STATE OF MICHIGAN
IN THE SUPREME COURT

ROUCH WORLD, LLC and
UPROOTED ELECTROLYSIS, LLC,

Plaintiffs-Appellees,

v

DEPARTMENT OF CIVIL RIGHTS and
DIRECTOR OF DEPARTMENT OF CIVIL
RIGHTS,

Defendants-Appellants.
_____/

SC No. 162482

COA No. 355868

COC No. 20-000145-MZ

AMICUS CURIAE BRIEF OF THE AMERICAN CIVIL LIBERTIES UNION OF MICHIGAN, AMERICAN CIVIL LIBERTIES UNION, AFFIRMATIONS LGBTQ+ COMMUNITY CENTER, ANTI-DEFAMATION LEAGUE, EQUALITY MICHIGAN, FREEDOM FOR ALL AMERICANS, GENDER IDENTITY NETWORK ALLIANCE, GLBTQ LEGAL ADVOCATES & DEFENDERS, HUMAN RIGHTS CAMPAIGN, LAMBDA LEGAL DEFENSE & EDUCATION FUND, INC., LGBT DETROIT, MICHIGAN UNITARIAN UNIVERSALIST SOCIAL JUSTICE NETWORK, NATIONAL CENTER FOR LESBIAN RIGHTS, OUT CENTER OF SOUTHWEST MICHIGAN, OUT FRONT KALAMAZOO, PRIDE AT WORK MICHIGAN, RUTH ELLIS CENTER, SAGE METRO DETROIT, SOUTHERN POVERTY LAW CENTER, STAND WITH TRANS, AND TRANS SISTAS OF COLOR PROJECT

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December 17, 2021

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes and Regulations

Court Rules

Other Authorities

INTEREST OF AMICI CURIAE[1]

Amici are legal, advocacy, and social service organizations dedicated to achieving full equality for LGBT people under the law. A brief description of each amicus organization is provided in an appendix to this brief.

Because they work with and in the LGBT community, amici know that discrimination based on sexual orientation—in employment, housing, education, public accommodations, and elsewhere—is a pervasive problem that requires legal solutions. Based on the plain language of the Elliott-Larsen Civil Rights Act (ELCRA) and the United States Supreme Court's recent decision in *Bostock v Clayton County, Georgia*, __ US __; 140 S Ct 1731; 207 L Ed 2d 218 (2020), amici urge this Court to hold that the ELCRA's prohibition on discrimination "because of . . . sex" protects people from discrimination based on their sexual orientation.[2]

[1] Pursuant to MCR 7.312(H)(4), amici state that no counsel for a party authored this brief in whole or in part, nor did anyone, other than amici or their counsel, make a monetary contribution intended to fund the preparation or submission of the brief.

[2] Amici agree with the Court of Claims' holding that discrimination based on an individual's gender identity is prohibited under the ELCRA. Plaintiffs did not seek leave to appeal the Court of Claims' order insofar as it granted summary disposition on that question.

QUESTIONS PRESENTED

1. Whether the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq*., prohibits discrimination on the basis of sexual orientation?

   Amici's answer: Yes.

2. Whether *Barbour v Department of Social Services*, 198 Mich App 183; 497 NW2d 216 (1993), should be overruled?

   Amici's answer: Yes.

INTRODUCTION

In *Bostock v Clayton County*, *Georgia*, __ US __; 140 S Ct 1731; 207 L Ed 2d 218 (2020), the United States Supreme Court declared that discriminating on the basis of an individual's sexual orientation constitutes discrimination because of sex in violation of Title VII of the federal Civil Rights Act of 1964. But in Michigan, a decades-old precedent from the Michigan Court of Appeals has kept courts from reaching the same conclusion under the Elliott-Larsen Civil Rights Act, which, like Title VII, prohibits discrimination "because of . . . sex." The time has come for this Court to remove that roadblock and hold that discrimination based on sexual orientation is prohibited sex discrimination under Michigan law.

Doing so would not only free Michiganders to invoke state law to protect their equality in the workplace, in places of public accommodation, and elsewhere, but it would accord with sound principles of statutory interpretation. The plain text of the ELCRA prohibits discrimination based on sexual orientation. Discriminating against a person based on their sexual orientation necessarily entails treating them differently than a similarly situated person of a different sex. And that is textbook sex discrimination, plain and simple.

The Court of Appeals decision that found the ELCRA did not encompass sexual-orientation discrimination rested that conclusion on federal precedents interpreting Title VII. But those cases are no longer good law. In *Bostock*, the United States Supreme Court found that Title VII prohibited discrimination on the basis of sexual orientation through the same language that is at issue here, regardless of whether individual members of the legislature would have necessarily anticipated that result. Recognizing that the ELCRA encompasses discrimination based on sexual orientation would also accord with federal and state precedent on unlawful sex stereotyping. There

is no reason why the civil rights laws of this state, which this Court has often stated should be liberally construed, should provide more meager protections than their federal counterparts.

For these reasons, this Court should recognize that the ELCRA fully protects individuals from discrimination based on their sexual orientation.

STATEMENT OF FACTS

More than a decade after Congress enacted federal antidiscrimination protections for employment, the Michigan legislature enacted the broad antidiscrimination protections of the Elliott-Larsen Civil Rights Act. The ELCRA prohibits various forms of discrimination "because of . . . sex." On May 21, 2018, the Michigan Civil Rights Commission interpreted that provision to prohibit discrimination on the basis of sexual orientation and gender identity.

In part because civil rights protections were not previously understood to protect LGBT persons, discrimination on the basis of sexual orientation remains a pressing problem in Michigan. Since the Michigan Civil Rights Commission issued its interpretive statement that the ELCRA prohibits discrimination against LGBT people, the Michigan Department of Civil Rights reports that it has received and investigated 63 complaints of such discrimination, of which 44 involve sexual orientation discrimination in employment, housing, and public accommodations.[3] Similarly, amicus ACLU of Michigan, through its LGBT Project, reports having received 113 complaints of LGBT discrimination during the period of April 2009 through January 2019, of which 60 were complaints regarding sexual orientation discrimination in employment, housing, education, and public accommodations.[4] Likewise, amicus Equality Michigan's Victim Services Program, which provides survivor support services to LGBT people who have experienced violence, discrimination, and harassment due to their sexual orientation and or gender identity, reports having received more than 350 complaints of such incidents from 2013 through 2016.[5] And

[3] Communications on file with amici.

[4] *Id*.

[5] *Id*.

academic research by the UCLA School of Law's Williams Institute has reported the following findings:

- Of Michigan residents who identify as LGBT, 55% report experiencing discrimination or harassment based on their sexual orientation.[6]
- Surveys show that lesbian, gay and bisexual students in Michigan are more likely to report being bullied at school or electronically than heterosexual students.[7]
- Sixty percent of Michigan residents think that gay and lesbian people experience a lot of discrimination in the United States, and 80% think that LGBT people experience discrimination in Michigan.[8]

Discrimination against LGBTQ persons of color remains a particular problem. Academic research at the Harvard T.H. Chan School of Public Health revealed that while 13% of white LGBTQ persons nationwide report experiencing slurs or insensitive comments about their LGBTQ status during the job-application process, 32% for LGBTQ people of color report the same.[9] The consequences of housing discrimination, where almost one in five LGBTQ persons report being personally discriminated against because of their sexuality or gender identity when trying to rent a room or apartment or buy a house, are similarly likely to be especially severe for LGBTQ people

[6] Mallory et al, *The Impact and Stigma of Discrimination Against LGBT People in Michigan* (UCLA School of Law Williams Institute, 2019) <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Impact-LGBT-Discrimination-MI-Apr-2019.pdf>, p 28.

[7] *Id.*, p 34.

[8] *Id.*, p 28.

[9] NPR, Robert Wood Johnson Foundation & Harvard T.H. Chan School of Public Health, *Discrimination in America: Experiences and Views of LGBTQ Americans* (November 2017) <https://www.rwjf.org/en/library/research/2017/10/discrimination-in-america--experiences-and-views.html>.

of color.[10] LGBTQ people of color suffer disproportionately from housing insecurity and are more likely to live in poverty.[11]

[10] *Id.*

[11] Movement Advancement Project, Family Equality Council & Center for American Progress, *LGBT Families of Color: Facts at a Glance* (January 2012) <https://www.lgbtmap.org/lgbt-families-of-color-facts-at-a-glance>.

ARGUMENT

I. The ELCRA prohibits discriminating against an individual because of their sexual orientation.

A. Discrimination based on sexual orientation is a prohibited form of sex discrimination under the ELCRA.

The Elliott-Larsen Civil Rights Act prohibits various forms of discrimination "because of . . . sex." The ELCRA specifically provides that an employer "shall not . . . fail or refuse to hire or recruit, discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term or condition, or privilege of employment, because of . . . sex." MCL 37.2202(1)(a). It further forbids an educational institution from "discriminat[ing] against an individual in the full utilization of or benefit from the institution . . . because of . . . sex." MCL 37.2402(a). It prohibits myriad forms of housing discrimination "because of . . . sex." MCL 37.2502; see also MCL 37.2505 (voiding property restrictions that "limit[] the use or occupancy of real property on the basis of . . . sex"). And it prohibits a place of public accommodation from "deny[ing] an individual the full and equal enjoyment of the . . . accommodations because of . . . sex." MCL 37.2302(a). This Court has long held that the ELCRA should be construed broadly in order to accomplish the statute's remedial objective of eradicating discrimination. E.g., *Eide v Kelsey-Hayes Co*, 431 Mich 26, 34; 427 NW2d 488 (1988) (invoking "the well-established rule that remedial statutes are to be liberally construed to suppress the evil and advance the remedy" to interpret the Elliott-Larsen Civil Rights Act).

The plain terms of the ELCRA prohibit discrimination based on sexual orientation because an entity that disadvantages a person based on their sexual orientation necessarily "discriminate[s] against" that individual "because of . . . sex." To "discriminate" means—and meant at the time the ELCRA was passed—"[t]o make a difference in treatment or favor (of one as compared with others)." *Webster's New International Dictionary* (2d ed, 1954). Thus, as the United States

Supreme Court has explained, "the term 'discriminate against' refers to distinctions or differences in treatment that injure protected individuals." *Burlington N & Santa Fe Ry Co v White*, 548 US 53, 59; 126 S Ct 2405; 165 L Ed 2d 345 (2006). The ELCRA prohibits discrimination because of "sex," a term that Rouch World takes to mean a person's sex assigned at birth. See Rouch World Br at 16. And "because of" simply requires that sex be a but-for cause of the discriminatory act—the harmful discrimination must have been due to or by reason of a person's sex. See *Hecht v Nat'l Heritage Acads, Inc*, 499 Mich 586, 606; 886 NW2d 135 (2016).[12] Accordingly, the ELCRA prohibits employers, educational institutions, persons engaged in real estate transactions, and places of public accommodation from treating a person worse by reason of that person's sex.

The easiest way to uncover whether such discrimination has occurred is to ask whether changing the individual's sex would have resulted in better treatment. See *Radtke v Everett*, 442 Mich 368, 383; 501 NW2d 155 (1993) (employing same analysis in context of a sexual harassment claim); *Matras v Amoco Oil Co*, 424 Mich 675, 682; 385 NW2d 586 (1986) (same for age discrimination). For example, say an employer fires a female employee. If the employer would not have fired the same employee if the employee were male, sex discrimination has occurred. And it does not matter if the employee was also performing substandard work. An employer who would tolerate substandard work by a male employee but not a female employee has still discriminated because of sex. See *Matras*, 424 Mich at 682 (stating that a discharge can be "'because of age' even if age was not the sole factor").

[12] The same idea is captured by the ELCRA's prohibition on "deny[ing] an individual the full and equal enjoyment of . . . accommodations because of . . . sex." MCL 37.2302(a). Places of public accommodation may not treat an individual worse than others—by denying them "full and equal enjoyment" of those accommodations—on account of the individual's sex.

Employing the counterfactual analysis described above makes clear why an entity that disadvantages a person based on their sexual orientation necessarily "discriminates against" that individual "because of . . . sex." Take an employee named Casey. Casey is a man who is attracted to men. If Casey were female and attracted to men, Casey's employer would not have fired him. But because Casey is male and attracted to men, he was fired. Under the plain terms of the statute, the employer has discriminated against Casey because of Casey's sex. Had Casey been female and not male, Casey would have kept the job. But he's not, and so he lost his job. Casey's sex was a but-for cause of his termination. And that is discrimination because of sex.

The Court of Appeals' decision in *Barbour v Department of Social Services*, 198 Mich App 183; 497 NW2d 216 (1993), relied on a now-outdated mode of statutory interpretation and now-overturned case law. The Court of Appeals insisted the "protections are aimed at gender discrimination, not discrimination based on sexual orientation." *Id.* at 185. The court reached that conclusion by summarily citing a number of now-overturned cases interpreting Title VII of the federal Civil Rights Act of 1964. Those cases reasoned that Title VII was "intended to place women on an equal footing with men," and therefore did not reach discrimination based on sexual orientation for that reason. *DeSantis v Pac Tel & Tel Co*, 608 F2d 327, 329 (CA 9, 1979), quoting *Holloway v Arthur Andersen & Co*, 566 F2d 659 (CA 9, 1977). But the question is not whether the legislature had sexual orientation in mind when it passed the statute. The question is what the statute *did*. And the ELCRA, like Title VII, prohibited discrimination "because of . . . sex." As explained above, that prohibition plainly encompasses decisions that turn on an individual's sexual orientation, which is inextricably linked to sex. Thus, adverse decisions or denials of benefits that depend on an individual's sexual orientation constitute discrimination "because of . . . sex" even though the statute does not use the phrase "sexual orientation."

Many of Rouch World's contrary arguments are simply irrelevant. Rouch World's textual analysis assumes that, for the MDCR to win, it must be the case that "sex" *meant* "sexual orientation" at the time the ELCRA was passed. But that is not so. Even accepting that the "original, plain, and single meaning" of "discrimination because of . . . sex" is "treating biological men and biological women differently," Rouch World Br at 15, the MDCR prevails. As explained above, discriminating against a person on the basis of their sexual orientation necessarily *entails* treating that person differently on the basis of their sex assigned at birth, or what Rouch World would call their biological sex. See *Bostock*, 140 S Ct at 1746–1747 (stating that sexual orientation is a "distinct concept from sex" but that discrimination based on sexual orientation "necessarily entails discrimination based on sex; the first cannot happen without the second").

In so holding, this Court would therefore not be giving an implausibly broad or overly "literal" meaning to the word "sex." Nor would it be making a "policy decision." Rouch World Br at 5. To the contrary, it would simply be "apply[ing] the terms of the statute to the circumstances in a particular case," as is its "proper role." *In re Certified Question from the United States Court of Appeals for the Sixth Circuit*, 468 Mich 109, 113; 659 NW2d 597 (2003).

It is similarly irrelevant that an employer, educational institution, landlord, or place of public accommodation might discriminate on the basis of sexual orientation without knowing the individual's sex. See Rouch World Br at 16–17. And it is also beside the point that an entity that discriminates on the basis of sexual orientation may end up treating males and females similarly as a group. See *id.* The ELCRA's prohibitions protect "individual[s]," not groups. See, e.g., MCL 37.2302(a) ("[A] person shall not . . . [d]eny an individual the full and equal enjoyment of the goods . . . of a place of public accommodation . . . because of . . . sex[.]"). And from the individual's

perspective, discrimination on the basis of sexual orientation necessarily entails discrimination on the basis of—that is, due to—that person's sex.

Consider Rouch World's example of an employer who only knows that an applicant is named Sam and that Sam is attracted to persons of the same sex. See Rouch World Br at 16–17. The employer may not ever know that Sam is, in fact, also a woman. But if the employer rejects Sam because she is lesbian, Sam has suffered discrimination because of her sex. If Sam were a man attracted to women, she would have been hired. But because she is a woman attracted to women, she was not. Her sex was a but-for cause of the lost opportunity.

The same is true for the individuals in Rouch World's example of a conference hall facility that equally discriminates against gay men and lesbians. See Rouch World Br at 17. It may be true that, in the aggregate, it is treating males and females equally well or equally poorly. But each *individual* gay applicant was treated less well because of their sexual orientation and, hence, their sex. And that is all that matters under the ELCRA.

Unpacking how the ELCRA would apply to an employer that discriminates against employees in interracial marriages underscores the point. An employer would violate the ELCRA's prohibition on discrimination "because of . . . race" if the employer fired employees who were in interracial marriages. See *Graham v Ford*, 237 Mich App 670, 677–678; 604 NW2d 713 (1999); cf. *Loving v Virginia*, 388 US 1, 11; 87 S Ct 1817; 18 L Ed 2d 1010 (1967) (explaining that bans on interracial marriages "rest solely upon distinctions drawn according to race"). That is true even though a "no-interracial-marriages" policy would apply to employees of all races. And it would still be true even if an employer did not know an employee's race before subjecting them to the policy. An employer with a "no-interracial-marriages" policy has still discriminated "because of . . . race" because the policy turns on the race of an employee. If a Black employee

marries a white person, they would be fired. If the same employee were white, they would not be fired. That is discrimination "because of . . . race." The same is true for an employee with a "no-same-sex-marriages" policy: The policy discriminates "because of . . . sex" because the policy turns on the sex of an employee.

Rouch World further protests that adhering to the plain terms of the ELCRA would create redundancy in statutes that reference both "sex" and "sexual orientation." See Rouch World Br at 31–34. But "[t]he canon against surplusage is not an absolute rule." *People v Pinkney*, 501 Mich 259, 283; 912 NW2d 535 (2018). Indeed, the legislature may have valid reasons for including a seemingly redundant word or phrase. There is an obvious reason applicable here. Until relatively recently, courts such as the one in *Barbour* had held, incorrectly, that statutes prohibiting sex discrimination did not encompass discrimination based on sexual orientation. Legislators who wished to prohibit discrimination based on sexual orientation therefore had to make that intent extra clear. See *Lorenzo v SEC*, __ US __, __; 139 S Ct 1094, 1102; 203 L Ed 2d 484 (2019) (recognizing that legislatures may enact multiple, seemingly overlapping prohibitions "out of an abundance of caution"). Their decision to do so should not prevent this Court from correcting the mistakes of courts past by recognizing that prohibitions on sex discrimination prohibit discrimination on the basis of sexual orientation.

Rouch World's other arguments rely on various forms of legislative history. But "resort to legislative history of any form is proper *only* where a genuine ambiguity exists in the statute. Legislative history cannot be used to create an ambiguity where one does not otherwise exist." *In re Certified Question*, 468 Mich at 115 n 5 (2003) (emphasis in original); see also, e.g., *Pohutski v Allen Park*, 465 Mich 675, 683; 641 NW2d 219 (2002) ("Where the language is unambiguous, 'we presume that the Legislature intended the meaning clearly expressed—no further judicial

construction is required or permitted, and the statute must be enforced as written.'"). As explained above, the ELCRA is unambiguous: Discrimination on the basis of sexual orientation necessarily entails discrimination based on sex.

Nor may the courts look to the unexpressed intent of the legislature when it is suggested that the legislature would find a particular application of broad statutory language unexpected or even unintended. The persons who wrote the Fourteenth Amendment of the United States Constitution may have meant to extend "equal protection of the laws" only to Black Americans, but that provides no warrant for reading the general terms of that amendment narrowly. See Scalia & Garner, *Reading Law* 102–103 (2012). The United States Supreme Court has similarly recognized, in the Title VII context, that "statutory prohibitions often go beyond the principal evil to cover reasonably comparable evils, and it is ultimately the provisions of our laws rather than the principal concerns of our legislators by which we are governed." *Oncale v Sundowner Offshore Servs, Inc*, 523 US 75, 79; 118 S Ct 998; 140 L Ed 2d 201 (1998); see also *Bostock*, 140 S Ct at 1753 (explaining that "Congress's key drafting choices—to focus on discrimination against individuals and not merely between groups and to hold employers liable whenever sex is a but-for cause of the plaintiff's injuries—virtually guaranteed that unexpected applications would emerge over time").

In sum, the language the legislature chose when it adopted the ELCRA is unambiguous. Discrimination on the basis of sexual orientation is discrimination on the basis of sex and therefore prohibited. Nothing—from unenacted amendments to surmises about the understanding of individual legislators—can overcome that conclusion. This Court should adhere to the plain terms of the ELCRA.

B. *Barbour* should be overturned in light of the United States Supreme Court's decision in *Bostock v Clayton County, Georgia*.

When the Court of Appeals decided *Barbour* and concluded that the Elliott-Larsen Civil Rights Act did *not* prohibit discrimination on the basis of sexual orientation, it "looked to the analogous provisions of title VII of the Civil Rights Act" and "considered federal precedent construing . . . title VII." *Barbour*, 198 Mich App at 185; see also *id.* ("A review of federal case law reveals title VII's protections are aimed at gender discrimination, not discrimination based on sexual orientation."). But the decisions that the Court of Appeals relied on were mistaken, and are no longer good law. The United States Supreme Court has now definitively interpreted the federal Civil Rights Act and concluded that it prohibits discrimination based on sexual orientation. That decision provides another reason for this Court to overturn *Barbour*.

1. *Bostock* held that the analogous language in Title VII prohibits discrimination on the basis of sexual orientation.

The United States Supreme Court's recent decision in *Bostock v Clayton County*, *Georgia*, __ US __; 140 S Ct 1731; 207 L Ed 2d 218 (2020), interpreted language functionally identical to that in the ELCRA to prohibit discrimination because of sexual orientation under Title VII of the Civil Rights Act of 1964. (Title VII makes it illegal to "discriminate against any individual . . . because of . . . sex." 42 USC 2000e-2(a)(1).) The United States Supreme Court's interpretation rested on two principles, both of which apply with equal force to the ELCRA.

First, the United States Supreme Court explained that Title VII prohibits discrimination "*because of*" sex, and that, as under Michigan law, this language incorporates a "but-for causation" standard. *Bostock*, 140 S Ct at 1739. Under the "sweeping" but-for causation standard, *Bostock* reasoned, "causation is established whenever a particular outcome would not have happened 'but for' the purported cause." *Id*.

Second, *Bostock* observed that "discriminate" means "treating [an] *individual* worse than others." *Id*. at 1740 (emphasis added). *Bostock* rejected the employer's suggestion that the statute required courts "to consider the employer's treatment of groups rather than individuals"—that is, to consider an employer's treatment of women as a group and then compare that treatment to the employer's treatment of men as a group. *Id. Bostock* explained that the statute foreclosed that mode of analysis because the statute used the word "individual," indicating that the "focus should be on individuals, not groups." *Id.*

From these principles, *Bostock* arrived at the "straightforward rule" that an employer "violates Title VII when it intentionally fires an individual employee based in part on sex." *Id.* at 1741. And, the Court concluded, "[f]or an employer to discriminate against employees for being homosexual . . . the employer must intentionally discriminate against individual men and women in part because of sex." *Id.* at 1743.

The principles from *Bostock* resolve this case. Like Title VII, the ELCRA prohibits discrimination "*because of*" sex. Also like Title VII, the ELCRA incorporates a "but for causation" standard. See, e.g., *Hecht v Nat'l Heritage Academies, Inc*, 499 Mich 586, 606; 886 NW2d 135 (2016) ("[W]e have interpreted the CRA to require 'but for causation.'"). And like Title VII, the ELCRA prohibits discrimination "against an individual," not discrimination "against groups." The language from the ELCRA, like the language from Title VII, results in the straightforward rule that an entity "violates [the ELCRA] when it intentionally [disadvantages] an individual [] based in part on sex." *Bostock*, 140 S Ct at 1741. And "[f]or an [entity] to discriminate against [individuals] for being homosexual . . . the [entity] must intentionally discriminate against individual men and women in part because of sex." *Id.* at 1743.

2. This Court routinely relies on federal interpretations of federal law to guide interpretations of state law, including the ELCRA.

The United States Supreme Court's interpretation of the federal Civil Rights Act provides a reason to revisit and overrule *Barbour*. It also supplies powerful evidence about the meaning of the analogous language in the Elliott-Larsen Civil Rights Act. Rouch World spends pages establishing the obvious: *Bostock* does not formally govern this Court's decision-making. See Rouch World Br at 27–31. But this Court has been "many times guided in [its] interpretation of the Michigan Civil Rights Act by federal court interpretations of its counterpart federal statute." *Chambers v Trettco, Inc*, 463 Mich 297, 313; 614 NW2d 910 (2000), citing *Sumner v Goodyear Tire & Rubber Co*, 427 Mich 505, 525; 398 NW2d 368 (1986); *Haynie v Michigan*, 468 Mich 302, 325; 664 NW2d 129 (2003) ("Because Michigan's employment-discrimination statute so closely mirrors federal law, [this Court] often rel[ies] on federal precedent for guidance."); *Sniecinski v Blue Cross & Blue Shield of Mich*, 469 Mich 124, 133; 666 NW2d 186 (2003) (incorporating federal case law on federal Civil Rights Act for "cases involving indirect or circumstantial evidence" of discrimination); *Town v Michigan Bell Tel Co*, 455 Mich 688, 695; 568 NW2d 64 (1997) (noting that Michigan courts use the United States Supreme Court's *McDonnell Douglas* test for establishing a prima facie case of discrimination); *Harrison v Olde Fin Corp*, 225 Mich App 601, 612; 572 NW2d 679 (1997) (incorporating United States Supreme Court decision on sex stereotyping and mixed motive claims); *Northville Pub Schs v Civil Rights Comm*, 118 Mich App 573, 576; 325 NW2d 497 (1982) ("Federal courts have had a much greater opportunity to review questions concerning discrimination in employment than have state courts. Consequently, federal precedent dealing with such questions is often highly persuasive."); *Smith v Consolidated Rail Corp*, 168 Mich App 773, 776–777; 425 NW2d 220 (1988) (relying on the United States Supreme Court's disparate impact precedent to interpret the Elliott-Larsen Civil Rights Act).

While this Court has occasionally declined to adopt federal interpretations of the federal Civil Rights Act when construing the ELCRA, it usually does so when federal decisions interpret the federal statute "on the basis of the 'policy' and 'object' of Title VII rather than what the statute actually says." *Elezovic v Ford Motor Co*, 472 Mich 408, 421; 697 NW2d 851 (2005). That caveat makes sense because "the policy behind a statute cannot prevail over what the text actually says." *Id.* at 421–422. But *Bostock* made clear that its holding rests on the text of Title VII and not on the policy animating the statute, stating that, "[a]t bottom, these cases involve no more than the straightforward application of legal terms with plain and settled meanings." *Bostock*, 140 S Ct at 1743. "For an employer to discriminate against employees for being homosexual . . . [is] prohibited by Title VII's plain terms—and that 'should be the end of the analysis.'" *Id.*, quoting *Zarda v Altitude Express, Inc*, 883 F3d 100, 135 (CA 2, 2018) (Cabranes, J., concurring in the judgment).

Several other courts have already relied on the United States Supreme Court's decision in *Bostock* to construe related provisions of state or local law. See *Bruer v State ex rel Brnovich*, unpublished opinion of the Court of Appeals of Arizona, issued October 28, 2021 (Case No. 1-CA-CV-21-0066); 2021 WL 4998467 (dismissing claim for declaratory relief under state law because Arizona Civil Rights Division incorporated *Bostock* into its interpretation of state civil rights statute); *Hutting v Independent Living, Inc*, 198 AD3d 739; __ NYS3d __ (2021) (recognizing that New York courts interpret state law as consistent with *Bostock*); *Hobby Lobby Stores, Inc v Sommerville*, 2021 Ill App 190362; __ NE3d __ (2021) (relying on *Bostock* to conclude that, "under Illinois law, an individual's gender identity is an accepted basis for determining that individual's legal 'sex'"); *Tarrant Co College Dist v Sims*, 621 SW3d 323 (Tex App, 2021) (applying *Bostock* to allow a claim for sexual orientation or gender identity discrimination under Texas law); *Lucas v United States*, 240 A3d 328, 338–339 (DC, 2020)

(relying on *Bostock* to interpret District of Columbia statute); *ME v TJ*, 854 SE2d 74, 91 (NC App, 2020) (relying on *Bostock* to interpret provision in the North Carolina constitution); *NH v Anoka-Hennepin Sch Dist No 11*, 950 NW2d 553, 558, 570 (Minn App, 2020) (relying on *Bostock* to interpret Minnesota Constitution); *McGuire v Newark*, 2020 Ohio 4226, ¶¶ 56-57; 2020 WL 5056993 (Ohio App, 2020) (relying on *Bostock* to interpret Ohio statute); *Nance v Lima Auto Mall, Inc*, 2020 Ohio 3419, ¶ 113; 2020 WL 3412268 (Ohio App, 2020) (same); *Jarrell v Hardy Cellular Tel Co*, unpublished opinion of the United States District Court for the Southern District of West Virginia, issued July 22, 2020 (Case No. 20-cv-00289); 2020 WL 4208533, at *2 (applying *Bostock* to allow claim for sexual orientation discrimination under West Virginia ban on sex discrimination in employment). And the Michigan Court of Appeals recently relied on *Bostock* to interpret a Michigan statute prohibiting harassment and discrimination because of sex. *People v Rogers*, __ Mich App __; __ NW2d __ (2021) (Docket No. 346348). Other courts have relied on *Bostock* for general principles of statutory interpretation of state law. E.g., *Pacas v Texas*, 612 SW3d 588, 597 (Tex App, 2020).

This Court has looked to federal precedents interpreting analogous federal statutes in areas not involving the ELCRA as well. See *Gibraltar Sch Dist v Gibraltar MESPA-Transp*, 443 Mich 326, 335; 505 NW2d 214 (1993) (interpreting Michigan's public employment relations act by considering the federal National Labor Relations Act); *State Employees Ass'n v Dep't of Mgmt & Budget*, 428 Mich 104, 117; 404 NW2d 606 (1987) (interpreting Michigan's FOIA by considering interpretations of federal FOIA). Just last year, this Court relied on federal precedent on the scope of federal constitutional provisions to interpret the scope of Michigan's independently worded constitutional provisions regarding the separation of powers. *In re Certified Questions from the United States District Court*, 506 Mich 332, 359–360; 958 NW2d 1 (2020). See also *Blank v Dep't*

of Corrs, 462 Mich 103, 113–115; 611 NW2d 530 (2000) (relying on the United States Supreme Court's decision in *INS v Chadha*, 462 US 919; 103 S Ct 2764; 77 L Ed 2d 317 (1983), to construe the Michigan Constitution). It should do the same with *Bostock* here.

C. Discriminating against an individual because of sexual orientation also constitutes discrimination because of sex because it embodies sex stereotyping.

Discrimination on the basis of sexual orientation amounts to discrimination because of sex for a second reason: It embodies forbidden, sex-based stereotypes about how different sexes should behave. This Court should confirm that the sex stereotyping in this case amounts to impermissible discrimination because of sex under the ELCRA.

The text of the ELCRA forbids discrimination based on sex-based stereotypes. By its plain language, the ELCRA prohibits various forms of discrimination "because of . . . sex," which includes beliefs about how men and women can act and should act. MCL 37.2202(1)(a); MCL 37.2302(a); MCL 37.2402(a). An adverse decision or denial of benefits that rests on a sex-based stereotype constitutes discrimination because of sex because it penalizes an individual for failing to conform to a belief about how persons of a particular sex should behave. A decision that turns on a generalization about how an individual of a particular sex should behave also necessarily depends on the individual's sex. An employer that looks positively on male employees being assertive but decides not to promote a female employee who was assertive has treated that employee worse because of her sex. See *Price Waterhouse v Hopkins*, 490 US 228, 256; 109 S Ct 1775; 104 L Ed 2d 268 (1989) (plurality opinion).

Federal law reflects this commonsense understanding of what constitutes "discrimination . . . because of sex." In 1965, the year after Title VII was enacted, the Equal Employment Opportunity Commission explained that Title VII does not let an employer refuse to hire "an individual based on stereotyped characterizations of the sexes. . . . The principle of non-

discrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group." EEOC Guidelines on Discrimination Because of Sex, 30 Fed Reg 14926, 14927 (December 2, 1965), codified as amended at 29 CFR 1604.2(a)(1)(ii). In *Price Waterhouse v Hopkins*, *supra*, the United States Supreme Court confirmed that employment decisions made on the basis of sex stereotypes amount to discrimination because of sex under the federal Civil Rights Act. In that case, Ann Hopkins' employer declined to promote her to partner because she was too "macho" and needed to "walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled, and wear jewelry." *Id.*, 490 US at 235. Her employer's actions constituted discrimination "because of . . . sex," the Court explained, because they "were motivated by stereotypical notions about women's proper deportment." *Id.* at 256 (plurality opinion); see also *id.* at 272 (O'Connor, J., concurring) (concluding that the employer had "permit[ed] stereotypical attitudes toward women to play a significant role" in its employment decision). The United States Supreme Court reasoned: "[W]e are beyond the day when an employer could evaluate employees by assuming or insisting that they matched the stereotype associated with their group." *Id.* at 251 (plurality opinion).

This Court and the Court of Appeals have previously relied on *Price Waterhouse v Hopkins* to interpret the scope of the Elliott-Larsen Civil Rights Act. See, e.g., *Sniecinski v Blue Cross & Blue Shield of Mich*, 469 Mich 124, 133; 666 NW2d 186 (2003); *Harrison v Olde Fin Corp*, 225 Mich App 601, 612; 572 NW2d 679 (1997). As this Court explained, the ELCRA is specifically "aimed at 'the prejudices and biases' borne against persons because of their membership in a certain claim and seeks to eliminate the effects of offensive or demeaning stereotypes or biases." *Miller v CA Muer Corp*, 420 Mich 355, 363; 362 NW2d 650 (1984). Other states have similarly incorporated anti-stereotyping principles into their own state bans on employer sex discrimination.

See Haw Admin Code, R 12-46-102(d)(2)-(3); Ill Admin Code, tit 56, § 5210.70(b)(2)-(3); Iowa Admin Code, R 161-8.47(216)(1)(b)-(c); Kan Admin Regs 21-32-1(a)(2)-(3); 94-348-3 Me Admin Code, R 18(1)(B)(1)-(2); 804 Mass Code Regs 3.01(3)(b)(1)-(2); Mo Code Regs, tit 8, § 60-3.040(2)(A)(2)-(3); Mont Admin Code, R 24.9.1407(1); Ohio Admin Code, R 4112-5-05(B)(1); Okla Admin Code, R 335:15-3-2(a)(1)(B)-(C); Or Admin Code, R 83-005-0013(2)(a)-(b); 16 Pa Code 41.71(e)(2)-(3); SD Admin Code, R 20:03:09:02; Tenn Comp R & Regs 1500-01-01-04(2). Additional states' courts have also relied on the anti-sex-stereotyping principle when interpreting state statutes prohibiting discrimination because of sex. See, e.g., *Nelson v James H Knight DDS, PC*, 834 NW2d 64, 1 (Iowa, 2013); *Lampley v Mo Comm'n on Human Rights*, 570 SW3d 16, 24, 26–27 (Mo, 2019) (en banc); *Behrmann v Phototron Corp*, 795 P2d 1015, 1018 (NM, 1990); *Enriquez v W Jersey Health Sys*, 342 NJ Super 501, 512, 514; 777 A2d 365 (App Div, 2001); *Graff v Eaton*, 157 Vt 321, 327; 598 A2d 1383 (1991); *Mass Elec Co v Mass. Comm'n Against Discrimination*, 375 Mass 160, 168; 375 NE 2d 1192 (1987) (concluding that employer's policy of excluding "pregnancy-related disabilities" amounted to sex discrimination because "pregnancy exclusions reflect and perpetuate the stereotype that women belong at home raising a family rather than at a job as permanent members of the work force"); *Cuyahoga Falls Eagles v Ohio Civil Rights Comm'n*, unpublished opinion of the Court of Appeals of Ohio, issued November 26, 1986 (Case No. 12657); 1986 WL 13875 (concluding that an employer discriminated against two female bartenders based on the employer's testimony that "he wanted a man behind the bar to 'do all the ordering and stuff' . . . held stereotypical bias"); *Pfister v Niobrara Co*, 557 P2d 735, 737 (Wyo, 1976) (concluding that sheriff's refusal to hire female applicant for deputy sheriff constituted sex discrimination where the reasons included a belief that "the citizens of Niobrara County would consider it improper to patrol with a woman at night in the country").

Discrimination against lesbian, gay, and bisexual individuals rests on sex-based stereotypes forbidden by the ELCRA. Discriminating against a man who is married to a man punishes him for failing to conform to a sex-based expectation that a woman is the only proper romantic partner for a man. That is the kind of stereotype that the ELCRA prohibits. "Stereotypical notions about how men and women should behave will often necessarily blur into ideas about heterosexuality and homosexuality." *Dawson v Bumble & Bumble*, 398 F3d 211, 218 (CA 2, 2005), quoting *Howell v N Cent Coll*, 320 F Supp 2d 717, 723 (ND Ill, 2004).

Discrimination against lesbian, gay, and bisexual persons punishes men for failing to adhere to core stereotypes of masculine behavior and women for failing to adhere to core stereotypes of feminine behavior. While "homosexuality" or "bisexuality" may be used to describe sexual orientations, redescribing the sex stereotyping in those terms does not change the fact that gay men, lesbian women, and bisexual men and women are being punished for departing from different sex-specific behavioral expectations. Men are required to conform to social expectations about masculinity, whereas women are required to conform to social expectations about femininity. Sex stereotyping could be redescribed in terms that apply to both men and women—requiring everyone to conform to expectations about traditional gender roles. But that shift in terminology does not change the fact that individuals are being subjected to discrimination because of their sex. Discrimination based on sex stereotypes requires men and women to adhere to different stereotypes and follow different gender-specific standards of conduct. Sex-based discrimination does not become neutral merely because it can be described by a common term that refers to both forms of discrimination.

Any attempt to disentangle forbidden sex-based stereotyping from discrimination based on sexual orientation would be unworkable. Consider some of the federal court precedents on sex

stereotyping claims. In *Prowel v Wise Business Forms, Inc*, 579 F3d 285, 287 (CA 3, 2009), the court ruled that the plaintiff must be permitted to proceed on his federal civil rights claim that he was harassed and ultimately fired from his job because he failed to conform to sex stereotypes at his workplace. He said he "had a high voice and did not curse; was very well-groomed;" and "talked about things like art, music, interior design, and décor." *Id.* at 291–292. The plaintiff was also gay, and he alleged that some of his coworkers called him "princess" and "Rosebud" and put a pink tiara at his workstation. *Id.* at 287, 291. Given such facts, the court ruled, it would be a fool's errand to attempt to divine whether plaintiff's harassment was due to "sex stereotyping" or discrimination based on sexual orientation. The two are fundamentally interconnected.

Nor does *Prowel* represent an unusual fact pattern. In *Rene v MGM Grand Hotel, Inc*, 305 F3d 1061, 1064 (CA 9, 2002), an openly gay man argued that he was subjected to a hostile work environment on "almost a daily basis." The federal court of appeals rejected the idea that Rene's "otherwise viable cause of action [could be] defeated" if "he was targeted because he [was] gay." *Id.* at 1066. There too, the harassment Rene suffered due to sex-stereotyping was inherently bound up with harassment related to sexual orientation. See also, e.g., *Evans v Georgia Reg'l Hosp*, 850 F3d 1248, 1254–1255 (CA 11, 2017) (allowing an employee to amend the complaint which stated she was fired for being a lesbian as a "gender nonconformity claim"); *Ellingsworth v Hartford Fire Ins Co*, 247 F Supp 3d 546, 549, 555 & n 7 (ED Pa, 2017) (finding a heterosexual, cisgender woman insurance salesperson stated a sex discrimination claim when she was incorrectly labeled a lesbian and criticized for inadequately conforming to stereotypical feminine dress and appearance); *Stevens v Alabama Dep't of Corrs*, unpublished opinion of the United States District Court for the Northern District of Alabama, issued March 18, 2015 (Case No. 1:12-cv-3782-TMP); 2015 WL 1245355 (concluding a correctional officer stated a sex discrimination claim where she

alleged her supervisor called her a "dyke" and told a co-worker that "'you could tell' [she] didn't like men by 'the way she . . . treated the inmates'" and co-workers called her a "dyke bulldog [sic] bitch"); *Menchaca v Am Med Response of Illinois, Inc*, unpublished opinion of the United States District Court for the Northern District of Illinois, issued January 14, 2002 (Case No. 98-C-547); 2002 WL 48073 (concluding that employee alleged sex discrimination based on a supervisor calling her a "pit bull dyke" and "bull dyke from hell" while complaining that her management style was "aggressive" and "assertive").

Exempting this one particular form of sex stereotyping from the ELCRA's protections would open up a significant "sexual orientation loophole" in the law. Valdes, *Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex," "Gender," and "Sexual Orientation" in Euro-American Law and Society*, 83 Cal L Rev 1, 18 (1995). That would result in a scheme that generally prohibits an adverse decision or denial of benefits predicated on a belief that a person should look, act, or conduct themselves in ways stereotypical of their sex yet permits that sort of discrimination if a person has deviated from one particular conception of masculinity and femininity. That regime would itself discriminate against gay, lesbian, and bisexual individuals by excluding them from "the protection from gender stereotyping extended to all other people as men and women." Schultz, *Reconceptualizing Sexual Harassment*, 107 Yale LJ 1684, 1785 (1998).

A sexual orientation loophole to the ELCRA would also allow sex stereotyping to occur because entities could use sexual orientation as a pretext to engage in unlawful discrimination on the basis of sex. As explained above, it will often be impossible to disentangle evidence of sex stereotyping from evidence of discrimination on the basis of sexual orientation. Consider an employee who alleges that she experienced sex discrimination and points to her supervisor's remark that she has an inappropriate "Ellen DeGeneres kind of look." *Lewis v Heartland Inns of*

America, 591 F3d 1033, 1036 (CA 8, 2010) (finding employee stated sex discrimination claim based on these and other allegations). An employer could seek to avoid liability by maintaining they were not punishing the employee for failing to conform to sex stereotypes about how women should look, but instead because of her sexual orientation. That would create a gaping hole in the protections against sex discrimination for entities to exploit.

II. There are no First Amendment issues for this Court to address.

Rouch World briefly argues that MDCR's interpretation of the ELCRA should be rejected because "requiring participation in same-sex weddings violates the First Amendment." Rouch World Br at 34. But this Court need not and should not address any First Amendment issues that might arise from particular applications of the ELCRA in order to resolve the legal question about the proper interpretation of the ELCRA on which the Court granted the bypass application.

First, Rouch World ignores the governing standard for First Amendment claims, insisting that the ELCRA would "face[] strict scrutiny." Rouch World Br at 35. But earlier this year, the United States Supreme Court reiterated that "neutral and generally applicable" laws "burdening religion are ordinarily not subject to strict scrutiny." *Fulton v Philadelphia*, __ US __, __; 141 S Ct 1868, 1876; 210 L Ed 2d 137 (2021). The ELCRA is not subject to strict scrutiny because it is both neutral and generally applicable. There is no plausible allegation that the ELCRA was motivated by a desire to single out religious believers, *Church of Lukumi Babalu Aye, Inc v Hialeah*, 508 US 520, 542; 113 S Ct 2217; 124 L Ed 2d 472 (1993), and the text of the ELCRA applies to religious and nonreligious entities alike and treats nonreligious entities comparably to religious ones. Cf. *Tandon v Newsom*, __ US __, __; 141 S Ct 1294, 1296; 209 L Ed 2d 355 (2021).

Second, Rouch World asserts that "[e]ven the Supreme Court in *Bostock* did not hold that discrimination laws automatically supersede religious freedom." Rouch World Br at 35. But

Bostock deferred any consideration of religious liberty claims against Title VII to future cases; it did not resolve or address possible religious liberty challenges that might result from the Court's interpretation of the statute. See *Bostock*, 140 S Ct at 1754 (concluding that "how these doctrines protecting religious liberty interact with Title VII are questions for future cases" in part because "[i]n its certiorari petition . . . the company declined to seek review" of the religious liberty determination by the lower courts). This Court should do the same. The Supreme Court's recent free exercise, religious liberty challenges to antidiscrimination statutes confirm that the challenges often depend on case-specific facts about particular adjudications of civil rights complaints, *Masterpiece Cakeshop v Colo Civil Rights Comm'n*, __ US __, __; 138 S Ct 1719, 1729–1730 (2018), or unique terms in particular governmental contracts, *Fulton*, 141 S Ct at 1878–1880. Neither issue is implicated here. Rouch World does not allege anything improper about the state investigation beside their claim that the ELCRA does not prohibit discrimination on the basis of sexual orientation; nor is there anything unique about the ELCRA that would trigger strict scrutiny.

Third, Rouch World is mistaken that the ELCRA "authorize[s] coerced and forced participation in same-sex weddings." Rouch World Br at 35. The ELCRA merely forbids discrimination and denials of benefits; the fact that a same-sex couple might use plaintiffs' event space does not mean that the plaintiffs are forced to participate in the couple's wedding ceremony.

In sum, this Court need not address any First Amendment issues that might arise from particular applications of the ELCRA. Nor is the First Amendment a bar to holding that the ELCRA, by prohibiting discrimination because of sex, prohibits discrimination based on sexual orientation.

CONCLUSION

The order of the Court of Claims denying Defendants' motion for summary disposition should be reversed.

Respectfully submitted,

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December 17, 2021

APPENDIX

AMICI CURIAE

The **American Civil Liberties Union of Michigan** is the Michigan affiliate of the **American Civil Liberties Union**, a nationwide, non-profit, nonpartisan organization with 1.5 million members dedicated to the principles of liberty and equality embodied in the Constitution and this Nation's civil rights laws. Through its national and Michigan LGBT Projects, the ACLU works in courts, legislatures, and communities to protect the rights of lesbian, gay, bisexual, and transgender individuals from discrimination.

Affirmations LGBTQ+ Community Center was founded in 1989 with a mission to provide a welcoming space where people of all sexual orientations, gender identities and expressions, and cultures can find support and unconditional acceptance, and where they can learn, grow, socialize and feel safe. Providing support groups, educational and social activities, as well as food assistance, Affirmations serves LGBT individuals throughout metropolitan Detroit, some who have been subject to discrimination due to their sexual orientation and or gender identity.

The **Anti-Defamation League** (ADL) is a leading anti-hate organization. Founded in 1913 in response to an escalating climate of anti-Semitism and bigotry, its timeless mission is to protect the Jewish people and to secure justice and fair treatment for all. Today, ADL continues to fight all forms of hate, including anti-LGBTQ hate, with the same vigor and passion. ADL is the first call when acts of anti-Semitism occur. A global leader in exposing extremism, delivering anti-bias education and fighting hate online, ADL's ultimate goal is a world in which no group or individual suffers from bias, discrimination or hate. The ADL regional office in Detroit, Michigan serves the entire state of Michigan.

Equality Michigan is Michigan's statewide LGBTQ political advocacy organization. Formerly known as the Triangle Foundation, Equality Michigan has been Michigan's anti-violence political advocacy organization for more than 25 years. Equality Michigan's Victim Services Program provides dedicated survivor services to LGBTQ persons who have experienced discrimination, violence, and harassment.

Freedom for All Americans is the bipartisan campaign to secure full nondiscrimination protections for LGBTQ people nationwide. It is a nonprofit organization that brings together Republicans and Democrats, businesses large and small, people of faith, and allies from all walks of life to make the case for comprehensive nondiscrimination protections that ensure everyone is treated fairly and equally.

The **Gender Identity Network Alliance**, established in 2005, is a Michigan grassroots organization dedicated to creating positive social change that supports all forms of gender identity and gender expression. The Alliance supports public policy efforts that provide equal opportunity and fairness for the transgender community, and offers both educational and supportive programs for that community.

GLBTQ Legal Advocates & Defenders (GLAD) works in New England and nationally, through strategic litigation, public policy advocacy, and education, to create a just society free of discrimination based on gender identity and expression, HIV status, and sexual orientation. Since 1978 GLAD's litigation has achieved a number of precedent setting victories on behalf of LGBTQ people, including the right of same-sex couples to marry

The **Human Rights Campaign** (HRC) is a non-profit civil rights organization with more than three million members dedicated to ending discrimination against lesbian, gay, bisexual, transgender and queer people and realizing a world that achieves fundamental fairness and equality

for all. HRC envisions a world where LGBTQ people are ensured equality and embraced as full members of society at home, at work, and in every community. Among other things, HRC advocates for policies, regulatory changes and legislation that guarantee the legal equality of LGBTQ people.

Lambda Legal Defense & Education Fund, Inc. (Lambda Legal), founded in 1973, is the oldest and largest national legal organization whose mission is to achieve full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and everyone living with HIV through impact litigation, education and public policy work. Lambda Legal has been involved with every significant case impacting LGBT civil rights, including marriage equality.

LGBT Detroit has been providing a safe, brave space focusing on Black LGBT+ issues and supporting LGBT+ culture through education and advocacy for more than two decades. Among its programs are a mentorship/leadership academy, various support groups, and educational workshops and forums. LGBT Detroit hosts the annual Hotter Than July, the oldest Black LGBT+ Pride, which includes social, educational, and entertainment events.

The **Michigan Unitarian Universalist Social Justice Network** (MUUSJN) is a statewide network of 25 Unitarian Universalist congregations who work with other faith groups and with activist allies for justice. Its priorities are: LGBTQ+ rights; women's rights; economic justice; racial equity; environmental justice; and voting rights. Their work for LGBTQ+ rights includes educating people in their congregations regarding how to be more welcoming and supportive of people from LGBTQ+ communities, and advocating for comprehensive LGBTQ+ civil rights protections.

The **National Center for Lesbian Rights** is a national organization committed to protecting and advancing the rights of lesbian, gay, bisexual, and transgender people through

impact litigation, public policy advocacy, public education, direct legal services, and collaboration with other civil rights organizations and activists.

The **Out Center of Southwest Michigan**, located in Benton Harbor, provides support services and resources to LGBTQ people, their families, and allies. The Center works to create change in Southwest Michigan through initiatives based on education and strategic partnerships, including establishing the first LGBTQ-inclusive local human rights ordinance in the tri-county area, as well as working with school communities to create safe and supportive learning environments for LGBTQ students.

Out Front Kalamazoo is the community center for LGBT people in the Kalamazoo area, providing a safe and welcoming environment, with a wide range of educational programs and supportive services. For over 30 years the organization has worked to advance social justice, build coalitions, and change hearts and minds so that LGBT people can live authentically and free from discrimination.

Pride At Work Michigan is the Michigan chapter of Pride At Work, a nonprofit which represents LGBTQ union members and their allies via more than 20 chapters across the United States. They are an officially recognized constituency group of the AFL-CIO (American Federation of Labor & Congress of Industrial Organizations), and they seek full equality for LGBTQ workers. Whether on the job or in our unions, they oppose all forms of discrimination when it is based on sex, gender identity, gender expression, sexual orientation, race, national or ethnic origin, age, disability, religion, or political views.

The **Ruth Ellis Center**, founded in 1999, provides trauma-informed services for LGBTQ youth and young adults, with an emphasis on young people of color, experiencing homelessness, involved in the child welfare and juvenile justice system, and/or experiencing barriers to health

and well-being. Ruth Ellis operates a Health and Wellness Center that provides integrated medical and behavioral health services, a Drop In Center, Kofi House—a center for lesbian and queer women and girls—and will be soon opening a supportive housing program for homeless and at-risk LGBTQ youth.

SAGE (Services and Advocacy for LGBTQ Elders) **Metro Detroit** is an LGBTQ focused organization focused on providing services, advocacy and support to LGBTQ older adults in Michigan. An affiliate of the national SAGE, SAGE Metro Detroit provides cultural competency training to older adult providers and offers programming to meet the technical, social, and nutritional needs of LGBTQ seniors in Southeastern Michigan. SAGE Metro Detroit also advocates for public policy initiatives that both recognize and affirm the dignity and equality of LGBTQ older adults.

Southern Poverty Law Center (SPLC) is a nonprofit civil rights organization working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people. Since its founding in 1971, the SPLC has won numerous landmark legal victories on behalf of society's most vulnerable members, including LGBTQ people and their families. SPLC has represented LGBTQ people in civil rights case under federal and state law throughout the United States.

Stand With Trans's mission is to provide tools needed by transgender youth so that they will be empowered, supported, and validated as they transition to their authentic lives. Since 2015 Stand With Trans has been dedicated to developing life-saving programs, educational events, and support groups for transgender youth and their families throughout Michigan and across the country, with the vision of erasing the stigma surrounding trans identities.

Trans Sistas of Color Project is designed to uplift, influence, and improve the lives and well-being of transgender women of color in metro Detroit. The Project provides care packages, including food and financial assistance to transgender women, many who have experienced discrimination, violence, and harassment due to their race, gender identity, and sexual orientation.