

**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

**CITIZENS PROTECTING MICHIGAN'S
CONSTITUTION, JOSEPH SPYKE, and
JEANNE DAUNT,**

v Plaintiffs,

**SECRETARY OF STATE and MICHIGAN
BOARD OF STATE CANVASSERS,**

Defendants / Cross-Defendants,
and

**VOTERS NOT POLITICIANS BALLOT
COMMITTEE, d/b/a VOTERS NOT
POLITICIANS, COUNT MI VOTE, a Michigan
Non-Profit Corporation, d/b/a VOTERS NOT
POLITICIANS, KATHRYN A. FAHEY,
WILLIAM R. BOBIER and DAVIA C.
DOWNEY,**

Intervening Defendants / Cross-Plaintiffs

Court of Appeals
No. 343517

**INTERVENING DEFENDANTS /
CROSS-PLAINTIFFS' RESPONSE
TO PLAINTIFFS' MOTION FOR
ADDITIONAL TIME TO RESPOND
AND FOR ORAL ARGUMENT**

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**INTERVENING DEFENDANTS / CROSS-PLAINTIFFS'
RESPONSE TO PLAINTIFFS' MOTION FOR ADDITIONAL
TIME TO RESPOND AND FOR ORAL ARGUMENT**

Now Come Intervening Defendants / Cross-Plaintiffs (“Intervening Defendants”) Voters Not Politicians Ballot Committee d/b/a Voters Not Politicians and Count MI Vote d/b/a Voters Not Politicians (collectively “Voters Not Politicians” or “VNP”); Kathryn A. Fahey; William R. Bobier; and Davia C. Downey, by their undersigned legal counsel, opposing Plaintiffs’ Motion for Additional Time to Respond and for Oral Argument as follows:

1. The Intervening Defendants admit the allegations set forth in Paragraph 1.
2. The Intervening Defendants deny Plaintiffs’ claim that the Board of State Canvassers need not act on the petition at issue until September 6, 2018. As expressed in Intervening Defendants previously-filed Answer, Cross-claim and Motion for Intervention, it is essential that the Board of State Canvassers and the Secretary of State promptly perform their statutory duties with respect to certification of VNP’s petition and submission of its proposal on the ballot to ensure that all legal challenges are finally adjudicated before the statutory deadline. If the Board of State Canvassers does not certify VNP’s petition promptly in advance of that deadline, the Intervening Defendants may be effectively denied the opportunity to which they are entitled to seek judicial review of its action.
3. In response to Paragraph 3, the Intervening Defendants welcome the expedited handling of this matter, and support the action of the Court of assigning this case priority status as required by MCR 7.213(C)(4).
4. The Intervening Defendants admit the allegations set forth in Paragraph 4, except to note that their Cross-claim has simply requested that the Secretary of State and the Board of State Canvassers be directed to perform their remaining statutory duties with respect

to certification of VNP's petition and submission of its proposal on the ballot, specifically, the Board's duty to determine whether VNP has obtained a sufficient number of valid signatures, and if it has, to certify the proposal, and to approve the required 100-word statement of purpose prepared by the Director of Elections, without delay. Plaintiffs' Answer to Plaintiffs' Complaint for Mandamus has requested that this Court grant the same relief pursuant to MCR 7.216(A)(7) and (9).

5. In response to Paragraph 5, the Intervening Defendants acknowledge that their Motion for Intervention included a request for oral argument. However, Intervening Defendants accept the Court's Order, and seek expedited consideration of this matter in accordance with that Order.

6. The Intervening Defendants admit the allegations set forth in Paragraph 6.

7. In response to Paragraph 7, the Intervening Defendants acknowledge the content of MCR 7.206(D)(1), which speaks for itself, but note that the requirements of that subrule apply to the commencement of an original action, and do not appear to apply to the filing of a cross-claim in an action previously commenced. In further response, the Intervening Defendants note that they filed their Motion for Intervention promptly, with a request for immediate consideration of the same, in order to ensure that their status as intervenors could be established in time to file their supporting brief within the time allowed for the named Defendants to file their responses, as required by MCR 7.206(D)(2). In their Motion for Intervention, the Intervening Defendants proposed to file a supporting brief addressing their responses to Plaintiffs' Complaint for Mandamus and their Cross-Claim on or before May 22, 2018, the deadline for the Defendants to respond. The Plaintiffs did not object to Intervening

Defendants' proposal to proceed in that manner, and their Cross-Claim was accepted for filing by the Court's Order of May 11, 2018.

8. The Intervening Defendants admit the allegations set forth in Paragraph 8.

9. The Intervening Defendants admit the allegations set forth in Paragraph 9.

10. The Intervening Defendants admit the allegations set forth in Paragraph 10.

11. The Intervening Defendants admit the allegations set forth in Paragraph 11, but note that their Motion for Leave to Exceed Page Limitation has been withdrawn in order to avoid any necessity to delay this Court's adjudication of this matter according to the schedule set forth in the Court's Order of May 11, 2018.

12. The Intervening Defendants admit the allegations set forth in Paragraph 12.

13. In response to Paragraph 13, the Intervening Defendants acknowledge the content of their previously-filed Motion for Leave to Exceed Page Limitation, which speaks for itself, but note that allegations made in support of that motion are now irrelevant in light of the subsequent withdrawal of that motion.

14. The Intervening Defendants deny the allegations set forth in Paragraph 14 as untrue, for the reasons previously stated in response to Paragraph 2.

15. In response to Paragraph 15, the Intervening Defendants acknowledge that this case involves complex issues which require adequate briefing, but contend that a sufficient opportunity for completion of that briefing has been allowed by the schedule set forth in the Court's Order of May 11, 2018.

16. The Intervening Defendants admit the allegation set forth in Paragraph 16, but are not aggrieved by the Court's decision to submit this matter on the briefs without oral argument.

17. In response to Paragraph 17, the Intervening Defendants acknowledge that oral argument is often beneficial for the reasons stated therein, but they are more concerned that their interests may be harmed if the final disposition of this matter is delayed by the additional time that would be required for scheduling and presentation of oral arguments.

18. In response to Paragraph 18, the Intervening Defendants acknowledge that Plaintiffs should have an adequate time to respond, but contend that the Court's Order of May 11, 2018 has allowed them a sufficient amount of time to do so.

WHEREFORE, the Intervening Defendants / Cross-Plaintiffs respectfully request that Plaintiffs' Motion for Additional Time to Respond and for Oral Argument be denied.

Respectfully submitted,

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