to judgment as a matter of law. "The trial court is not permitted to assess credibility, weigh the evidence, or resolve factual disputes, and if material evidence conflicts, it is not appropriate to grant a motion for summary disposition under MCR 2.116(C)(10)." *Pioneer State Mut Ins Co v Dells*, 301 Mich App 368, 377; 836 NW2d 257 (2013).

The paramount issue in this case is one of statutory interpretation. Courts must interpret statutes according to their plain language to give effect to the Legislature's intent. *Doe v Alpena Pub Sch Dist*, ___ Mich ___; ___ NW3d ___ (2024) (Docket No. 165441), slip op at 9. The Court must consider the plain meaning of the terms at issue, as well as, the term's "placement and purpose in the statutory scheme." *Champine v Dep't of Transp*, 509 Mich 447, 453; 983 NW2d 741 (2022) (cleaned up). Words left undefined by a statute must be given their "plain and ordinary meaning," which may be discerned by consulting a dictionary. *Id*. (cleaned up). "[C]ourts must pay particular attention to statutory amendments, because a change in statutory language is presumed to reflect either a legislative change in the meaning of the statute itself or a desire to clarify the correct interpretation of the original statute." *Bush v Shabahang*, 484 Mich 156, 167; 772 NW2d 272 (2009).

Resolution of the issues before the Court also requires consideration of the meaning of the CBAs entered into between plaintiff and the local IBEWs. "In ascertaining the meaning of a contract, we give the words used in the contract their plain and ordinary meaning that would be apparent to a reader of the instrument." *Rory v Continental Ins Co*, 473 Mich 457, 464; 703 NW2d 23 (2005). "A fundamental tenet of our jurisprudence is that unambiguous contracts are not open to judicial construction and must be enforced as written. Courts enforce contracts according to their unambiguous terms because doing so respects the freedom of individuals freely to arrange their affairs via contract." *Id*. at 468. Enforcing contracts as written also respects "the general rule

of contracts . . . that competent persons shall have the utmost liberty of contracting and that their agreements voluntarily and fairly made shall be held valid and enforced in the courts." *Id*. (cleaned up). The principles of statutory interpretation are just as applicable to interpreting contracts. "Just as courts are not to rewrite the express language of statutes, it has long been the law in this state that courts are not to rewrite the express terms of contracts." *McDonald v Farm Bureau Ins Co*, 480 Mich 191, 199-200; 747 NW2d 811 (2008).

IV. INTERPRETATION OF THE ESTA

The question in this case is what does the phrase "the [CBA] conflicts with this act" in MCL 408.972(1) mean? As a reminder, this statutory provision states:

> If an employer's employees are covered by a [CBA] in effect on the effective date of this act *and the [CBA] conflicts with this act*, this act applies beginning on the stated expiration date in the [CBA], notwithstanding any statement in the agreement that it continues in force until a future date or event or the execution of a new [CBA]. [Emphasis added.]

The phrase "conflicts with" is not defined in the ESTA. *Merriam-Webster's Collegiate Dictionary* (11th ed) defines "conflict," in relevant part as "competitive or opposing actions of incompatibles: antagonistic state or action (as of divergent ideas, interests, or persons)."

> "Conflict" is defined as "to be contradictory, at variance, or in opposition; clash; disagree" or "incompatibility or interference, as of one idea, event, or activity with another[.]" *Random House Webster's College Dictionary* (2d ed, 2003); see also *Merriam-Webster's Collegiate Dictionary* (11th ed) (defining "conflict," in part, as "to show antagonism or irreconcilability : fail to be in agreement or accord <his statement conflicts with the facts>"). [*In re Reliability Plans of Electric Utilities for 2017-2021*, 505 Mich 97, 125-126; 949 NW2d 73 (2020).]

In general, the ESTA outlines how EST accrues, how much can be used, and what it can be used for. The ESTA also allows employers to provide more beneficial EST policies than required by the act. Some CBAs in effect when the ESTA took effect provided less EST, or

provided different rules about using EST. Those provisions clearly conflict with the ESTA and remain in place until the CBA's expiration date under the plain language of MCL 408.972(1).

Some CBAs expressly exclude the accrual and use of EST. Those CBAs also clearly conflict with the ESTA and, again, the CBA will remain in place until the CBA expires.

The CBAs in this case are silent regarding EST benefits. Defendant concedes that for labor law purposes, a subject does not need to be specifically mentioned in a CBA to be considered "covered by" the CBA. However, defendant contends, the ESTA's "conflict with" language requires more. Conflict is an active verb and the CBA's EST terms must actually conflict with the ESTA in order for the CBA to be exempted from immediate application of the ESTA. Silence is passive and, therefore, silence on the issue of EST does not "conflict with" the ESTA. Absent a conflict, the ESTA takes immediate effect for those employers and employees with a CBA that is silent on the issue of EST.

As noted, the rules of statutory construction apply to matters of contractual interpretation. These rules include that a statute or contract must be enforced as written, that omissions from a statute or contract are intentional, and that a court may not read into a statute or contract provisions that are not there. "Courts may not speculate regarding legislative intent beyond the words expressed in a statute. Hence, nothing may be read into a statute that is not within the manifest intent of the Legislature as derived from the act itself." *Omne Fin, Inc v Shacks, Inc*, 460 Mich 305, 311; 596 NW2d 591 (1999). So too with contracts. Courts may not read words or terms into an unambiguous contract. Under these rules, silence on a topic may not be transformed into an *express* exclusion or denial of a benefit. And while silence might be an implicit exclusion or denial of a benefit, such passive exclusion is insufficient to demonstrate the *active* "conflict" required

under MCL 408.972(1). Accordingly, a CBA does not "conflict with" the ESTA if it is silent on the topic of EST.

Plaintiff argues that sick time is a mandatory subject of collective bargaining and, therefore, silence is evidence that the parties negotiated sick time and intentionally decided against the benefit. However, plaintiff was on notice that the Legislature's adopt-and-amend ploy was being challenged in the courts and that the state of the law was in flux in 2023 and 2024. Moreover, the language of the original initiative notified parties that silence on the issue of EST would not be deemed as an intentional exclusion of a term. Section 11(2)(c) directed employers that "[s]ubject to section 12," the ESTA, would not "*preempt or override the terms* of any [CBA] in effect prior to the effective date of this act. . . ." (Emphasis added.) Section 12 of the initiative, in turn, stated:

> If an employer's employees are covered by a [CBA] in effect on the effective date of this act, this act applies beginning on the stated expiration date in the CBA, notwithstanding any statement in the agreement that it continues in force until a future date or event or the execution of a new [CBA].

Silence is not a "term," it is the absence of a term. Employers and their representatives negotiating CBAs during this time were on notice to address the issue of EST in the resultant CBAs, whether the benefit was conferred or not. The failure to do so meant that the CBAs contained no term on EST that could be preempted or overridden by the ESTA and the ESTA would have immediate effect.

The Court concludes that defendant correctly interpreted the ESTA as applying immediately to employers and employees covered by a CBA that is silent on the issue of EST. This does not end the Court's consideration, however, as plaintiff contends that this interpretation of the ESTA violates the contracts and equal protection clauses of the federal and state constitutions and federal preemption concerns.

V. CONTRACTS CLAUSES

The Court of Appeals succinctly summarized the purpose of the Contracts Clauses of the Michigan and federal constitutions in *Aguirre v State*, 315 Mich App 706, 714-715; 891 NW2d 516 (2016):

> "Both the Michigan and United States Constitutions prohibit laws that impair obligations under contracts." *AFT Mich v Michigan*, 497 Mich 197, 232-233; 866 NW2d 782 (2015). "These clauses provide that vested rights acquired under a contract may not be destroyed by subsequent state legislation." *Seitz v Probate Judges Retirement Sys*, 189 Mich App 445, 455; 474 NW2d 125 (1991). "However, the Contract Clause prohibition on state laws impairing the obligations of contract is not absolute." *Health Care Ass'n Workers Comp Fund v Dir of the Bureau of Worker's Comp, Dep't of Consumer & Indus Servs*, 265 Mich App 236, 240; 694 NW2d 761 (2005). "Rather, the prohibition must be accommodated to the inherent police power of the State to safeguard the vital interests of its people." *Id*. at 240-241 (citations and quotation marks omitted).

Courts apply a three-prong test when determining whether a state law substantially impairs an existing contract. The first prong is " 'whether the state law has, in fact, operated as a substantial impairment of a contractual relationship.' " *Id*. at 715, quoting *In re Certified Question*, 447 Mich 765, 777; 527 NW2d 468 (1994). Consideration of this prong requires a consideration of three sub-questions: " '[1] whether there is a contractual relationship, [2] whether a change in law impairs that contractual relationship, and [3] whether the impairment is substantial.' " *Aguirre*, 315 Mich App at 716, quoting *Gillette Commercial Operations North America & Subsidiaries v Dep't of Treasury*, 312 Mich App 394, 408; 878 NW2d 891 (2015). The interference must be with "reasonably expected contractual benefits." *Aguirre*, 315 Mich App at 716. If the first prong is met, the Court then considers the second and third prongs, which are "whether 'the legislative disruption of contract expectancies [is] necessary to the public good,' and whether 'the means chosen by the Legislature to address the public need are reasonable.' " *Id*., quoting *In re Certified Question*, 447 Mich at 777.

There are clearly contractual relationships in this case—10 CBAs entered between employers and IBEW locals that were negotiated by plaintiff. A change in the law—ESTA—requires employers to provide EST to employees covered by CBAs. This law "impairs" the contractual relationship by requiring some employers with existing CBAs to allow employees to accrue and use sick time when that benefit was not included in the contract.

Plaintiff contends that the impairment is substantial because the construction industry is extremely deadline driven. Each stage of a project has several steps that must be completed by a given deadline for the next step to occur. And the construction season is impacted by weather, limiting the days that can be worked. Allowing an essential worker to take a sick day affects the entire schedule, and could result in fines to a contractor that cannot meet its deadline.

However, the nature of the impairment is too fleeting to be "substantial." When the 10 CBAs at issue in this case expire, the employers will be required to allow employees to accrue and use sick time in any event and will no longer be permitted to contract for less beneficial terms.

Even if the immediate application of the ESTA substantially impairs contractual relationships, the Court agrees with defendant that it is necessary for the public good. It is dangerous to require sick or injured employees to work in construction jobs. The lack of EST prevents primary caregivers for children and aged parents from working in this industry.

Moreover, the means chosen to accomplish the goal of protecting Michigan workers are reasonable. The rate of accrual of sick leave required under the act is one hour of sick leave for every 30 hours worked. It will take 240 work hours, or a full 30 days of eight-hour work days, to earn a single eight-hour day of sick leave. The impact will not be as substantial as plaintiff fears.

VI. EQUAL PROTECTION

> The equal protection clauses of the Michigan and United States constitutions provide that no person shall be denied the equal protection of the law. This Court has held that Michigan's equal protection provision is coextensive with the Equal Protection Clause of the United States Constitution. The Equal Protection Clause requires that all persons similarly situated be treated alike under the law. When reviewing the validity of state legislation or other official action that is challenged as denying equal protection, the threshold inquiry is whether plaintiff was treated differently from a similarly situated entity. The general rule is that legislation that treats similarly situated groups disparately is presumed valid and will be sustained if it passes the rational basis standard of review: that is, the classification drawn by the legislation is rationally related to a legitimate state interest. Under this deferential standard, the burden of showing a statute to be unconstitutional is on the challenging party, not on the party defending the statute." [*Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 486 Mich 311, 318-319; 783 NW2d 695 (2010) (cleaned up).]

Not all equal-protection challenges are created equal. Different standards of review apply depending on the characterization of the groups affected. *Crego v Coleman*, 463 Mich 248, 259; 615 NW2d 218 (2000). Strict scrutiny applies only when the classification is based on suspect factors like race. *Id*. An intermediate level of review applies when the classification is based on characteristics like gender. *Id*. at 260. This case involves no suspect or even semi-suspect classification. Rather, the ESTA is a social or economic regulation. Accordingly, the Court must employ the rational-basis standard of review. *Id*. at 259-260; see also *Smith v Mich Employment Security Comm*, 410 Mich 231, 271; 301 NW2d 285 (1981). Under this standard, the statute "need only be rationally related to a legitimate government purpose to survive plaintiffs' challenge." *Johnson v Dep't of Natural Resources*, 310 Mich App 635, 650; 873 NW2d 842 (2015). This is a "highly deferential" standard that "reflects the judiciary's awareness that it is up to legislatures, not courts, to decide on the wisdom and utility of legislation." *Id*. (cleaned up).

Plaintiff identifies itself as belonging to a group that negotiated CBAs "in 2023 and 2024, at a time during which it universally understood that employees covered by a CBA were exempt

from state laws mandating the accrual of paid sick leave." Plaintiff alleges that during this time period, defendants would treat individuals covered by CBAs that are silent regarding paid sick leave benefits differently than individuals covered by CBAs that specifically disclaim any EST. The extent of the similarity between these groups is the negotiation of CBAs between employers and employees. They each freely negotiated terms; one simply did not mention EST in the final contract. For the purposes of this opinion, the Court accepts that this case involves differential treatment of similarly situated groups.

The Court concludes that the distinction is supported by a rational basis. The Legislature had to determine how to implement a minimum labor protection standard when some employees in the state had preexisting CBAs. It was rational and reasonable to allow conflicting CBAs to continue until their expiration date to respect the contractual agreement between the parties, while allowing employees covered by CBAs silent on the issue to begin accruing sick time under the ESTA immediately.

VII. PREEMPTION

Finally, plaintiff contends that defendant's interpretation of the ESTA leads to its preemption under federal labor law, specifically the National Labor Relations Act (NLRA).

> Congress enacted the NLRA . . . to protect the rights of employees and union members from infringement by employers and unions. The NLRA established the National Labor Relations Board (NLRB), which has exclusive jurisdiction over activity "arguably subject" to §§ 7 and 8 of the NLRA. These provisions forbid an employer from interfering with an employee's right to engage in concerted activities for the mutual aid or protection of employees. [*Henry v Laborers' Local 1191*, 495 Mich 260, 268; 848 NW2d 130 (2014).]

More specifically, § 7 grants employees the right to unionize and collectively bargain "and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or

protection." *Id*. at 276. Section 8 defines unfair labor practices by the employer and by unions, such as interfering with or restraining employees exercising their rights. *Id*. at 276-277.

A state statute is preempted by federal law, such as the NLRA, when Congress either explicitly or implicitly states its intent that federal law should be supreme. *Id*. at 275. Nothing in the NLRA provides that states may not pass laws setting minimum standards for employee accrual of sick time. "In the absence of explicit statutory language, state law is pre-empted where it regulates conduct in a field that Congress intended the Federal Government to occupy exclusively or when it actually conflicts with federal law." *Id*. at 275 (cleaned up).

> *San Diego Building Trades Council v Garmon*[, 359 US 236; 79 S Ct 773; 3 L Ed 2d 775 (1959),] is the "watershed" case analyzing the extent to which the maintenance of a general federal law of labor relations combined with a centralized administrative agency to implement its provisions necessarily supplants the operation of the more traditional legal processes in this field—that is, state regulation. In *Garmon*, the Court explained:
>
> > When it is clear or may fairly be assumed that the activities which a State purports to regulate are protected by § 7 of the [NLRA], or constitute an unfair labor practice under § 8, due regard for the federal enactment requires that state jurisdiction must yield. To leave the States free to regulate conduct so plainly within the central aim of federal regulation involves too great a danger of conflict between power asserted by Congress and requirements imposed by state law. Nor has it mattered whether the States have acted through laws of broad general application rather than laws specifically directed towards the governance of industrial relations. [*Id*. at 244.] [*Henry*, 495 Mich at 278 (cleaned up).]

If the subject of the state statute arguably falls within sections 7 or 8 of the NLRA, the Court "must defer to the exclusive competence of the [NLRB] if the danger of state interference with national policy is to be averted." *Id*.

There are two exceptions to the *Garmon* preemption principle: 1) the regulated activity is "a merely peripheral concern of the NLRA"; and 2) "where the regulated conduct touches interests

so deeply rooted in local feeling and responsibility that, in the absence of compelling congressional direction, we could not infer that Congress had deprived the States of the power to act." *Id*. at 280 (cleaned up).

Federal preemption also applies when it is clear that Congress intended the subject conduct be left unregulated and instead controlled by free market forces. *Int'l Ass'n of Machinists & Aerospace Workers v Wisconsin Employment Relations Comm*, 427 US 132, 140; 96 S Ct 2548; 49 L Ed 2d 396 (1976).

In *Metro Life Ins Co v Massachusetts*, 471 US 724, 756; 105 S Ct 2380; 85 L Ed 2d 728 (1985), the United States Supreme Court recognized that in enacting the NLRA, there was no suggestion that "Congress intended to disturb the myriad state laws then in existence that set minimum labor standards, but were unrelated in any way to the processes of bargaining or self-organization." States have "great latitude under their police powers" to enact statutes to promote the health and safety of workers. *Id*. Courts have upheld state laws dealing with child labor, "minimum and other wage laws," mandatory employer contributions to unemployment and workers' compensation funds, mandatory state holidays, and payment for time off to vote. *Id*. "Federal labor law in this sense is interstitial, supplementing state law where compatible, and supplanting it only when it prevents the accomplishment of the purposes of the federal Act." *Id*.

As noted by defendants and the amicus briefs, states regularly enact laws to provide minimum standards of employee protection. States enact minimum wage laws, minimum work age laws, and laws about work breaks to name a few. A minimum level of accrual of paid sick time clearly falls within this type of regulation. These types of statutes have been upheld and were

determined not to be preempted by federal law. There is no reason to treat the ESTA any differently.

VIII. CONCLUSION

MCL 408.972(1) provides that the ESTA will immediately apply to employers and employees if they are covered by an existing CBA that does not conflict with the ESTA. A CBA that is silent on the topic of EST does not conflict with the ESTA; therefore, the act applies immediately. This interpretation only minimally impairs the parties' right to contract and it is a reasonable interference to protect the public good. Further, there is no real distinction between the two classes identified by plaintiff for equal protection purposes. Finally, the ESTA creates a minimum protection for the laborers in this state and is the type of law that has been affirmed time and time again in the face of a federal preemption challenge. Accordingly:

1. The Court DENIES plaintiff's motion for summary disposition.

2. The Court GRANTS defendant's motion for summary disposition, upholding the validity of the ESTA.

3. The Court DISMISSES plaintiff's complaint in its entirety and with prejudice.

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

IT IS ORDERED.

Date: July 17, 2025

Sima G. Patel
Judge, Court of Claims