

# IMPACT



**Mackinac Center Legal Foundation Fights for Freedom in the Coronavirus Era**

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A stylized rainbow logo consisting of three concentric, semi-circular arcs. The top arc is yellow, the middle is orange, and the bottom is white. Each arc is composed of several segments, with small dots at the ends of the segments.

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## LETTER FROM THE EXECUTIVE VICE PRESIDENT

# A Job Gives Hope

“Dad, I got the job!”

It’s among my proudest moments as a father. (Indulge a few personal thoughts, if you will.)

The year 2020 — with the coronavirus pandemic, the lockdown of society, high unemployment and civil unrest — has brought its share of firsts.

Among them: the first “real” job for my son, our oldest child, who secured the position over the Independence Day weekend. I’ll admit that I had few expectations that a teenager with no previous experience could find a job this summer. Rest assured: Either way, he would have been working. There are plenty of household projects I need help with, but everyone’s preference (especially his) was for him to experience the workplace.

Over a celebratory lunch, I found myself giving my boy the same first-job advice my father gave me: “Never stand around. Always find something to do. If there’s nothing to do, you can always sweep the floor.”

A job is a marvelous thing, and a person’s first job is a sign of significant opportunities ahead, even if the job itself lacks glamor. For a kid, it’s the means to the first tastes of agency and independence. “I’ll get a job and buy a phone, get a car, save for college.”

The free enterprise system has done more to lift people out of poverty than any government or social service program in history. A job, a basic building block of independence, is the best poverty-elimination tool known to mankind.

Give a person a job and you give that person a future. Even better, the job changes the future. Which is why it is heartbreaking to see employers and job-holders alike hampered by Michigan’s months-long lockdown. Michigan’s recovery won’t be the result of a federal stimulus or a state government action. Rather, it will come from brave



entrepreneurs and resilient employees who fuel growth, prosperity and philanthropy.

Your generous support of the Mackinac Center gives people hope, because it enables public policy solutions that expand employment and prosperity. Whether it’s the proposition that people should be free to work without financially supporting a union (right-to-work), eliminating barriers into the job market (licensing reform), enabling offenders to reenter the workforce after facing the consequences (criminal justice reform), or allowing families to keep more of the money they’ve earned (tax reform) — the ideas we value recognize the dignity of work and the hope a job confers.

Ask just about anyone if they remember their first job and you’ll likely get the same response: A smile, a nod of the head, and a fond remembrance: “I’m glad I don’t do that any longer, but I wouldn’t trade it for anything.” ■

### By Michael J. Reitz

Michael J. Reitz is the executive vice president at the Mackinac Center.



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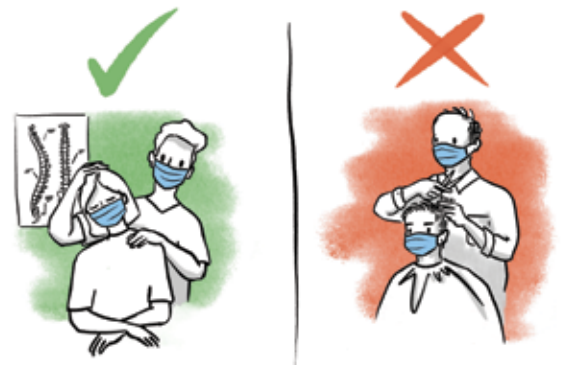
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## Michigan's Arbitrary Lockdown Rules



### BLOG

Keep up-to-date on the latest policy stories from Mackinac Center analysts.

[Mackinac.org/blog](https://www.mackinac.org/blog)

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Michigan Capitol Confidential is the news site of the Mackinac Center that provides unique news coverage.

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# Virtual Events with the Mackinac Center

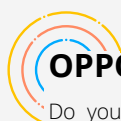
For all Michiganders, this uncertain and unusual time means we need to adapt to the environment and find new ways of carrying out our regular activities. The Mackinac Center has temporarily transitioned to virtual, online events that are free to attend and watch. To find out more and to view archived video events, please visit [Mackinac.org/Events](https://Mackinac.org/Events).

 <p>May <b>20</b></p>	<p><b>Virtual Town Hall: A Tale of Two States</b></p> <p>Featuring: Joseph G. Lehman, president of the Mackinac Center; Jon Lundberg, Tennessee State Senator and Michigan native; and Aaron Miller, Michigan State Representative</p>
 <p>May <b>27</b></p>	<p><b>Environmental Climate Change, Contagion and Cataclysm</b></p> <p>Featuring: Jason Hayes, director of environmental policy at the Mackinac Center; Jason Isaac, senior manager of the Life:Powered project at the Texas Public Policy Foundation; and Isaac Orr, policy fellow at Center of the American Experiment</p>
 <p>June <b>17</b></p>	<p><b>Gov. Whitmer's Unprecedented Use of Emergency Powers</b></p> <p>Featuring: Joseph G. Lehman, president of the Mackinac Center; Michael Van Beek, director of research for the Mackinac Center; and Patrick Wright, vice president for legal affairs at the Mackinac Center</p>
 <p>June <b>23</b></p>	<p><b>Mid-Michigan Dam Failures: What Happened and Where Do We Go From Here?</b></p> <p>Featuring: David E. Kepler, II, owner, TCP Investments; and Jason Hayes, director of environmental policy at the Mackinac Center</p>
 <p>June <b>30</b></p>	<p><b>Seven Principles of Sound Environmental Policy: How Can Markets Help Protect Our Natural Environment?</b></p> <p>Featuring: Todd Myers, director of the Center for the Environment at the Washington Policy Center; and Jason Hayes, director of Environmental Policy at the Mackinac Center</p>

## MICHIGAN VOTES

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# Educating Michigan's Future Legislators

New legislators face a significant knowledge hurdle during the early stages of their public service. They may have been motivated to run by one or two issues and built their campaign platform to speak knowledgeably about four or five. But once they are sworn in, they are quickly thrown into the deep end and forced to cast career-defining votes on matters that they may have known nothing about. Family law? Pension assumptions? Sex offender registration? Data system management?

Such challenges are compounded in a state with term limits as aggressive as Michigan's. Some issues take several years to master, and our constitution turns over the entire Michigan House every six years — assuming voters haven't done it sooner.

But this frequent turnover also presents a special opportunity. I observed while working in a state with no term limits that long-tenured legislators tend to become more invested in Capitol networks than in their constituents. They are also more likely to resist comprehensive reforms. New blood, on the other hand, can mean new energy, fresh mindsets and a convert's desire to take on heavy lifts.

Right-to-work, asset forfeiture reform and auto insurance reform are examples of recent changes that came about

because an influx of new legislators said, "That makes sense, why not?" before the old-timers could convince them, "Because it's damned hard and you'll make some big groups mad!"

As a 501(c)(3) organization, the Mackinac Center may not engage in political activity, which includes endorsing candidates in a partisan election. We can't write campaign checks like unions, trade associations, and lobbying firms can. Nevertheless, we are able to offer candidates our expertise on the issues you care about, and we do so within our broad mission to educate Michiganders on the issues facing our state.

In June, we launched the first edition of MCPP Candidate University. We invited all nonincumbent candidates for the Michigan House — regardless of party affiliation — to a briefing series led by our experts, introducing them to our key areas of research. This was built off a program I built and managed in Texas, starting in 2010; by the time I came here two years ago, almost two-thirds of Texas House Republicans had gone through that training.

Our original plan for candidates in Michigan was to have four identical day-long programs in different regions of the state, but COVID-19 forced us into six hour-long webinars spaced over three

weeks in June. Each webinar provided an introduction to two or three topics, with slides containing key statistics and illustrations. Candidates had the opportunity to direct questions to our experts. All of the presentations and background articles were compiled on a private web portal for the participants.

Out of 300 nonincumbent House candidates, 68 registered for the program and portal access. Forty-four of these (including 10 Democrats) joined at least one session. And those who win their November elections will be invited to another briefing in December that will expand on these topics and provide more specific recommendations for the 101st Michigan Legislature.

A growing number of our sister think tanks are adopting candidate education as a government affairs tactic, but MCPP Candidate University appears to be the first comprehensive program conducted online. The enthusiastic reception it received from the participants, our experts, and our peers guarantees that it will become a core even-year activity of ours from now on. ■

**By David Guenther**

David Guenther is the senior strategist for state affairs at the Mackinac Center.



# Mackinac Center To Argue At Michigan Supreme Court

Before March, few people knew about the emergency powers Michigan governors possess. This seems incredible, now that Gov. Gretchen Whitmer is using these powers to control the lives of 10 million Michiganders. The events of this year have exposed a large problem with Michigan's emergency power laws — one that calls into question the state's constitutional requirement that executive, judicial and legislative powers remain separate.

Gov. Whitmer is not the first Michigan governor to use emergency powers. In fact, in 2019, she declared seven state emergencies. Those declarations were made under the Emergency Management Act of 1976, which previous governors relied on to declare emergencies and coordinate government services to aid in disaster relief after rainstorms, power outages, chemical spills and the like.

What is different in 2020 is that Gov. Whitmer is using both the 1976 act and an older law from 1945 that appears to grant the governor even broader emergency powers. She believes that the 1945 law — the Emergency Powers of Governor — enables her to determine unilaterally when an emergency begins and ends. This effectively means that the governor may issue edicts that have the

force of law for however long she — and she alone — determines them necessary. No other Michigan governor has attempted this tactic before.

The state constitution requires a separation of powers, so there is a real question if those powers are distinct and separated if governors may become lawmakers whenever they choose. This is a question that the Michigan Supreme Court will consider later this year, prompted by a lawsuit filed by the Mackinac Center Legal Foundation.

But even if the courts make a clear ruling about governors' use of emergency powers, questions will remain about how much power the state has over our day-to-day lives in the midst of a declared pandemic. In addition to the laws authorizing the governor to exercise emergency powers, other statutes in Michigan empower health officials, both local and at the state level, to issue orders to protect the public health at various times.

In fact, the Michigan Department of Health and Human Services has already issued its own emergency orders that reinforce Gov. Whitmer's rules. Michiganders perhaps would have quarantine-like restrictions placed on them even if the governor could not use the 1945 act any longer. The only

difference would be it was an unelected bureaucrat making the orders and not the state's highest officeholder.

Clearly, a thorough review of Michigan's emergency power laws and other quarantine-related rules is needed. The Mackinac Center is already working on crafting a better emergency system that lets the governor use executive power quickly, but also maintains a separation of powers. The novel coronavirus has taught many Michiganders a lesson that the Mackinac Center's first president, Larry Reed, articulated: "A government that's big enough to give you everything you want is big enough to take away everything you've got." ■

**By Michael Van Beek**

Michael Van Beek is the director of research at the Mackinac Center.





# Mackinac Center Legal Foundation Fights for Freedom in the Coronavirus Era

## The Legal Foundation filed three lawsuits challenging Gov. Gretchen Whitmer's executive orders

As a part of her “Stay Home, Stay Safe” initiative, Gov. Whitmer issued over 160 executive orders. Several of these orders shut down various aspects of Michiganders’ daily lives. Hair salons, doctors offices and restaurants were just a few of the businesses to be affected by the lockdown. These closures affected life drastically, with some people having their livelihoods shut down and many suffering harm to their health and well-being.

It was for this reason that the Mackinac Center Legal Foundation, in conjunction with the Miller Johnson law firm, took up three separate lawsuits challenging the governor’s executive orders.

The first lawsuit was on behalf of three medical practices unable to schedule necessary care and one patient unable to schedule necessary treatment due to the mandatory cancellation of so-called nonessential medical procedures. Some of these nonessential procedures included repairing a damaged feeding tube and treating heart attacks. In another case, a mandatory delay in performing gallbladder surgery resulted in gangrene.

“Not only has this shutdown harmed my employees and my practice, but it has put my patients directly at risk,” said Jordan Warnsholz, a physician assistant and owner of two of the represented medical practices.

“These oppressive executive orders are meant to save lives, but instead, they are endangering many of them.”

On June 30, the Michigan Supreme Court announced that it will hear oral arguments in the case on Sept. 2. The case specifically challenges whether Gov. Whitmer violated the law by unilaterally extending a state of emergency. Michigan law requires the Legislature to approve such extensions, but the governor went ahead without getting its approval.

The second of the lawsuits was filed to challenge the governor’s strict workplace safety measures. Businesses that did not



From left to right: Jeff Wiggins, DJ VanderSlik, Randal Baker, Jeffery Gulick and Jordan Warnsholz. Left page: Sarah Huff.

follow the governor's orders while reopening faced a three-year felony and a fine of up to \$70,000. In addition, if the state did not seek jail time for an offense, the standard of proof was lowered from "beyond a reasonable doubt," making it much easier for businesses to be fined.

The governor's workplace rules also took lawmaking power out of the hands of elected officials, like sheriffs and prosecutors, and gave it to unelected bureaucrats in state regulatory agencies.

"By making her own rules without backing from the Legislature, the governor is neglecting to give the people a voice," said DJ VanderSlik, owner of DJ's Landscape Management and one of the clients in this case. "We have the constitution for a reason."

The lawsuit was filed on behalf of Associated Builders and Contractors of Michigan, as well as VanderSlik's company.

Early in June, the Michigan Court of Claims ruled in favor of the Mackinac Center Legal Foundation. The ruling stated that the heightened penalties found in Gov. Whitmer's executive orders violate state law, and the governor does



Sarah Huff, a salon owner in Holland, Michigan, participating in the Operation Haircut protest at the Capitol.

not have authority to issue more than a misdemeanor under either the Emergency Powers of Governor Act or the Emergency Management Act.

This was the first time a Michigan court declared one of Gov. Whitmer's executive orders unconstitutional.

The most recent lawsuit filed by the Mackinac Center Legal Foundation and Miller Johnson was on behalf of Sarah Huff, a salon owner in Holland, Michigan. Like all salon owners, she was ordered to

shut down her business in March. As time went on and it became apparent that the order would not be lifted anytime soon, Huff decided, in May, to reopen by herself. Shortly afterwards, she participated in the Operation Haircut protest on the lawn of the Michigan Capitol.

Since then, Huff was charged with a misdemeanor for taking part in the protest. The Michigan Department of Licensing and Regulatory Affairs has threatened to revoke her business license. ■



## Amicus Briefs Lead to Partnerships with Other Organizations

The Mackinac Center Legal Foundation has written several amicus briefs in partnership with other think tanks around the country.

In December 2019, the Foundation joined an amicus brief written by the Liberty Justice Center for the U.S. Supreme Court to consider in the case of *Fleck v. Wetch*. The court declined to hear the case, which is about whether laws requiring attorneys to join the state bar are subject to the same regulations that came down in the historic *Janus v. AFSCME* case. The Mackinac Center Legal Foundation partnered with Liberty Justice Center again in January for

the *Jarchow v. State Bar of Wisconsin* case. This case would have looked at "integrated bar" arrangements, but unfortunately, the Supreme Court chose to not hear the case.

In April, the Mackinac Center signed onto two briefs for other cases that might be heard by the U.S. Supreme Court.

The first of these, written by the Goldwater Institute, involves *Janus v. AFSCME*. If the court hears the case, it would offer some guidance for several lawsuits across the country in which former union members are seeking to reclaim dues that they were forced to pay.

The second case, from Tennessee, argues that the state's billboard law violates First Amendment speech protections of the U.S. Constitution. The Supreme Court is considering whether to hear it.

These amicus briefs are important, even if the high court does not hear the cases. Not only do they help the Mackinac Center get its research and ideas to a national legal audience, but they also help form and maintain relationships that Mackinac has with other organizations across the country. ■

# The 2020 Intern Class

Even in an unconventional year, the Mackinac Center is proud to still be welcoming ten individuals to its summer intern program.



Returning for his second summer internship with the Mackinac Center, **Justin Witt** is this year's advancement intern. He is a rising sophomore at the University of Notre Dame, where he studies business and public policy. He is also a Kellogg international scholar who researches topics in international business ethics.



The Morey Fiscal Policy team is excited to welcome **Hank Minor**, who is interning at the Mackinac Center for the first time this summer. He recently graduated from the University of Michigan-Ann Arbor, with a degree in political science. In the fall, he will be returning to his alma mater to pursue a degree in law.



**Iruoma Ezoumba** is returning for her second year at the Mackinac Center, working as a communications intern. She recently graduated from Central Michigan University with a master's degree in communications and will be pursuing a doctorate in communications from the University of Wisconsin-Milwaukee, in the fall. Before working in communications, she earned a law degree at the Obafenu Awolowo University in Ile-Ife, Nigeria.



**Chase Slasinski** is returning for his fourth summer at the Mackinac Center and is currently working as one of the two fiscal policy interns. He recently graduated from Michigan State University with a degree in political theory. In the fall, he will be attending the University of Minnesota's law school.



The Capitol Confidential team welcomes **Parker Thayer**, who is interning at the Mackinac Center for the first time this summer. He is a rising senior at Hillsdale College, where he studies economics. In his spare time, he enjoys reading good books and fishing.



**Elise Malkowski** is interning at the Mackinac Center for the first time this year as the graphic design intern. Elise recently graduated from Dow High School. In the fall, she is planning on attending the Savannah College of Arts and Design. She has regularly performed with Dow High's Drumline.



**Anna Claire Rowlands** is joining the Mackinac Center for the first time this summer as one of the two communications interns. She is a rising junior at Grove City College and a member of the Grove City College Parliamentary Debate Club.



**Emma Eisenman** is returning to work at the Mackinac Center for a second summer as the criminal justice intern. She is a rising senior at Hillsdale college, studying German. This fall, she will be interning at the U.S. State Department through the Washington Hillsdale Intern Program.



This summer is **Jared Key's** first time interning at the Mackinac Center, and he is working as the think tank's education policy intern. He is a rising senior at Hillsdale college, where he is pursuing a double major in politics and religion. He also serves as the president of Hillsdale's Ballroom Dance Club.



**Aaron Lehman** is returning to work for the Mackinac Center for his third summer, currently as the environmental policy intern. He is a rising junior at Grove City College, where he studies biology and philosophy. He is also the president of the Grove City Sign Language Club.



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**Michigan's Arbitrary Lockdown Rules**

✓  
**PRO BOWLING**



✗  
**REC BOWLING**



While dentists can now open, cosmetologists are forbidden.

**Michigan's**

✓  
**POKER AT A CASINO**



**BINGO HALL**



mackinac.org  
**Michigan's Arbitrary Lockdown Rules**



**Lockdown Rules**

✗

**CARWASH BY HAND**



...ed via executive order  
... employees are still  
...mselves.

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**Michigan's Arbitrary Lockdown Rules**



People can take out kayaks or sailboats but not small, one-person vessels with a motor.

mackinac.org  
**Arbitrary Lockdown Rules**



Chiropractors are allowed to carefully serve clients while following strict safety protocol. Barbers and cosmetologists, who could easily follow similar safety protocol, are outlawed.

**Michigan's**





# How To Merge Facts and Stories To Persuade

## Examples from the coronavirus overreach

Everyone likes to have data and facts on their side, but people are more likely to be moved by stories and narratives. The Mackinac Center is always trying to use both data and stories when presenting information. The best, and most persuasive, journalism typically includes both.

This approach has influenced how we have covered the issue of COVID-19 and the governor's executive orders through our news service. We have used "news bites" — short pieces from our news service Michigan Capitol Confidential — to present the data. We have also used cartoons to make the emotional point. And many of our articles weave the emotional stories of real people and businesses with facts rarely found anywhere else.

This has been particularly true in our coronavirus coverage. This is a serious issue which has caused a lot of harm. But the government's response has also caused a lot of harm — to people's health (by shutting down medical facilities), the economy and the education system. Our coverage of the issue gave people more than the

Continued

shallow information they exploring trade-offs and showing the results of the state's response.

Our cartoons (see page 12) pointed out the nonsensical nature of many of the governor's arbitrary and overly restrictive executive orders. Like allowing boating, as long as it didn't use a motor; walking, but not with golf clubs; letting auto repair shops to do business, but not bicycle repair shops; letting landscapers work, but not roofers; allowing chiropractors and dentists to work, but not barbers or hair stylists.

Our news bites hammered the points with facts and figures, digging out information from state reports on deaths, hospitalizations and employment. Here's a recent example of a news bite:

## Whitmer Extends Emergency Even As Hospital Occupancy Rates Back To Normal

Gov. Gretchen Whitmer says she will extend the State of Emergency she declared in March through the end of July and likely longer, according to the Detroit Free Press.

"This crisis is not over," Whitmer said June 17 at her press conference.

When she declared the COVID-19 epidemic state of emergency on March 10 Whitmer said: "Ultimately these recommendations are about slowing the spread of the disease to ensure that medical facilities have adequate staffing and resources for vulnerable populations and those who are sick."

The "staffed bed" occupancy rate in the state's hospitals was 66% as of June 15.

That's in line with the levels Michigan's hospitals have experienced in normal times over the past decades.

The average bed occupancy rate in Michigan was 66% in 1990, 65% in 2000, 66% in 2010 and 65% in 2015, according to the Centers for Disease Control and Prevention.

### Other recent news bite headlines:

- "Another Small Business 'Dream' Crushed By State Lockdown"
- "43 States Imposed Lockdowns; 24 Have Expired Or Been Repealed"
- "Michigan Unemployment Rate Jumps From 4% to 23.8% In One Month"
- "Workers Earning Under \$50K A Year Could Do Better On Unemployment"
- "Detroit Cops Have Issued 2,528 Tickets For Lockdown Violations"
- "U.S. Department of Justice: Why Pot Dispensaries Allowed But Not Car Washes?"
- "Fewer New Coronavirus Cases In Midland After Thousands Helped On Flood, Cleanup"
- "Fewer New Michigan COVID-19 Cases Since George Floyd Protests Began"

Using more than one way to cover the pandemic and the government's response has paid off: Michigan Capitol Confidential is having its best year ever, and millions have read these articles and seen the cartoons. Our news website has been widely cited and the cartoon series is a finalist for a national award.

Facts and stories. Together, they can paint a powerful message that persuades. ■

### By Jarrett Skorup & Tom Gantert

Jarrett Skorup is the director of marketing and communications at the Mackinac Center, and Tom Gantert is the managing editor of Michigan Capitol Confidential, a daily news site of the Mackinac Center.



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# Mackinac in the Media

When the Mackinac Center Legal Foundation launched its first lawsuit against Gov. Gretchen Whitmer's act to unilaterally extend her emergency powers, the media immediately took note. The case, filed on behalf of medical providers and a patient who was unable to receive care due to restrictions on "nonessential" medical care, quickly gained attention. Not only were our clients and legal team featured in outlets across the state, but the lawsuit caught the attention of national publishers as well, including The Associated Press, The Washington Times, Bloomberg Law and

Becker's Hospital Review. Rush Limbaugh and Glenn Beck mentioned it on their nationally distributed radio shows, as did numerous radio hosts across Michigan.

As the federal government tries to combat the economic effects of pandemic-related business shutdowns, many states looked to Congress to provide relief funds. Some states, however, were tempted to use these funds to fix budget issues that existed long before the pandemic. To forestall this possibility, the Mackinac Center led a coalition of 24 think tanks to urge lawmakers to strip funds unrelated to COVID-19 relief. The Detroit News published an editorial on this, which later ran in other outlets. Michael LaFaive, senior director of fiscal policy for the Mackinac Center, co-authored a piece for The Hill with Carol Platt Liebau of the Yankee Institute to discuss how state and local bailouts would reward fiscal wastefulness. "In short, bailouts would discourage sound solutions and real leadership, and encourage more bad choices. Forcing all taxpayers to bail out fiscally irresponsible states and local governments would be a profound injustice to those who have voted for more responsible leadership," they wrote.

take on the situation. Hayes was quoted in the Washington Examiner, Center Square, Detroit News and Midland Daily News. He also published an op-ed in The Detroit News, in which he called for an independent and unbiased investigation.

Another lawsuit launched by the Mackinac Center Legal Foundation is also receiving a lot of attention. The Mackinac Center is currently representing ABC Michigan and a private landscaping company. One point of the lawsuit argues that Gov. Whitmer's workplace safety mandates are unconstitutional. In June, a state Court of Claims judge ruled that the heightened penalties found in the governor's executive orders violate state law. It is the first time a court found that any of Gov. Whitmer's executive orders violated the law. This case was covered in every major newspaper in the state, including the Detroit Free Press, MIRS News, Gongwer, Bridge Magazine, Crain's Detroit Business, MLive and the Lansing State Journal. It was also covered by USA Today and the Associated Press, running in state papers across the country.

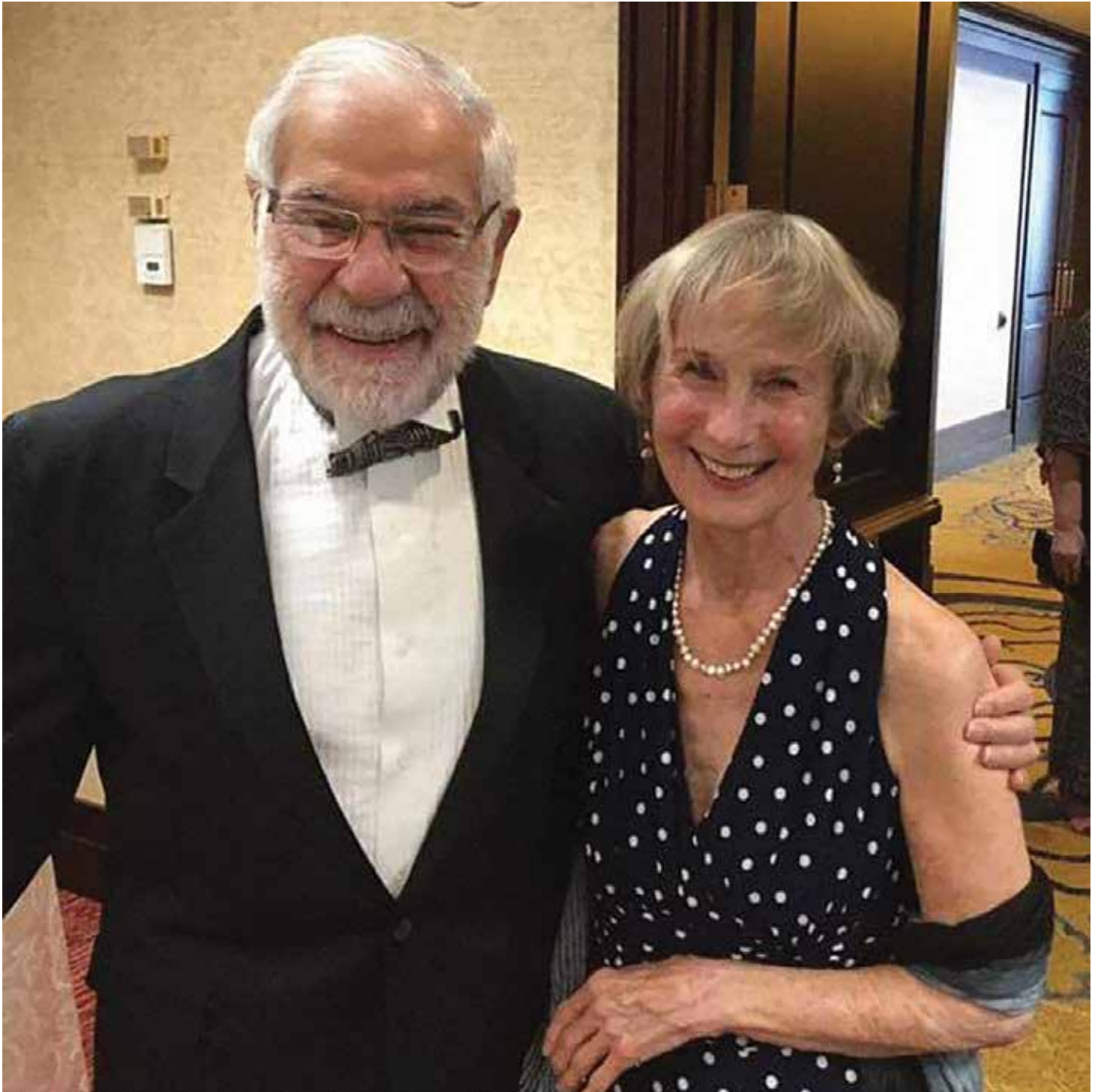
A recent ruling from the U.S. Supreme Court in Espinoza v. Montana brings a ray of hope to Michigan families. Ben DeGrow, director of education policy, wrote about this victory in The Detroit News on the day of the decision. "Michigan's 50-year-old restrictive stance leaves the state as a serious outlier," said DeGrow. "This new reality only heightens the urgency for state policymakers to open the door for students to access the full range of educational opportunities." ■



*Holly Wetzel*

Communications Coordinator

You may have heard about the disaster that struck in our own backyard when two dams failed, resulting in a horrific flood that hit Midland and the surrounding areas. Thankfully our staff (and building) is safe, but property damage in the area was extensive. Given the complexities of the events, news outlets turned to Jason Hayes, our environmental policy director, to get his



## **Donor Profile: Dr. Lou and Mary Jane Zako**

Dr. Lou and Mary Jane Zako of Harbor Springs, Michigan, have become ardent supporters of the Mackinac Center for Public Policy in recent years, after following its work from its inception. They have watched closely as the Mackinac Center expanded its reach and influence beyond the borders of Michigan, growing from a state-based think tank exclusively focused on Michigan to one with a national impact.

Dr. Lou and Mary Jane both have had long careers in the medical field, she as a nurse practitioner and he as a family physician. They value the importance of a high-quality education and a strong family life and believe those two factors played integral roles in their professional success.

Dr. Lou grew up in Detroit, the son of Syrian Christians who had emigrated from southern Turkey out of fear of religious persecution. He was the first of his immediate family to be born a U.S. citizen. His parents and grandparents understood the value of freedom and the opportunities they had here in the United States, and they passed on to him a love of country that he treasures to this day. His life as a first-generation immigrant success story is rooted in the freedoms we hold dear. But so is the story of Mary Jane, who grew up in the small town of Keego Harbor, Michigan, with working-class parents and a 50-student high school class. Her father joined the United States Army around the time of World War I and later worked as a supervisor in the local foundry that supported the automobile industry. Her mom was a homemaker for most of Mary Jane's life, and both parents passed on the same love of country Dr. Lou received from his parents. The Zakos met at the University of Michigan and have very fond memories of their time together there.

Both Dr. Lou and Mary Jane are products of the public education system, all the way from grammar school through college. Thinking back on their experience with high-quality education makes them disappointed and horrified by public education most

Michiganders receive today. That is one of the reasons they invest in the Mackinac Center, knowing that the policy team is actively working to expand school choice for the most disadvantaged among us. They also appreciate that Michigan Capitol Confidential is diligent to expose and hold accountable the teachers unions and school districts that are failing today's youth.

Perhaps inspired by the work of CapCon, Dr. Lou has taken to blogging. He also been inspired by his son, who encouraged him to channel his passion for Michigan and his country into writing, even though the two of them do not always see eye to eye on politics or policy. Dr. Lou's blog now has readers from all over the world. One of his stories this year was about Sarah Huff, the Holland, Michigan, hairstylist who ultimately became a client of the Mackinac Center Legal Foundation (See page 9).

The Zakos have been particularly impressed by the work of CapCon through its coverage of COVID-19. They have long passed CapCon stories onto their friends and now see those friends share those stories within their own social circles. They share a sense of pride in seeing how much the Mackinac Center has grown in recent years and has had a positive impact on the lives of Michiganders and people all over the country through My Pay My Say and Workers for Opportunity projects, two projects for worker freedom.

The Zakos have drawn closer to the Mackinac Center in recent years, attending many policy forums all over the state and, more recently, attending many of the virtual events. They have made sure that the Mackinac Center will be supported beyond their own time with us by keeping it at the top of their will and estate plans.

In their view, the Mackinac Center for Public Policy is a star in several ways. One, they love that it is a state-based think tank. Two, they say it is big enough to have the resources to be effective and have a national impact, while not losing touch with its supporters.

Finally, they take pride in the Center's work in uncovering the dues-skim that took money from health aides. It is for these reasons and many others that the Zakos are members of the Mackinac Center Legacy Society.

They continue to be active members of the Harbor Springs community and spend about a quarter of their time in Vero Beach, Florida. Dr. Lou continues his practice by offering telemedicine from his home to patients in need. Most recently, he spent time as a physician at the PACE clinic in St. Joseph, Michigan, but he has also taken on 60-70 different physician assignments around the country through a staffing agency.

The Zakos are anxious yet hopeful for the future of Michigan and our country. They believe the best path forward for our youth is a good education and an intact family, for not all social problems can be solved in the public arena. Through their support of the Mackinac Center, the Zakos hope to ensure that the opportunities once available to them and their parents will be there for generations to come. ■



This report is available to read online at [www.mackinac.org/27849](http://www.mackinac.org/27849)

MACKINAC CENTER  
FOR PUBLIC POLICY

# THE 2020 MIDLAND COUNTY DAM FAILURE

Jason Hayes



Emerson

Non  
Motorized  
Use Only

Pere  
Marquette  
Rail-Trail

# Mid-Michigan Flooding and Dam Failure Confirm the Value of the Mackinac Center

In May, the Edenville Dam, a 96-year-old dam, located near Beaverton, Michigan, failed. That failure led to the subsequent failure of the Sanford Dam, near Sanford, Michigan, and to record flooding that forced over 11,000 people to evacuate, and ruined the homes, businesses and lives of many Mid-Michigan residents. Since then, the Mackinac Center and its employees have been at the center of attempts to rebuild and to better understand why the failure happened and how to shape policies that will help to avoid similar failures in the future.

After floodwaters washed away portions of the towns of Edenville and Sanford, they flowed downstream, flooding low-lying portions of Midland, the Mackinac Center's home city. When the waters finally crested, they were at the highest level ever recorded on that section of the Tittabawassee River, and only a few hundred feet from the Mackinac Center's front door.

The day after the flood, the Mackinac Center's president, Joe Lehman, was able to both thank and reassure our supporters, noting that while the flooding was receiving international attention, the Mackinac Center did not suffer any physical damage. "Mackinac is doing fine — no damage — and steaming at nearly full speed ahead. But a few of our teammates

were forced to evacuate their homes and are still assessing extensive property damage. All are accounted for and no one is hurt."

Lehman suggested that people who wanted to help should approach the Midland Area Community Foundation's Flood Relief Project Fund and the United Way of Midland County's Rise Together Fund, both of which were established to provide disaster relief in Midland County. He explained that "because of your past support, we are strong enough to help others." We remain committed to helping our community and state as we move through the policy confusion left in the flood's aftermath.

Immediately following the flooding, Gov. Gretchen Whitmer visited the area and argued that her administration had campaigned on improving the state's infrastructure. The dam's failure, she said, demonstrated that private companies should not own critical infrastructure.

Reporting by Michigan Capitol Confidential, however, revealed that the governor's first budget had tried to cut Michigan's modest spending on dam oversight (\$350,000) by \$150,000. Subsequent reporting by The Detroit News also demonstrated the Michigan Department of Natural Resources had denied a \$1.6 million grant request for

repair work from the Four Lakes Task Force, the potential purchaser of the dam.

The Mackinac Center's Environmental Policy Initiative focused heavily on the issue throughout May and June. We were quoted and published in a rapid succession of commentaries and op-eds on the Mackinac Center blog, Michigan Capitol Confidential, the Detroit News, Washington Examiner, Center Square, Midland Daily News, Chemical City Paper and others.

Two Mackinac Center experts, President Joseph Lehman and Director of Environmental Policy Jason Hayes, joined David Kepler, president of the Four Lakes Task Force, in a virtual policy event. Together, they addressed the question, "What caused the failures, and how can we begin to repair the damage?"

The Mackinac Center's final report expands on the question. You can read this report online at [www.mackinac.org/27849](http://www.mackinac.org/27849). ■

## By Jason Hayes

Jason Hayes is the director of environmental policy at the Mackinac Center.

## BY THE NUMBERS

Zero

Reported injuries from May's flood in Mid-Michigan

9/2/2020

The date that the state Supreme Court will hear our case on orders prohibiting medical providers from performing elective surgery

165

Number of COVID-19-related executive orders issued by the governor (as of 10:00 am, August 12, 2020)



# Your Investment Strengthens Michigan

A crisis can bring out the best and worst in human nature, and the COVID-19 pandemic has been no exception. Despite the tragedies, it has been heartening to see the way our communities have responded: Neighbors are sewing masks, distributing food, and making sure that no one's needs are left unaddressed. And at a moment's notice, industry leaders and private foundations rushed to the frontlines of relief efforts. Companies shifted manufacturing from commercial products to health care supplies in a matter of days. Within the larger tragedy of the COVID-19 outbreak and subsequent stay-at-home order, these bright spots are worth remembering.

Many people are now thinking about how Michigan can come back stronger than ever.

By supporting the Mackinac Center despite the challenges around us all, our longtime donors have positioned us to confront adversity. Your generosity in years past made us ready for this moment. In response to government overreach that harmed the well-being of small business owners and families, the Mackinac Center led the charge in supporting responsible policy to protect public health and our economy. Early on, the governor adopted several of our recommendations to discard, at least temporarily, burdensome regulations in the health care field. We're working to make those repeals permanent.

We were among the first to file a lawsuit challenging Gov. Gretchen Whitmer's

use of emergency powers. Because we focused on their threat to specific health needs, we prompted an immediate shift in posture from the governor. Furthermore, the writers and editors at Michigan Capitol Confidential, our journalistic arm, redoubled their efforts to promote transparency in the state government's response to COVID-19. CapCon's readership has grown tenfold, to over 15,000 readers daily.

While recent crises, including the lockdown, have caused unimaginable pain and loss for so many, loyal donors made it possible for us to expand our efforts to do good. Fortunately, new and recent supporters have also joined or rejoined the movement at a high rate. Times like these demonstrate the need for a mission like the Mackinac Center's, and countless individuals have taken notice.

A few years ago, a loyal Mackinac Center supporter described a contribution to our mission as similar to compound interest. He meant that while giving to the Mackinac Center may not always be the most alluring expenditure, it really works, and the results are clear over time. No matter the political or social climate, your investment in the Mackinac Center is paying off.

Because of you, we were ready for this moment and had the agility to stay in the fight. Because others are joining, we'll be even stronger moving forward. ■



**JIM WALKER**



**JUSTIN WITT**

Jim Walker is the vice president for advancement at the Mackinac Center, where Justin Witt was a 2020 advancement intern.