

STATE OF MICHIGAN
COURT OF CLAIMS

COMMITTEE TO BAN FRACKING IN
MICHIGAN and LUANNE KOZMA,

Plaintiffs,

No. 18-000274-MM

v

HON. STEPHEN BORRELLO

SECRETARY OF STATE RUTH
JOHNSON, DIRECTOR OF
ELECTIONS SALLY WILLIAMS, in
their official capacities, and BOARD OF
STATE CANVASSERS,

Defendants.

Ellis Boal (P10913)
Attorney for Plaintiffs
9330 Woods Road
Charlevoix, Michigan 49720
231.546.2626

Matthew Erard (P81091)
Attorney for Plaintiffs
400 Bagley St, #939
Detroit, Michigan 48226
248.765.1605

Scott A. Mertens (P60069)
Heather S. Meingast (P55439)
Assistant Attorneys General
Attorneys for Defendants
P.O. Box 30217
Lansing, Michigan 48909
517.335.7659

**DEFENDANTS' MARCH 7, 2019
MOTION FOR SUMMARY DISPOSITION**

NOW COME Defendants former Michigan Secretary of State Ruth Johnson,
Sally Williams, as Director of Elections, and the Michigan Board of State
Canvassers, by their attorneys, and move under MCR 2.116(C)(10) for the dismissal
of Plaintiffs' complaint on the grounds that there is no genuine issue of material

fact in dispute and that Defendants are entitled to dismissal of the claims as a matter of law, and in support of their motion state as follows:

1. This is Plaintiffs' third lawsuit involving their inability, since November 2015, to file a timely and sufficient petition to initiative legislation to ban hydraulic fracturing in Michigan.

2. As in the other cases, Plaintiffs raise statutory and constitutional claims, and allege that Secretary Johnson and Director Williams improperly rejected their petition for filing in November 2018.

3. But Plaintiffs' petition contains a facial defect, an incorrect election date, that rendered it defective and untimely. Under these circumstances, Secretary Johnson and Director Williams were empowered by statute to reject the petition for filing and did so. See MCL 168.471.

4. And regardless of the defect and Plaintiffs' other concerns, the filing of Plaintiffs' petition is barred by MCL 168.473b, which provides that "[s]ignatures on a petition . . . to initiate legislation collected *prior to* a November general election at which a governor is elected *shall not be filed after the date of that November general election.*" (Emphasis added). Because Plaintiffs' signatures were all collected before the November 2018 General Election, they cannot now be filed with the Secretary of State.

5. Because the statutory claims and issues are dispositive, it is unnecessary for this Court to address any of the constitutional claims raised by

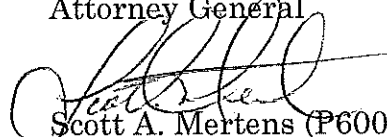
Plaintiffs, including their challenge to the 180-day circulation rule set forth in MCL 168.472a.

RELIEF REQUESTED

For these reasons and the reasons more fully stated in the accompanying brief, Defendants respectfully request that this Honorable Court grant summary disposition and dismiss Plaintiffs' complaint in its entirety and with prejudice.

Respectfully submitted,

DANA NESSEL
Attorney General

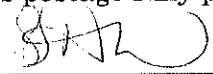


Scott A. Mertens (P60069)
Heather S. Meingast (P55439)
Assistant Attorneys General
Attorneys for Defendants
P.O. Box 30217
Lansing, Michigan 48909
517.335.7659

Dated: March 7, 2019

PROOF OF SERVICE

Lisa S. Albro certifies that on the 7th day of March, 2019, she served a copy of the above document in this matter on all counsel of record and parties *in pro per* at their last known addresses via first class mail by depositing same in a United States Post Office depository in Lansing, Michigan with first class postage fully paid.



Lisa S. Albro

STATE OF MICHIGAN
COURT OF CLAIMS

COMMITTEE TO BAN FRACKING IN
MICHIGAN and LUANNE KOZMA,

Plaintiffs,

No. 18-000274-MM

v

HON. STEPHEN BORRELLO

SECRETARY OF STATE RUTH
JOHNSON, DIRECTOR OF
ELECTIONS SALLY WILLIAMS, in
their official capacities, and BOARD OF
STATE CANVASSERS,

Defendants.

Ellis Boal (P10913)
Attorney for Plaintiffs
9330 Woods Road
Charlevoix, Michigan 49720
231.546.2626

Matthew Erard (P81091)
Attorney for Plaintiffs
400 Bagley St, #939
Detroit, Michigan 48226
248.765.1605

Scott A. Mertens (P60069)
Heather S. Meingast (P55439)
Assistant Attorneys General
Attorneys for Defendants
P.O. Box 30217
Lansing, Michigan 48909
517.335.7659

**DEFENDANTS' BRIEF IN SUPPORT OF
MARCH 7, 2019 MOTION FOR SUMMARY DISPOSITION**

TABLE OF CONTENTS

	<u>Page</u>
Index of Authorities.....	ii
Introduction.....	1
A. CBFM's first lawsuit.....	2
B. CBFM's second lawsuit.....	4
C. CBFM's third lawsuit	5
Standard of Review	5
I. Plaintiffs' statutory, equitable, and constitutional claims should be dismissed.....	6
A. Statutory violations	6
1. The petition is defective on its face.	7
2. Irrespective of the 180-Day Rule, the petition signatures are stale	11
B. Equitable estoppel	13
C. Constitutional violations	15
Conclusion and Relief Requested.....	18

INDEX OF AUTHORITIES

	<u>Page</u>
 Cases	
<i>Casey v Auto Owners Ins Co</i> , 273 Mich App 388 (2006)	13
<i>Citizens Protecting Michigan’s Constitution Sec’y of State</i> , 280 Mich App 273 (2008).....	9
<i>Comm to Ban Fracking in Michigan v Dir of Elections</i> , unpublished opinion of the Michigan Court of Appeals, Docket No. 334480, dec’d Mar. 14, 2017	3
<i>Conagra, Inc v Farmers State Bank</i> , 237 Mich App 109 (1999)	13
<i>Dep’t of Social Sers v Emmanuel Baptist Preschool</i> , 434 Mich 380 (1990).....	16
<i>Federated Publications, Inc v Bd of Trustees of Michigan State Univ</i> , 460 Mich 75 (1999)	16, 17
<i>Graveline v Johnson, et al</i> , 336 F Supp 3d 801 (ED Mich, 2018)	10
<i>Lisee v Secretary of State</i> , 388 Mich 32 (1972)	15
<i>Maiden v Rozwood</i> , 461 Mich 109 (1999)	5
<i>Meagher v Wayne State Univ</i> , 222 Mich App 700 (1997).....	6
<i>Neubacher v Globe Furniture Rentals</i> , 205 Mich App 418 (1994)	5
<i>O’Connell v Director of Elections</i> , 317 Mich App 82 (2016)	10
<i>People v Quider</i> , 172 Mich 280 (1912)	15
<i>Quinto v Cross & Peters Co</i> , 451 Mich 356 (1996)	6
<i>Scalise v Boy Scouts of America</i> , 265 Mich 1 (2005)	5
 Statutes	
MCL 168.1	7
MCL 168.32(1)	9
MCL 168.34	9

MCL 168.409b	10
MCL 168.471	8, 10, 12, 16
MCL 168.472a	<i>passim</i>
MCL 168.473b	11, 14
MCL 168.482(1)	7
MCL 168.482(4)	7
MCL 168.482(6)	7
MCL 168.544c	7, 8

Other Authorities

OAG, 1975-1976, No. 4880, p 111 (July 3, 1975)	11
--	----

Rules

MCR 2.116(C)(10)	5
MCR 2.116(G)(3)(b)	5

Constitutional Provisions

Const 1963, art 2, § 9	5, 7
------------------------------	------

INTRODUCTION

Plaintiff Committee to Ban Fracking in Michigan (CBFM) is a ballot proposal committee that circulated a petition to initiate legislation to ban horizontal hydraulic fracturing, commonly known as “fracking” in Michigan. Although CBFM began circulating its petition in 2015, it was unable to collect the 252,523 signatures it needed to place the measure on the ballot in either the 2016 or 2018 General Elections.¹ CBFM principally blames its failure to collect sufficient signatures on the application of MCL 168.472a, which prohibits the submission of signatures older than 180 days. CBFM challenged that statute in this Court in 2016 but its claim was dismissed as premature. CBFM then continued to collect signatures.

On the day before the November 6, 2018 General Election, CBFM tried to file its petition with former Secretary of State Ruth Johnson in the hope of qualifying for placement on the November 2020 General Election—five years after CBFM first began collecting signatures. The filing was rejected because the heading of the petition states that the proposal was to be “voted on in the November 8, 2016 General Election.” That did not happen and is now, of course, an impossibility. CBFM filed a complaint for mandamus in the Court of Appeals arguing that the

¹ Four other committees that sponsored initiatives successfully obtained sufficient signatures and were approved for placement on the ballot in 2018. Initiatives & Referendums under the Constitution of the State of Michigan of 1963, [https://www.michigan.gov/documents/sos/Initia Ref Under Consti 12-08 339399 7.pdf](https://www.michigan.gov/documents/sos/Initia_Ref_Under_Consti_12-08_339399_7.pdf), pp 9-10.

date on the petition is irrelevant and that Secretary Johnson had no authority to reject its filing. The Court of Appeals denied relief on November 15, 2018.

A little more than a month later, CBFM filed the instant complaint, alleging a combination of claims from its 2016 complaint and 2018 mandamus complaint. But this third complaint fares little better. CBFM's petition was properly rejected, and thus there is no merit to its statutory and equitable claims. And because resolution of the statutory claims is dispositive, there is no need for this Court to reach the constitutional questions. The complaint should be dismissed.

STATEMENT OF FACTS AND PROCEEDINGS

A. CBFM's first lawsuit

CBFM first filed suit in 2016 in this Court seeking declaratory judgment that MCL 168.472a was unconstitutional under article 2, § 9 of the Michigan Constitution. (Ex. 1, 2016 Compl.). This Court denied relief for lack of a case or controversy and CBFM appealed. The Court of Appeals' opinion affirming dismissal of that case summarizes some of the relevant facts:

Plaintiff Committee to Ban Fracking in Michigan (CBFM) is engaged in a statutory initiative campaign that seeks to include a ballot option to ban horizontal hydraulic fracturing, which is commonly known as "fracking." . . . Plaintiffs sought to have the issue on the 2016 ballot and, on April 14, 2015, the Board of State Canvassers approved the form of CBFM's initiative petition. On May 22, 2015, plaintiffs began circulating their petitions and collecting signatures. By November 18, 2015, the 180th day, plaintiffs had collected over 150,000 signatures—but that was less than the required number of 252,523. By June 1, 2016, the deadline for filing initiative petitions for the November 2016 ballot, plaintiffs had over 207,000 signatures—but, again, that was less than the required number.

Plaintiff is apparently continuing to collect signatures with the same petition sheets in an effort to have the fracking issue on the November

2018 ballot. Accordingly, on June 1, 2016, plaintiffs filed this action challenging the 180-day rule set forth in MCL 168.472a. [*Comm to Ban Fracking in Michigan v Dir of Elections*, unpublished opinion of the Michigan Court of Appeals, Docket No. 334480, dec'd Mar. 14, 2017, attached as Ex. 2, pp 1-2 (footnotes omitted).]

The 180-day rule prohibits the counting of signatures on a petition that proposes to initiate legislation if the signature was made more than 180 days before the petition is filed with the Secretary of State. MCL 168.472a. Because it was taking CBFM so long to collect signatures, application of the 180-day rule to its petition would have resulted in the discounting of stale signatures, potentially leaving CBFM without sufficient signatures to support its petition. But CBFM's case was dismissed for lack of an actual, live controversy because no adverse action had been taken as to the CBFM or its petition by the State:

Plaintiffs, in effect, are claiming that they are unable to meet the 180-day rule set forth in MCL 168.472a with regard to their ballot initiative; thus, they filed this action seeking the declaration that the 180-day rule is unconstitutional. But this is not a "genuine, live controversy." This is not a case in which plaintiffs have collected the number of required petition signatures, albeit during a time-frame outside the 180-day rule, filed those petitions at least 160 days before the election, had those petitions rejected by defendants as insufficient, and then had their ballot proposal denied. In fact, defendants had made no adverse claim and had taken no adverse action that impacted plaintiffs' legal rights in any way before plaintiffs filed this action. That is, no controversy between the parties existed. Rather, plaintiffs are projecting that, in the future, if they ever collect the precise number of petition signatures required for their ballot initiative, they will be rejected by defendants because they do not meet the requirements of the 180-day rule. Thus, plaintiffs' claim sets forth a possible—not actual—controversy that may arise in the future which rests upon contingent, uncertain events that may not occur at all and the injury plaintiffs seek to prevent is merely conjectural or hypothetical. [Ex. 2, p 4.]

After the dismissal of this case, CBFM continued to circulate its petition and obtain signatures.

B. CBFM's second lawsuit

The day before the November 6, 2018 General Election, LuAnn Kozma contacted the Bureau of Elections and stated that representatives would arrive later in the day to file the petition. CBFM's counsel arrived late in the day on November 5, 2018 and attempted to file the petition with the Bureau. The petition was rejected for filing by Director of Elections Sally Williams, acting on behalf of Secretary Johnson, because the petition inaccurately stated that the proposal was to be "voted on in the November 8, 2016 General Election," which rendered the filing untimely. (Plfs' Compl., Ex. 2, Williams letter).

CBFM and Ms. Kozma filed a complaint for writ of mandamus the next day, seeking emergency relief. (Ex. 3, 2018 Mandamus Compl.). In that complaint, CBFM asked the Court of Appeals to "enter an immediate writ of mandamus requiring [Secretary Johnson] to accept the filing of [CBFM's] statutory initiative petition on today's date or, in the alternative, provide injunctive or any other similar relief within the Court's discretion[.]" *Id.* CBFM argued that it was irrelevant that its petition contained a 2016 election date because the election statutes did not require a date to appear on the petition at all; that Director Williams was not authorized to reject the petitions; and that these Defendants had previously indicated in court pleadings that CBFM could submit the petition in 2018. *Id.* The Court of Appeals denied the complaint for mandamus without explanation on November 15, 2018. (Ex. 4, 11/15/18 Order).

C. CBFM's third lawsuit

Undeterred, CBFM and Ms. Kozma filed the instant lawsuit in December, 2018. As in the first lawsuit, they again allege that MCL 168.472a is unconstitutional, and further allege that Secretary Johnson and Director Williams acted unconstitutionally or in violation of the election laws in rejecting the petition for filing on November 5, 2018. Plaintiffs ask this Court to “[d]eclare that Plaintiffs filed their petition on November 5, 2018 and enjoin Defendants Johnson and Williams to take possession of the petition . . . and provide official notice of such filing to Defendant Board of State Canvassers.” (Plfs’ Comp., p 21). They further ask that this Court “[d]eclare that the extraneous election-date reference in the petition’s front-page proposal summary does not preclude the petition’s statutory compliance.” *Id.* Last, Plaintiffs’ request that this Court declare MCL 168.472a “unconstitutional as applied to statutory initiatives under Const 1963, art 2, § 9,” and “enjoin Defendants from applying it to discount voter signatures on statutory initiative petitions[.]” *Id.* But as explained below, this case, like the other cases, must be dismissed.

STANDARD OF REVIEW

In a motion for summary disposition under MCR 2.116(C)(10), “a court must consider the pleadings, affidavits, depositions, admissions and other documentary evidence submitted in the light most favorable to the non-moving party.” *Scalise v Boy Scouts of America*, 265 Mich 1, 10 (2005). The moving party bears the initial burden of specifically identifying the undisputed factual issues and supporting its position with documentary evidence. MCR 2.116(G)(3)(b); *Maiden v Rozwood*, 461

Mich 109, 120 (1999); *Neubacher v Globe Furniture Rentals*, 205 Mich App 418, 420 (1994). The burden then shifts to the non-moving party to show that a genuine issue of disputed facts exist and to produce evidence to establish those disputed facts. *Meagher v Wayne State Univ*, 222 Mich App 700, 719 (1997); *Neubacher*, 205 Mich App, at 420. The court can grant the motion “if the affidavits or other documentary evidence show that there is no genuine issue in respect to any material fact, and the moving party is entitled to judgment as a matter of law.” *Quinto v Cross & Peters Co.*, 451 Mich 356, 362–363 (1996).

ARGUMENT

I. Plaintiffs’ statutory, equitable, and constitutional claims should be dismissed.

As discussed below, Plaintiffs’ petition was properly rejected for filing by Secretary Johnson and Plaintiffs’ claims should be dismissed.

A. Statutory violations

Plaintiffs allege that Secretary Johnson and Director Williams violated Michigan Election laws by rejecting their petition for filing in November, 2018 because the date on the petition is irrelevant and neither Secretary Johnson nor Director Williams were authorized to reject the petition for filing—only the Defendant Board of State Canvassers could do so. (Plfs’ Comp., ¶¶ 57-63). This is the same argument Plaintiffs made in their mandamus complaint, which the Court

of Appeals rejected. (Ex. 3, 2018 Compl.; Ex. 4, 11/15/18 Order).² This Court should likewise dismiss these claims.

1. The petition is defective on its face.

Plaintiffs' petition contains a facial defect. The Michigan Constitution provides for the right of initiative in article 2, § 9 but does not otherwise prescribe the form for petitions to initiate legislation. Rather, § 9 provides that the "legislature shall implement the provisions of this section." Const 1963, art 2, § 9.

The Legislature has provided for the preparation and circulation of initiative petitions in various sections of the Michigan Election Law, MCL 168.1 *et seq.* Under MCL 168.482(1) and (2), a petition must be printed on 8 ½ x 14 inch paper, and the "heading" of "INITIATION OF LEGISLATION" must appear on each part of the petition and "shall be . . . printed in capital letters in 14-point boldfaced type." The petition must then include a statement by the electors and a warning to the electors regarding the consequences of signing a petition more than once, or signing another individual's name, etc. MCL 168.482(4) and (5). "The remainder of the petition form shall be as provided following the warning . . . in section 544c(1)," and "shall comply with the requirements of section 544c(2)." MCL 168.482(6). Sections 544c(1) and (2) impose additional formatting requirements relating to information required from electors and the certificate of the circulator. MCL 168.544c(1)-(2).

² Ordinarily, the decision in a prior suit between the same parties would raise questions of res judicata or collateral estoppel. However, the Court of Appeals' one-sentence order denying relief does not explain the basis for its holding.

As noted above, Plaintiffs' petition was approved as to form by the Board of State Canvassers in April 2015. As approved, the petition stated in its summary of the proposal that "the proposal is to be voted on in the November 8, 2016 General Election." (Plfs' Comp., Ex. 1). The inclusion of the election date raised no concerns in 2015 because November 8, 2016, was, in fact, the next general election at which a statewide proposal like Plaintiffs' could be voted upon. Plaintiffs began circulating the petition in 2015 in an effort to place the proposal on the 2016 ballot but failed to gather a sufficient number of signatures and did not attempt to file their petition in 2016. Plaintiffs continued to circulate the petition and collect signatures into 2018, but likewise did not attempt to file their petition in time for placement upon the November 6, 2018 General Election ballot. They did not attempt to file the petition with Secretary Johnson until November 5, 2018, the day before the November 6, 2018 General Election.

As Plaintiffs point out, neither MCL 168.482 nor MCL 168.544c expressly required Plaintiffs to include the date of the election at which the proposal would be voted upon on the face of its petition. But, MCL 168.471 expressly provides that "[i]nitiative petitions under section 9 of article II of the state constitution of 1963 shall be filed with the secretary of state *at least 160 days before the election at which the proposed law is to be voted upon.*" (Emphasis added). Because the election at which the proposal will be voted upon sets the outermost filing date, section 471 contemplates that a petition sponsor will designate in some manner which general election the sponsor seeks to have the "proposed law . . . voted upon." Ordinarily,

petition sponsors include this information on the face of the petition, just as Plaintiffs did here. For example, all legislative initiative petitions filed or approved as to form in 2017-2018 included the date of election. (Ex. 5, sample petitions).

By Plaintiffs' own admission, every petition sheet collected by Plaintiffs designates the November 8, 2016 General Election as the election at which the proposal would be "voted upon." Under Section 471, this would have made the filing deadline for Plaintiffs' petition June 1, 2016. That is what the face of the petition dictates and it is, of course, an impossibility. The passage of time has rendered Plaintiffs' petition defective. Thus, when Plaintiffs' counsel appeared at the Bureau of Elections on November 5, 2018 attempting to file the petition with Secretary Johnson, it was rejected because the defect was apparent on the face of the petition. Plaintiffs point to no constitutional provision, statute, or case law that would have permitted Secretary Johnson to disregard the heading of their petition and interpret the Plaintiffs' own reference to the November 2016 general election as instead referring to the November 2020 General Election, as Plaintiffs request.

Plaintiffs argue that Secretary Johnson, or Director Williams acting for Secretary Johnson,³ was not authorized to reject the petition for filing, and instead was required to accept the filing and present it to the Board of State Canvassers for review. As the filing official for petitions to amend the constitution, to initiate legislation, and for referendums, Secretary Johnson's gatekeeping duty was limited.

³ The Director of Elections is "vested with the powers and shall perform the duties of the secretary of state under . . . [her] supervision, with respect to the supervision and administration of the election laws." MCL 168.32(1). See also MCL 168.34.

Citizens Protecting Michigan's Constitution Sec'y of State, 280 Mich App 273, 286 (2008). But even this limited duty included authority to conduct a rudimentary, facial review of a proposed filing to determine if it met, or at least purported to meet, filing requirements, including whether it was timely. Here, Bureau of Elections staff reviewed a number of Plaintiffs' petition sheets and observed its reference to the November 6, 2016, General Election, and confirmed with Plaintiffs that each sheet contained the same reference to the 2016 General Election. Director Williams, on behalf of Secretary Johnson, determined the petition should be rejected because it was not offered for filing "at least 160 days before the election at which the proposed law is to be voted upon." MCL 168.471. Whether the petition was offered timely under section 471 was a decision that Secretary Johnson was authorized to make as the filing official at the time.

While rejection of a proposed petition filing is rare, Secretary Johnson has done so in the past. For example, in *O'Connell v Director of Elections, et al*, the former Director of Elections rejected an affidavit of candidacy filed by a judicial candidate that stated the candidate was an incumbent for the office sought when the candidate was not, in fact, the incumbent. 317 Mich App 82, 86-87 (2016).⁴ This defect was apparent from the face of the affidavit, and it was rejected by the Director of Elections acting for the Secretary of State as the filing official.

Similarly, Secretary Johnson rejected the qualifying petition of a candidate for

⁴ The Secretary of State is the filing official for judicial nominating petitions and judicial affidavits of candidacy. MCL 168.409b.

Attorney General in 2018 because the petition did not purport to contain sufficient signatures. *Graveline v Johnson, et al*, 336 F Supp 3d 801 (ED Mich, 2018).

Likewise, the timing defect of Plaintiffs' petition was apparent from the face of the petition and it was similarly rejected.

Here, there is no genuine issue as to any material fact. Plaintiffs' petition is defective on its face, and it was properly rejected for filing on November 5, 2018 by Director Williams. As a result, Count IV of Plaintiff's complaint should be dismissed.

2. Irrespective of the 180-Day Rule, the petition signatures are stale

Even without the defect described above, and even if the 180-day rule did not apply, the signatures on Plaintiffs' petition are now stale and cannot be accepted for filing under a separate statute, MCL 168.473b. Section 473b provides that "[s]ignatures on a petition . . . to initiate legislation collected *prior to* a November general election at which a governor is elected *shall not be filed after the date of that November general election.*" (Emphasis added). See also, OAG, 1975-1976, No. 4880, p 111 (July 3, 1975) (opining that a petition to amend the constitution that lacks sufficient signatures before the date of a November General Election at which a governor is elected dies as the signatures collected before the November General Election cannot be filed after that election).

Section 473b implements article 2, § 9's requirement that an initiative petition be "*signed* by a number of registered electors, not less than eight percent . . . of the total votes cast for all candidates for governor *at the last preceding general*

election at which a governor was elected[.]" (Emphasis added).⁵ Each gubernatorial election sets the signature requirement for petitions to initiate legislation for the immediately following four years. The signature requirement could go down or it could go up, depending on voter turnout.⁶ Within those four years, there are two November General Elections at which a proposal to initiate legislation may be placed upon the ballot under the applicable signature requirement. With respect to Plaintiffs' petition, and disregarding the facial defect, those general elections were the November 2016 General Election and the November 2018 General Election. Plaintiffs failed to file their petition in time for placement upon the ballot at either election.⁷ Thus, regardless of the 180-day requirement, Plaintiffs' window for filing their petition with signatures collected during the previous four years has closed.

Section 473b codifies and clarifies the language of article 2, § 9 and ensures the application of a consistent, uniform signature threshold. The law makes clear that sponsors of initiative petitions cannot manipulate the date of filing to ensure that their petition is subject to a different (here, a substantially lower) signature threshold than other filers who may attempt to qualify for the ballot at the same general election. In other words, Plaintiffs essentially posit that their petition should be canvassed at the lower signature threshold of 252,523 that applied during

⁵ Article 12, § 2 contains similar language with respect to petitions to amend the constitution.

⁶ The new signature requirement for initiative petitions based on the 2018 election is 340,047.

⁷ The filing date for the November 2018 General Election was May 30, 2018. MCL 168.471.

the 2016 and 2018 General Elections, rather than under the new signature threshold that will apply to every other proposed initiated law that might qualify for the 2020 General Election (340,047). Plaintiffs attempted to evade application of section 473b by tendering their petition (containing only 270,962 signatures, according to Plaintiffs' estimate), literally hours before the November 6, 2018 General Election. But the proper application of section 473b required filing no later than May 30, 2018 for consideration in 2018, and not beyond.

Because all the signatures collected by Plaintiffs were collected before the November 2018 General Election at which Michigan's new governor was elected, the signatures cannot now be filed under section 473b.

B. Equitable estoppel

Plaintiffs assert that Secretary Johnson, Director Williams and the Board of State Canvassers should be equitably estopped from rejecting Plaintiffs' petition for filing with the Secretary of State and review by the Board of State Canvassers. (Plfs' Comp., ¶¶ 50-53). This claim also fails.

Michigan courts have held that "[e]quitable estoppel is not an independent cause of action, but instead a doctrine that may assist a party by precluding the opposing party from asserting or denying the existence of a particular fact."

Conagra, Inc v Farmers State Bank, 237 Mich App 109, 140–141 (1999). See also *Casey v Auto Owners Ins Co*, 273 Mich App 388, 399 (2006) (equitable estoppel "is not a cause of action unto itself; it is available only as a defense."). Equitable estoppel may arise where (1) a party, by representations, admissions, or silence intentionally or negligently induces another party to believe facts, (2) the other

party justifiably relies and acts on that belief, and (3) the other party is prejudiced if the first party is allowed to deny the existence of those facts. *Conagra, Inc.*, 237 Mich App at 141. Here, Plaintiffs are improperly asserting equitable estoppel as a cause of action. Nevertheless, Defendants will address the elements.

First, neither former Secretary Johnson, Director Williams, nor the Board of State Canvassers represented to Plaintiffs that their petition would be accepted for filing in November 2018. Plaintiffs' excise a quote from an October 2016 appellate brief filed on behalf of the Defendants in the first court of claims case:

If and when Plaintiffs obtain the additional signatures they require, then they would be able to file their petition. But until the minimum number of signatures has been collected, any application of MCL 168.472a to CBFM's petition is hypothetical. [Plfs' Compl., ¶ 24.]

Plaintiffs extrapolate from this passage that they would be permitted to file their petition anytime in November 2018 with no questions asked. But that is certainly a stretch of this language. Moreover, this passage is not a representation made by a party, but rather are the words of their legal counsel in a brief. Plaintiffs do not allege that the Defendants themselves made statements or took actions to induce Plaintiffs to believe their petition would be accepted for filing in 2018. In addition, the effect of the proposed November 8, 2016 election date on the face of Plaintiffs' petition was not raised or litigated in the context of the prior court of claims case.

And even if this language suggested that Plaintiffs could file their petition in 2018, the understanding was that it had to be timely filed for placement on the November 2018 General Election ballot—not the day before that election.

Defendants did not, and could not have, waived the application of MCL 168.473b. Thus, even if the quoted language could be read as a representation by a party (which it cannot), at most it would be a representation that a petition timely filed by the deadline for the 2018 General Election would be accepted—not 2020. Indeed, Plaintiffs’ quote in their complaint another portion of Defendants’ appellate brief that specifically warns about the application of section 473b to Plaintiffs’ petition. (Plfs’ Comp., ¶ 37).

Second, and under these circumstances, Plaintiffs could not have *justifiably* relied on the language in the appellate brief to believe that Plaintiffs’ petition would be accepted by Secretary Johnson or Director Williams after the July 2018 filing deadline for initiative petitions to be placed on the November 2018 General Election ballot.

And finally, for the same reasons, any prejudice Plaintiffs suffered is the result of Plaintiffs’ own actions in failing to timely file their petition, not Secretary Johnson or Director Williams.

Accordingly, there is no genuine issue as to any material fact that Plaintiffs are not entitled to the application of equitable estoppel against Defendants. As a result, Count II of Plaintiffs’ complaint should be dismissed.

C. Constitutional violations

In Counts I, III, and V, Plaintiffs allege constitutional violations. “[I]t is well settled in Michigan that, ‘[c]onstitutional questions will not be passed upon when other decisive questions are raised by the record which dispose of the case.’” *Lisee v Secretary of State*, 388 Mich 32, 40–41 (1972), quoting *People v Quider*, 172 Mich

280, 288–289 (1912). “This longstanding rule requires [courts] to consider constitutional questions only as a last resort, and to avoid such questions where a nonconstitutional basis exists for resolving the matter.” *Federated Publications, Inc v Bd of Trustees of Michigan State Univ*, 460 Mich 75, 93 (1999). Furthermore, constitutional questions will not be addressed when the issue is not ripe for review. *Dep’t of Social Sers v Emmanuel Baptist Preschool*, 434 Mich 380, 389 (1990).

In Count I, Plaintiffs seek a declaration that the 180-day circulation requirement in MCL 168.472a is unconstitutional under article 2, § 9 of the Constitution. (Plfs’ Comp., ¶¶ 42-49). This is the same argument Plaintiffs raised in their first lawsuit in this Court. (Ex. 1, 2016 Comp.). But as in that case, there is no reason for this Court to address this claim. As discussed above, Plaintiffs’ petition was rejected for filing by Secretary Johnson because of its specific reference to the 2016 November General Election date. It was not rejected because it contained signatures gathered outside the 180 days. In other words, section 472a was not applied to Plaintiffs’ petition, and that statute was not the cause of any injury to Plaintiffs that occurred on November 5, 2018. As a result, Plaintiffs’ claim as to section 472a is not ripe for review. *Emmanuel Baptist Preschool*, 434 Mich at 389.

In Count III, Plaintiffs allege that Secretary Johnson and Director Williams violated article 2, § 9 by “assum[ing] the power to capriciously refuse custody of a timely filed petition.” (Plfs’ Compl., ¶¶ 54-56). But as discussed above, it was within Secretary Johnson’s statutory authority as the filing official for initiative

petitions under MCL 168.471 to make a threshold determination from the face of the petition that it could not be considered timely filed. Because Secretary Johnson's statutory authority provides a nonconstitutional basis for resolving Plaintiffs' claim, this Court need not address the claim set forth in Count III. *Federated Publications, Inc*, 460 Mich at 93.

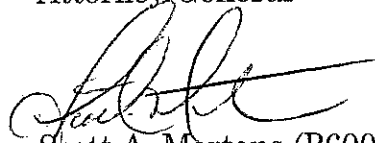
Finally, in Count V Plaintiffs allege that Secretary Johnson and Director Williams violated Plaintiffs' equal protection rights by rejecting Plaintiffs' petition based on a facial defect when Defendants have "never before refused to accept possession of a petition tendered for filing" based on a facial defect. (Plfs' Compl., ¶¶ 64-67). But as discussed above, while rare, other petitions with similar threshold-type defects have been rejected for filing, and the ability to make this threshold determination was within Secretary Johnson's statutory authority. Because Secretary Johnson's statutory authority provides a nonconstitutional basis for resolving Plaintiffs' claim, this Court need not address the claim set forth in Count V. *Federated Publications, Inc*, 460 Mich at 93.

CONCLUSION AND RELIEF REQUESTED

For the reasons set forth above, Defendants respectfully request that this Court dismiss Plaintiff's complaint.

Respectfully submitted,

DANA NESSEL
Attorney General



Scott A. Mertens (P60069)
Heather S. Meingast (P55439)
Assistant Attorneys General
Attorneys for Defendants
P.O. Box 30217
Lansing, Michigan 48909
517.335.7659

Dated: March 7, 2019

PROOF OF SERVICE

Lisa S. Albro certifies that on the 7th day of March, 2019, she served a copy of the above document in this matter on all counsel of record and parties *in pro per* at their last known addresses via first class mail by depositing same in a United States Post Office depository in Lansing, Michigan with first class postage fully paid.



Lisa S. Albro

INITIATION OF LEGISLATION

A petition to initiate legislation to amend the Clean and Renewable Energy and Energy Waste Reduction Act, 2008 PA 295, as amended by 2016 PA 342, by amending sections 11, 26, 39, and 45 (MCL 460.1011, MCL 460.1028, MCL 460.1039, and MCL 460.1045), and by adding section 212, to increase the renewable energy standard for electric providers to 30% by 2030, with the renewable energy standard increasing incrementally, starting with 18% by 2023, 21% by 2024, 24% by 2026, 27% by 2028 and 30% by 2030; define renewable energy as solar, wind, biomass, hydropower, and municipal solid waste or landfill gas, and not pet coke, hazardous waste, scrap tires, or coal waste; and allow an electric provider to recover the cost of compliance, but the amount an electric provider can charge shall not exceed an average of \$2 per month per residential customer, if not enacted by the Michigan Legislature in accordance with the Michigan Constitution of 1963, the proposal is to be voted on at the November 6, 2018 general election.

FOR THE FULL TEXT OF THE PROPOSED LEGISLATION SEE THE REVERSE SIDE OF THIS PETITION.

We, the undersigned qualified and registered electors, residents in the county of _____, State of Michigan, respectively petition for initiation of legislation.

WARNING—A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

INDICATE CITY OR TOWNSHIP IN WHICH REGISTERED TO VOTE	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					MO	DAY	YEAR
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	1.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	2.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	3.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	4.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	5.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	6.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	7.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	8.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	9.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	10.						

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the city or township indicated preceding the signature, and the elector was qualified to sign the petition.

☐ If the circulator is not a resident of Michigan, the circulator shall make a cross or check mark in the box provided, otherwise each signature on this petition sheet is invalid and the signatures will not be counted by a filing official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the secretary of state or a designated agent of the secretary of state has the same effect as if personally served on the circulator.

WARNING—A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

Paid for with regulated funds by Clean Energy, Hadley Michigan, P.O. Box 71746, Madison Heights, MI 48071.



MI000012

CIRCULATOR—Do not sign or date certificate until after circulating petition.

Signature of Circulator _____ Date _____/_____/_____

Printed Name of Circulator _____

Complete Residence Address (Street and Number or Rural Route) Do not enter a post office box _____

City or Township, State, Zip Code _____

County of Registration, If Registered to Vote, of a Circulator Who is not a Resident of Michigan _____

INITIATION OF LEGISLATION

An Initiation of legislation to enact the Earned Sick Time Act. This Initiated law would provide workers with the right to earn sick time for personal or family health needs, as well as purposes related to domestic violence and sexual assault and school meetings needed as a result of a child's disability, health, or issues due to domestic violence and sexual assault; specify the conditions for accruing and using earned sick time; prohibit retaliation against an employee for requesting, exercising or enforcing rights granted in this act; prescribe powers and duties of certain state departments, agencies, and officers; provide for promulgation of rules; and provide remedies and sanctions.

If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution of 1963, the proposed legislation is to be voted on at the General Election, November 6, 2018.

FOR THE FULL TEXT OF THE PROPOSED LEGISLATION SEE THE REVERSE SIDE OF THIS PETITION.

We, the undersigned qualified and registered electors, residents in the county of _____, State of Michigan, respectfully petition for initiation of legislation.

WARNING—A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

INDICATE CITY OR TOWNSHIP IN WHICH REGISTERED TO VOTE	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					MO	DAY	YEAR
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	1.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	2.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	3.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	4.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	5.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	6.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	7.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	8.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	9.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	10.						

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the city or township indicated preceding the signature, and the elector was qualified to sign the petition.

☐ If the circulator is not a resident of Michigan, the circulator shall make a cross or check mark in the box provided, otherwise each signature on this petition shall be invalid and the signatures will not be counted by a filing official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the secretary of state or a designated agent of the secretary of state has the same effect as if personally served on the circulator.

WARNING—A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

Paid for with regulated funds by Raise Michigan, P.O. Box 1502, Royal Oak, MI 48068

000000

© 2018

CIRCULATOR—Do not sign or date certificate until after circulating petition.

Signature of Circulator _____ Date _____

Printed Name of Circulator _____

Complete Residence Address (Street and Number or Rural Route) Do not enter a post office box _____

City or Township, State, Zip Code _____

County of Registration, If Registered to Vote, of a Circulator Who is not a Resident of Michigan _____

An Initiation of legislation to repeal 1965 PA 166, entitled "An act to require prevailing wages and fringe benefits on state projects; to establish the requirements and responsibilities of contracting agents and bidders; and to prescribe penalties" (MCL 408.651 to 408.658); and to provide for an appropriation for related purposes. If not enacted by the Michigan Legislature in accordance with the Michigan Constitution of 1963, the proposed legislation will be voted on at the November 6, 2018 General Election.

For the full text of the proposed legislation, please see the reverse side of this petition.

We, the undersigned qualified and registered electors, residents in the county of _____, State of Michigan, respectively petition for initiation of legislation.

WARNING - A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

INDICATE CITY OR TOWNSHIP IN WHICH REGISTERED TO VOTE	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					MO	DAY	YEAR
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	1.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	2.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	3.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	4.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	5.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	6.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	7.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	8.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	9.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	10.						

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is at least 18 years of age or older, is a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted a person to sign the petition more than once; and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of a person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the city or township in which the signature was made, and the elector was qualified to sign the petition.

☐ If the circulator is not a resident of Michigan, the circulator shall make a cross or check mark in the box provided, otherwise each signature on this petition sheet is invalid and the signature will not be counted by a tie-break official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns this petition sheet executed by the circulator and agrees that legal process served on the Secretary of State or a designee of the Secretary of State has the same effect as if personally served on the circulator.

WARNING - A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

Paid for with regulated funds by Protecting Michigan Taxpayers, P.O. Box 14162, Lansing, MI 48901

CIRCULATOR - Do not sign or date certificate until after circulating petition.

(Signature of Circulator) _____ (Date) ____/____/____

(Printed Name of Circulator) _____

Complete Residence Address (Street and Number or Rural Route) (Do Not Enter a Post Office Box) _____

(City or Township, State, Zip Code) _____

(County of Registration, if Registered to Vote, of a Circulator who is not a Resident of Michigan) _____

INITIATION OF LEGISLATION

A petition to initiate legislation to enact the Great Lakes Pipeline Safety Regulation Act which would provide for the termination of the Straits of Mackinac Pipe Line Estimation granted by the Conservation Commission of the State of Michigan to Lakehead Pipe Line Company, Inc. executed April 23, 1953; require that pipelines subject to the act provide a policy of insurance or bond of at least \$4 billion and a surety bond of at least \$400 million; prohibit the state from granting easements over, through, under, or upon the bottomlands of the Great Lakes for pipelines to transport crude oil or liquid petroleum products; provide for enforcement of the act; and to supersede any acts, parts of acts, agreements, contracts, rules, easements, local charters, ordinances or resolution which conflicts with the act. This proposal is to be voted on in the November 6, 2018 General Election. THE FULL TEXT OF THE LEGISLATION TO BE INITIATED APPEARS ON THE REVERSE SIDE OF THIS PETITION.

We, the undersigned qualified and registered electors, residents in the County of _____ State of Michigan, respectively petition for initiation of legislation.

WARNING - A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

INDICATE CITY OR TOWNSHIP IN WHICH REGISTERED TO VOTE	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					MO	DAY	YEAR
CITY OF _____ TOWNSHIP OF _____	1.						
CITY OF _____ TOWNSHIP OF _____	2.						
CITY OF _____ TOWNSHIP OF _____	3.						
CITY OF _____ TOWNSHIP OF _____	4.						
CITY OF _____ TOWNSHIP OF _____	5.						
CITY OF _____ TOWNSHIP OF _____	6.						
CITY OF _____ TOWNSHIP OF _____	7.						
CITY OF _____ TOWNSHIP OF _____	8.						
CITY OF _____ TOWNSHIP OF _____	9.						
CITY OF _____ TOWNSHIP OF _____	10.						

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signed the petition was at the time of signing a registered elector of the city or township indicated preceding the signature, and the elector was qualified to sign the petition.

If the circulator is not a resident of Michigan, the circulator shall make a cross or check mark in the box provided; otherwise each signature on this petition sheet is invalid and the signatures will not be counted by a filing official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the secretary of state or a designated agent of the secretary of state has the same effect as if personally served on the circulator.

WARNING - A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

CIRCULATOR - Do not sign or date certificate until after circulating petition.

(Signature of Circulator)	(Date)
(Printed Name of Circulator)	
(Complete Residence Address (Street and Number or Rural Route)) Do not enter a post office box	
(City or Township, State, Zip Code)	
(Printed or Typed Declaration: "I Declaration to this" after Circulator who is not a Resident of Michigan)	

An initiation of legislation to allow under state law the personal possession and use of marijuana by persons 21 years of age or older; to provide for the lawful cultivation and sale of marijuana and industrial hemp by persons 21 years of age or older; to permit the taxation of revenue derived from commercial marijuana facilities; to permit the promulgation of administrative rules; and to prescribe certain penalties for violations of this act. If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution of 1963, the proposed legislation is to be voted on at the General Election, November 6, 2010. For the full text of the proposed legislation, see the reverse side of this petition.

We, the undersigned qualified and registered electors, residents in the county of _____, State of Michigan, respectively petition for initiation of legislation.

WARNING – A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

INDICATE CITY OR TOWNSHIP IN WHICH REGISTERED TO VOTE	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					MO	DAY	YEAR
CITY OF _____ TOWNSHIP OF _____	1.						
CITY OF _____ TOWNSHIP OF _____	2.						
CITY OF _____ TOWNSHIP OF _____	3.						
CITY OF _____ TOWNSHIP OF _____	4.						
CITY OF _____ TOWNSHIP OF _____	5.						
CITY OF _____ TOWNSHIP OF _____	6.						
CITY OF _____ TOWNSHIP OF _____	7.						
CITY OF _____ TOWNSHIP OF _____	8.						

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted any person to sign this petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the city or township indicated preceding the signature, and the elector was qualified to sign the petition.

☐ If the circulator is not a resident of Michigan, the circulator shall make a check mark in the box provided, otherwise each signature on this petition sheet is invalid and the signatories will not be counted by a filing clerk. Making a check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees to a legal process served on the Secretary of State or a designated agent of the Secretary of State has the same effect as if personally served on the circulator.

WARNING – A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

CIRCULATOR – Do not sign or date certificate until after circulating petition.

(Signature of Circulator)

(Date)

(Printed Name of Circulator)

Complete Residence Address (Street and Number or Rural Route) (Do Not Enter A Post Office Box)

(City or Township, State, Zip Code)

(County of Registration, if Registered to Vote, or a Circulator who is not a Resident of Michigan)

INITIATION OF LEGISLATION

A petition to initiate legislation to increase the minimum wage to \$10 per hour on January 1, 2019; to \$10.65 per hour on January 1, 2020; to \$11.35 per hour on January 1, 2021 and \$12 per hour on January 1, 2022; to annually adjust the minimum wage based on the change in the cost of living; to require that gratuities are to be retained by the employee who receives them except as voluntarily shared; and to gradually increase the minimum wage in steps for employees who receive tips or gratuities until it is the same as the minimum wage for other employees. The proposal if adopted would supersede 2014 Public Act 139. If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution of 1963, the proposal is to be voted on at the November 6, 2018 general election.

FOR THE FULL TEXT OF THE PROPOSED LEGISLATION, SEE THE REVERSE SIDE OF THIS PETITION.

We, the undersigned qualified and registered electors, residents in the County of _____ State of Michigan, respectively petition for initiation of legislation.

WARNING—A PERSON WHO KNOWINGLY SIGNS THIS PETITION MORE THAN ONCE, SIGNS A NAME OTHER THAN HIS OR HER OWN, SIGNS WHEN NOT A QUALIFIED AND REGISTERED ELECTOR, OR SETS OPPOSITE HIS OR HER SIGNATURE ON A PETITION, A DATE OTHER THAN THE ACTUAL DATE THE SIGNATURE WAS PLACED, VIOLATING THE PROVISIONS OF THE MICHIGAN ELECTION LAW.

INDICATE CITY OR TOWNSHIP IN WHICH REGISTERED TO VOTE	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					Mo	Day	Year
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	1.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	2.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	3.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	4.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	5.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	6.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	7.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	8.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	9.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	10.						

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has either caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person was at the time of signing a registered elector of the city or township indicated preceding the signature, and the person was qualified to sign the petition.

☐ If the circulator is not a resident of Michigan, the circulator shall make a cross (x) or check mark (✓) in the box provided, otherwise each signature on this petition sheet is invalid and the signatures will not be counted by a King official. In making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and consents to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the Secretary of State or a designated agent of the Secretary of State has the same effect as if personally served on the circulator.

WARNING—A CIRCULATOR KNOWINGLY MAKING A FALSE STATEMENT IN THE ABOVE CERTIFICATE, A PERSON NOT A CIRCULATOR WHO SIGNS AS A CIRCULATOR, OR A PERSON WHO SIGNS A NAME OTHER THAN HIS OR HER OWN AS CIRCULATOR IS GUILTY OF A MISDEMEANOR.

Paid for with regulated funds by Michigan One Fair Wage, P.O. Box 35174, Detroit, MI 48235.

CIRCULATOR—DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

Signature of Circulator _____

Date _____

Printed Name of Circulator _____

Complete Residence Address (Street and Number or Rural Route) Do not enter a post office box _____

City or Township, State, Zip Code _____

County of Registration, If Registered to Vote, of a Circulator Who is not a Resident of Michigan _____

INITIATION OF LEGISLATION

An Initiation of legislation to enact the Earned Sick Time Act. This initiated law would provide workers with the right to earn sick time for personal or family health needs, as well as purposes related to domestic violence and sexual assault and school meetings needed as a result of a child's disability, health, or issues due to domestic violence and sexual assault; specify the conditions for accruing and using earned sick time; prohibit retaliation against an employee for requesting, exercising or enforcing rights granted in this act; prescribe powers and duties of certain state departments, agencies, and officers; provide for promulgation of rules; and provide remedies and sanctions.

If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution of 1963, the proposed legislation is to be voted on at the General Election, November 6, 2018.

FOR THE FULL TEXT OF THE PROPOSED LEGISLATION SEE THE REVERSE SIDE OF THIS PETITION.

We, the undersigned qualified and registered electors, residents in the county of _____, State of Michigan, respectively petition for initiation of legislation.

WARNING—A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

INDICATE CITY OR TOWNSHIP IN WHICH REGISTERED TO VOTE	SIGNATURE	PRINTED NAME	CURRENT ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					MO	DAY	YEAR
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	1.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	2.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	3.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	4.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	5.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	6.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	7.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	8.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	9.						
CITY OF <input type="checkbox"/> TOWNSHIP OF <input type="checkbox"/>	10.						

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the city or township indicated preceding the signature, and the elector was qualified to sign the petition.

☐ If the circulator is not a resident of Michigan, the circulator shall make a cross or check mark in the box provided, otherwise each signature on this petition shall be invalid and the signatures will not be counted by a filing official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the secretary of state or a designated agent of the secretary of state has the same effect as if personally served on the circulator.

WARNING—A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

Paid for with regulated funds by Raise Michigan, P.O. Box 1502, Royal Oak, MI 48068

000000

CIRCULATOR—Do not sign or date certificate until after circulating petition.

Signature of Circulator _____ Date _____

Printed Name of Circulator _____

Complete Residence Address (Street and Number or Rural Route) Do not enter a post office box _____

City or Township, State, Zip Code _____

County of Registration, if Registered to Vote, of a Circulator Who is not a Resident of Michigan _____