

STATE OF MICHIGAN
IN THE SUPREME COURT

COMMITTEE TO BAN FRACKING IN
MICHIGAN,

Supreme Court No. 161453

Plaintiff,

v

BOARD OF STATE CANVASSERS,

Defendant.

The action involves a ruling that a provision of the Constitution, a statute, rule or regulation, or other State governmental action is invalid.

**DEFENDANT BOARD OF STATE CANVASSERS'
MOTION FOR SUMMARY DISPOSITION**

Defendant Board of State Canvassers, by their attorneys, move under MCR 2.116(C)(8) and (10) for the dismissal of Plaintiff Committee to Ban Fracking in Michigan's complaint on the grounds that the claims fail as a matter of law in support of their motion state as follows:

1. This case presents a challenge to the validity of MCL 168.472a.
2. The complaint alleges that the statute, which requires that petition signatures more than 180 days old not be counted, is unconstitutional.
3. Plaintiff is seeking mandamus "and other" relief voiding MCL 168.472a.
4. Plaintiff fails to demonstrate that the Board of State Canvassers had a clear legal duty to not follow MCL 168.472a.
5. Plaintiff fails to demonstrate that it has a clear legal right to have the Board of State Canvassers ignore a legislative enactment.

6. Plaintiff has failed to demonstrate that MCL 168.472a is an unconstitutional “undue burden” on the right to initiate legislation.

7. Plaintiff has failed to state a claim for which relief may be granted.

RELIEF REQUESTED

For these reasons and the reasons more fully stated in the accompanying brief, Plaintiff Committee to Ban Fracking has failed to demonstrate any entitlement to mandamus or other relief and their challenge to the constitutionality of MCL 168.472a fails as a matter of law. Defendant Board of State Canvassers respectfully requests that this Honorable Court enter an order granting summary disposition and dismissing the complaint in its entirety and with prejudice.

Alternatively, if this Court is not persuaded that MCL 168.472a is constitutional, the Defendant respectfully requests that the Court enter an order to that effect no later than July 6, 2020, so the Defendant may take the necessary actions to canvass CBFM’s petition and refer it to the legislature, if appropriate.

Respectfully submitted,

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