

STATE OF MICHIGAN
MICHIGAN COURT OF APPEALS

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

Case No. 343517

v.

SECRETARY OF STATE, and
MICHIGAN BOARD OF
STATE CANVASSERS,
Defendants/Cross Defendants,

**PLAINTIFFS' MOTION FOR
IMMEDIATE CONSIDERATION OF
THEIR MOTION FOR ADDITIONAL
TIME TO RESPOND AND FOR ORAL
ARGUMENT**

And

VOTERS NOT POLITICIANS BALLOT
COMMITTEE, d/b/a/ VOTERS NOT
POLITICIANS, COUNT MI VOTE, d/b/a
VOTERS NOT POLITICIANS, KATHRYN
A. FAHEY, WILLIAM R. BOBIER and
DAVIA C. DOWNEY
Intervening Defendants/Cross-Plaintiffs

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PLAINTIFFS' MOTION FOR IMMEDIATE CONSIDERATION OF THEIR MOTION FOR ADDITIONAL TIME TO RESPOND AND FOR ORAL ARGUMENT

Plaintiffs, Citizens Protecting Michigan's Constitution, Joseph Spyke, and Jeanne Daunt ("Plaintiffs"), through counsel, move for immediate consideration pursuant to MCR 7.211(C)(6) of their separately filed Motion for Additional Time to Respond and for Oral Argument. In support, Plaintiffs state as follows:

1. Plaintiffs filed this original action seeking a writ of mandamus directing the Defendant Secretary of State and Board of State Canvassers to reject a ballot proposal supported by Intervening Defendants including Voters Not Politicians (collectively, Intervening Defendants are referred to as "VNP").

2. Plaintiffs stipulated to the intervention of VNP in this matter as a party defendant, and on May 10, 2018, VNP filed a motion for intervention along with an attached cross-claim seeking a writ ordering the opposite of the relief sought by Plaintiffs—i.e., a writ directing Defendants to certify the petition at issue and place it on the ballot. Contrary to the court rule requirements, Plaintiffs did not file a brief supporting their cross claim. MCR 7.206(D)(1) requires that supporting briefs be filed together with a complaint to initiate an original action.

3. In their motion for intervention, VNP stated they intended to file on May 22 a joint brief that would both respond to Plaintiffs' opening brief and that would support their cross claim. (Motion for Intervention, ¶ 18.)

4. On May 11, 2018, this Court issued an Order granting VNP's motion for intervention and requiring Plaintiffs to file an answer to the cross-claim by May 22. The May 11 Order further requires Plaintiffs to file any response brief to Intervening Defendant's May 22 brief by 1:00 p.m. on May 31.

5. On May 16, 2018, VNP filed a motion seeking leave to file a 75-page brief on May 22, ostensibly including both a response to Plaintiffs' opening brief and VNP's arguments in support of their cross-claim.

6. Plaintiffs, by their separate motion, seek additional time (i.e., 21 days as is otherwise consistent with MCR 7.206(D)(2)) to respond to the complex and varied issues that VNP asserts will be raised in its combined response and supporting brief (including VNP's arguments that the republication requirement at MCL 168.482(3) is unconstitutional).

7. Immediate consideration of Plaintiffs' motion for additional time and for oral argument is required because Plaintiffs need time to prepare their response to VNP's brief and certainty as to the date such filing will be required, and will not have such certainty if this motion is addressed without immediate consideration.

8. As set forth in the accompanying motion, neither immediate consideration nor the Court permitting Plaintiffs to respond within 21 days (as otherwise permitted by MCR 7.206(D)(2)) will prejudice the parties; pursuant to MCL 168.477(1), ballot initiative petitions need not be certified until September 6, 2018.

WHEREFORE, Plaintiffs respectfully request that their Motion for Immediate Consideration be granted.

Respectfully submitted,

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Dated May 17, 2018