

**STATE OF MICHIGAN
COURT OF APPEALS**

COMMITTEE TO BAN FRACKING IN
MICHIGAN,

Plaintiff-Appellant,

Court of Appeals # 354270
Court of Claims # 20-000125-MM

v

BOARD OF STATE CANVASSERS,

Defendant-Appellee.

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**Reply to the Canvassers' Opposition to the Committee's
Renewed Motion to Expedite**

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Yesterday July 27 the Committee renewed its previously denied motion to expedite this appeal, and specified a briefing schedule and a date by which a Court decision is needed. This morning the Canvassers responded.

Of course MCR 7.213(C)(4) requires the Court to accord this case calendar priority anyway. So the real issue presented by the renewed motion is just how fast the parties and Court must act.

The Canvassers' response of today raised a new issue which the Committee has not previously discussed in this Court. They asserted:

For example, both CBFM's chairperson and counsel signed the petition twice, and their signatures would therefore be invalid

...

[E]ven CBFM's own chairperson signed the petition more than once.¹

The Canvassers made this same claim to the Court of Claims below:

Notably, the petition sheets filed by CBFM included duplicate signatures of CBFM chairperson LuAnn [sic] Kozma and its counsel, Ellis Boal, dated over a year apart.

...

This is to say nothing of the risk that electors may justifiably be confused about whether they have previously signed the petition, as even CBFM's chair and counsel appear to have done.²

The Canvassers' claim of two of its leadership having signed twice is false, as the Committee showed in its reply brief below:

1 Canvassers' Answer in Opposition, pp 3, 5.

2 Canvassers' Brief in Opposition to Motion for a TRO and/or Preliminary Injunction, 7-15-2020, pp 5, 15.

Specifically, Defendant proposes that permitting longer periods of circulation risks leading voters to become confused about whether they have already signed a petition, which Defendant attempts to support with the *plainly false allegation* that Plaintiff’s director and co-counsel had both signed the petition in duplicate. Conversely, as Defendant’s own exhibit shows, both of such signers intentionally crossed out and replaced their original signatures in the precise manner prescribed by the Department of State. Footnote 8.

8. See Mich Dep’t of State, “Sponsoring a Statewide Initiative, Referendum, or Constitutional Amendment Petition” (June 11, 2019), p 9, available at < <https://perma.cc/4NW2-4UHM> > (“Any petition signer entries found by the sponsor to be invalid may be crossed out with a line prior to filing.”).³

It is wrong for the Canvassers to assert something in a brief which they know to be false.

Respectfully submitted,

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3 Committee's Corrected Reply Brief, 7-16-20, pp 6-7 (emphasis added).