

Michigan Court of Appeals

DOCKETING STATEMENT

Case No:	
Circuit:	<u>Court of Claims</u>
Court of Appeals:	

Please read before completing form.

- MCR 7.204(H) and 7.205(E)(3) require an **appellant** in a civil action to complete and file a docketing statement within 28 days after the claim of appeal is filed or the application for leave to appeal is granted. Failure to timely file this document may lead to dismissal of the appeal. An appellee may respond by filing a separate docketing statement.
- This document will be used to screen the appeal for suitability and eligibility for the settlement conference program, and will be used to help resolve jurisdictional and transcript issues. It is important that you complete this form accurately and legibly.
- The issues identified in the docketing statement do no limit appellant’s presentation of the issues in appellant’s brief. Omission of an issue in the docketing statement will not provide a basis for a motion to strike appellant’s brief.

1. Case Name:

Appellant
 Appellee

Appellant
 Appellee

Committee to Ban Fracking in Mich.

Name of first Plaintiff

Jocelyn Benson

Name of first Defendant

Address: **Box 490**
Charlevoix, MI 49720
Telephone No: **(231) 944-8750**

Address: **430 W Allegan**
Lansing, MI 48918
Telephone No: **(517) 373-2540**

Attorney Name: **Ellis Boal** Bar No: **10913**
Address: **9330 Woods Road**
Charlevoix, MI 49720
Telephone No: **(231) 547-2626**

Attorney Name: **Heather Meingast** Bar No: **55439**
Address: **Box 30217**
Lansing, MI 48909
Telephone No: **(517) 335-7659**

2. A bankruptcy or other proceeding has been filed which affects this Court’s jurisdiction over this appeal.

Identify and explain.

3. There are pending or prior appeals in the Court of Appeals or Supreme Court which arose out of the same transaction, lower court case, or between the same parties.

Specify case name, lower court number, appellate court number(s), and citation, if available.

4. I am aware of the following pending appeals in the Court of Appeals or Supreme Court raising the same or closely related issues.

Specify case name, lower court number, appellate court number(s), and citation, if available.

5. Identify **all** the lower court hearings.

Type of proceeding (i.e. motion, trial, etc.)	Date(s) Occurred	Court Reporter
None.		

6. **Nature of case:**

a. If the lower court case number provided on page 1 does not include a suffix, please specify the circuit court case code (i.e. NI, CK, etc): 18-000274-MM

b. Identify the procedural nature of the case being appealed.

- arbitration
 bench trial
 post-judgment action
 declaratory judgment
 interlocutory matter
 jury trial
 summary disposition
 administrative proceeding (specify agency) _____
 other (i.e. default judgment) _____

7. Briefly describe the nature of the action and the result in the trial court. Conclusory statements such as “the judgment of the trial court is not supported by law” are unacceptable. Attach additional pages as needed.

See attachment.

8. Briefly state the issues to be raised in this appeal. Attach additional pages as needed.

See attachment.

9. The amount and terms of the judgment appealed are:

See attachment.

10. Settlement negotiations. (Check all boxes that apply.)

- Settlement negotiations have been conducted or are scheduled.
 Settlement is unlikely.
 Other _____

Date: 08/10/2019
(mm/dd/yyyy)

Signature: /s/ Ellis Boal

7. Brief statement of the nature of the action and result in the trial court:

The complaint sought to compel defendants to accept filing of and canvass plaintiffs' timely-tendered signatures which facially met the threshold requirement for a statutory initiative, and to challenge the constitutional validity of MCL 168.472a as applied to the process for a invoking a statutory initiative. The court of claims held that, due to a mistaken prediction of an election date on the face of the petition sheets plaintiffs did not file the signatures even though plaintiffs corrected the mistake on the day they tendered, there was no requirement that the petition sheets state an election date, and defendants have approved and canvassed signatures on petition sheets of other organizations which contained similar mistaken predictions. The court did not reach other issues.

8. Issues to be raised in the appeal:

- A. Since the statute at issue, MCL 168.471, has no definition of "filing," whether under the common understanding of the term plaintiffs' act of tendering the signatures constituted "filing" them.
- B. Whether the secretary of state should have referred the filing issue to the canvassers rather than deciding it herself.
- C. Whether plaintiffs had the right to rely on defendants' assertions in prior litigation in this and other courts that once they had collected enough signatures to meet the threshold they would be allowed to file them.
- D. Whether defendants' acts denied equal protection.
- E. Whether MCL 168.472a is unconstitutional as applied to statutory initiatives.

9. The terms of the judgment:

The court summarily held plaintiffs did not "file" the signatures and did not reach the other issues.