

No. ____

In the Supreme Court of the United States

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AMERICANS FOR CITIZEN VOTING – MICHIGAN and FRED SMITH
Applicants,

v.

MICHIGAN BOARD OF STATE CANVASSERS, SECRETARY OF STATE JOCELYN BENSON,
and DIRECTOR OF ELECTIONS JONATHAN BRATER,
Respondents.

To The Honorable Brett M. Kavanaugh, Associate Justice of the United States
and Circuit Justice for the Sixth Circuit

**EXHIBITS TO APPLICATION FOR AN EMERGENCY
INJUNCTION PENDING APPEAL BY SEPTEMBER 3, 2026**

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Attorneys for Americans for Citizen Voting - Michigan and Fred Smith

Exhibit A

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UNCERTIFIED TRANSCRIPT DISCLAIMER

IN RE: BOARD OF STATE CANVASSERS MEETING

The following transcript of proceedings, or any portion thereof, in the above-entitled matter, taken August 24, 2026, is being prepared, as directed by the digital reporter of record, by Esquire Deposition Solutions and being delivered UNEDITED AND UNCERTIFIED.

Since this transcript has not been checked, proofread, or corrected, counsel should not quote from this draft in pleadings or elsewhere. Counsel who request this rough draft are obligated to purchase the certified final transcript, which is the only official record that may be relied upon for verbatim citation of testimony and use at trial.

As a rough draft transcript, it may contain electronic transmission errors resulting in inaccurate or nonsensical word combinations or symbols which cannot be deciphered. Corrections will be made in the preparation of the final certified transcript resulting in differences in content, page and line numbers, punctuation, and formatting. This uncertified and unedited transcript contains no appearance page, index, or certificate pages.

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1 Lansing, Michigan

2 Monday, August 24, 2026, 10:01 a.m.

3 CHAIR HOUSKAMP: The August 24, 2026, meeting
4 of the Board of State Canvassers is called to order at
5 10:00 a.m.

6 Good morning. Again, we have a full room. We
7 must be getting really popular. We seem to be filling
8 this room all summer. The flow of the meeting this
9 morning is we have a lot of serious business to do. We
10 are going to put public comment, as we've done in the
11 last couple meetings, at the end of the program. We are
12 going to do the business that the board came to do
13 first. And so we'll have public comment, but it will be
14 after the other items are covered.

15 Can you hear my voice loud enough? I --

16 UNIDENTIFIED FEMALE SPEAKER: Yeah.

17 CHAIR HOUSKAMP: Okay. Perfect. That being
18 the case, I would ask for -- Item No. 1 is a

22 CHAIR HOUSKAMP: And I see you already have it
23 up, don't you?

24 VICE CHAIR GUREWITZ: I have a motion.

25 CHAIR HOUSKAMP: I know. I saw that. We still

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1 have -- we still have some unresolved -- we still have
2 some unresolved votes (indiscernible).

3 MR. BRATER: Well, I mean, I think that our --
4 based on the fact that the board does not -- so there's
5 the question of whether these additional two duplicates
6 would reduce from 626 to take it down to 624. There's a
7 question of whether these four deadlocks would reduce
8 the 626 down to 622 or 620, depending on the dupes as
9 well. But neither -- ultimately, neither one of those
10 affects our staff's updated count because the board
11 isn't considering those additional five affidavits. So
12 either way, our recommendation at this point would be
13 that you have 626 valid signature.

14 CHAIR HOUSKAMP: We deadlocked on the
15 additional -- we deadlocked on the affidavits.

16 MR. BRATER: Right.

17 CHAIR HOUSKAMP: If the affidavits were brought
18 in, what would the total be?

19 MR. BRATER: If the affidavits were brought in
20 and the other subtractions were not applied, there would
21 be 631, which is over 629, obviously.

22 CHAIR HOUSKAMP: And you said -- any comments
23 before?

24 MR. CORDES: Only that, you know, we have
25 disagreed on these probably more than on anything that

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1 we have over the last year and a half. I think that
2 even if you took into account all -- everything that we
3 deadlocked on plus the affidavits, this would put the
4 petition well over the 629 that needed -- I think some
5 of the deadlocks were unnecessary. Like, there -- some
6 of those were pretty clear. So yeah, I -- I also do
7 think that a couple of the signatures that we just
8 reviewed were good and valid signatures, and the lack of
9 the ability for anybody, candidates or -- or committees
10 to look at those put them at an automatic disadvantage.
11 So I would -- I believe there's enough valid signatures
12 here to certify (indiscernible) -- had the deadlock as

Exhibit B

STATE OF MICHIGAN
MICHIGAN BOARD OF STATE CANVASSERS

In Re Petition sponsored by Americans for
Citizen Voting - Michigan

AFFIDAVIT OF Fred Smith

STATE OF Michigan

COUNTY OF Livingston) ss.

Fred Smith, being first sworn, states:

1. My name is Fred Smith. I am over 18 years of age and competent to make this Affidavit. I have personal knowledge of the facts set forth in this Affidavit and, if called to testify, could and would testify about the matters described.
2. I make this affidavit for the purpose of supporting the validity of my petition signature in connection with the Americans for Citizens Voting – Michigan petition, and to assist in defending my First Amendment rights against any challenge or opposition that may be raised regarding my signature on this petition.
3. I have reviewed petition number 117616, line 2. The printed name that appears next to my name is my true and genuine signature. I signed this petition by printing my name.
4. Although I am unclear which signature the State has on file for me in the QVF, I note that I customarily use my printed name as my signature in everyday applications, including on legal, financial, and other official documents. Consistent with these general practices, I signed the petition in the same manner that I regularly sign such important documents.
5. I swear under penalty of perjury that the foregoing is true and correct.

Fred Smith
Signature

FRED SMITH
Printed Name

Date: 8/21/20

FURTHER AFFIANT SAYETH NOT.

Fred Smith - F.S.

Ellen Kletzer

Subscribed and sworn to before me this 21st day of August, 2026

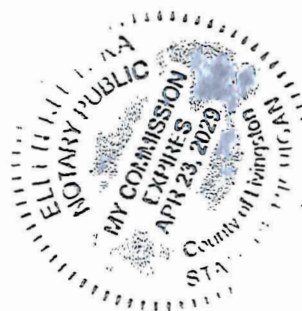
Signed Ellen Kletzer

Notary Public

Livingston County, State of Michigan

My commission expires: 4.23-29

Acting in the County of Livingston, State of Michigan



**STATE OF MICHIGAN
MICHIGAN BOARD OF STATE CANVASSERS**

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Citizen Voting - Michigan

AFFIDAVIT OF Fred Smith

STATE OF Michigan)

COUNTY OF Livingston) ss.

Fred Smith, being first sworn, states:

1. My name is Fred Smith. I am over 18 years of age and competent to make this Affidavit. I have personal knowledge of the facts set forth in this Affidavit and, if called to testify, could and would testify about the matters described.
2. I make this affidavit for the purpose of supporting the validity of my petition signature in connection with the Americans for Citizens Voting – Michigan petition, and to assist in defending my First Amendment rights against any challenge or opposition that may be raised regarding my signature on this petition.
3. I have reviewed petition number 117616, line 2. The printed name that appears next to my name is my true and genuine signature. I signed this petition by printing my name.
4. Although I am unclear which signature the State has on file for me in the QVF, I note that I customarily use my printed name as my signature in everyday applications, including on legal, financial, and other official documents. Consistent with these general practices, I signed the petition in the same manner that I regularly sign such important documents.
5. I swear under penalty of perjury that the foregoing is true and correct.

Fred Smith
Signature

FRED SMITH
Printed Name

Date: 8.23.26

FURTHER AFFIANT SAYETH NOT.

Fred Smith

Subscribed and sworn to before me this 23rd day of August, 2026

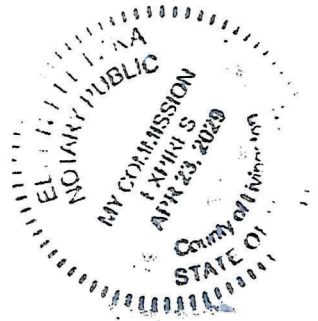
Signed Eleklyzha

Notary Public

Livingston County, State of Michigan

My commission expires: 4-23-29

Acting in the County of Livingston, State of Michigan



The circulator of the petition is a (mark one) ☒ paid signature gatherer ☐ volunteer signature gatherer.
If the petition circulator does not comply with all of the requirements of the Michigan election law for petition circulators, any signature obtained by that petition circulator on that petition is invalid and will not be counted.

INITIATIVE PETITION AMENDMENT TO THE CONSTITUTION

ACV 117616

Constitutional amendment to: require citizenship verification for all voters through statewide program, document submission, or provisional voting; require removing noncitizens after notice and 45-day rebuttal; require proof of citizenship by showing birth certificate, passport, and/or other documents; track separate federal and state/local election eligibility requirements; beginning 11/2/2027, prohibit counting ballots from voters with unverified citizenship unless documents shown to election administrator within 6 days post-election; eliminate affidavit alternative for voters without photo-ID; require photo-ID, or driver's license or partial social security number to vote absentee; require state-funded hardship program for obtaining required documents; subject violators to \$1,000 fine and/or up to 5 years imprisonment.

The full text of the proposal to amend Article 2, Section 1 and Article 2, Section 4 of the constitution appears on the reverse side of this petition, along with provisions of the existing constitution which would be altered or abrogated if the proposal is adopted.
We, the undersigned qualified and registered electors, residents in the county of Livingston State of Michigan, respectively petition for amendment to constitution.

WARNING - A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	CITY OR TOWNSHIP	ZIP CODE	DATE OF SIGNING		
					MO	DAY	YEAR
1 <u>Carole Blucher</u>	<u>Carole Blucher</u>	<u>1446 Salmon Lake Rd</u>	<u>Bayton</u>	<u>48114</u>	<u>11</u>	<u>13</u>	<u>25</u>
2 <u>Gregory N</u>	<u>Gregory N</u>	<u>334 S. 11th St</u>	<u>Bayton</u>	<u>48114</u>	<u>11</u>	<u>13</u>	<u>25</u>
3 <u>David N</u>	<u>David N</u>	<u>3220 MERRON LN</u>	<u>Hobart</u>	<u>48843</u>	<u>11</u>	<u>13</u>	<u>25</u>
4 <u>James N</u>	<u>JENNETH FAYTON</u>	<u>324 E. BODICKS ST</u>	<u>Hobart</u>	<u>48843</u>	<u>11</u>	<u>14</u>	<u>25</u>
5 <u>James N</u>	<u>James N</u>	<u>4023 BEERY FARM</u>	<u>Hobart</u>	<u>48843</u>	<u>11</u>	<u>14</u>	<u>25</u>
6 <u>James N</u>	<u>James N</u>	<u>155 FRONT</u>	<u>Hobart</u>	<u>48843</u>	<u>11</u>	<u>14</u>	<u>25</u>
7 <u>James N</u>	<u>James N</u>	<u>3400 W. N36</u>	<u>Hobart</u>	<u>48843</u>	<u>11</u>	<u>14</u>	<u>25</u>
8 <u>James N</u>	<u>James N</u>	<u>6009 KUYANDR</u>	<u>Hobart</u>	<u>48843</u>	<u>11</u>	<u>14</u>	<u>25</u>
9 <u>James N</u>	<u>James N</u>	<u>3261 Grand Ave</u>	<u>Hobart</u>	<u>48843</u>	<u>11</u>	<u>14</u>	<u>25</u>
10 <u>James N</u>	<u>James N</u>	<u>5300 W. N36</u>	<u>Hobart</u>	<u>48843</u>	<u>11</u>	<u>14</u>	<u>25</u>

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence, that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the city or township indicated preceding the signature, and the elector was qualified to sign the petition.

CIRCULATOR - Do not sign or date certificate until after circulating petition.

James N
(Signature of Circulator)
11/28/25
(Date)

James N
(Printed Name of Circulator)

334 West Lakes Dr
(Complete Residence Address (Street and Number or Rural Route)) Do not enter a post office box

Bayton
(City or Township, State, ZIP Code)

48114
(ZIP Code)

(County of Registration, if Registered to Vote, of a Circulator who is not a Resident of Michigan)
Livingston

(Paid for with regulated funds by: Americans for Citizen Voting - Michigan 1254 Woodbridge, St. Clair Shores, MI 48092)

Exhibit C



August 17, 2026

Staff report
Americans for Citizen Voting–Michigan

Sponsor: Americans for Citizen Voting–Michigan

Date of filing: March 4, 2026

Number of valid signatures required: 446,198 signatures

Total filing: 709,841 signatures.¹

Signature sample:

Total number of sampled signatures		1,000
Total number of signatures determined to be invalid	Less:	308
Invalid signature (signature is omitted or does not sufficiently agree with the signature on file)	Less:	92
Signer not registered to vote in the city or township indicated	Less:	129
Invalid city or township (no city or township by that name located within the county listed at the top of the petition sheet or the city/township field was left blank)	Less:	12
Invalid date (signature is dated before the first date signatures may be circulated; signer's signature is dated after the circulator dated their signature; date is incomplete, illegible, or missing)	Less:	31
Damaged (damaged, mutilated or torn petitions sheets that are damaged in a way that interferes with the presence of any of the mandatory elements)	Less:	1

¹ The total number of signatures filed represents a cushion of 59.1% over the minimum number required. The sponsor needed to attain a signature validity rate of at least 62.9% for staff to recommend certification of the petition (i.e., 629/1,000). After consideration of the challenge and response, the validity rate found in this sample is 61.2%, (612/1,000).

Missing required element (missing a required element, e.g., warning cut off when printed, illegible words) ²	Less:	5
Circulator information missing (failure to include the circulator name or complete residential address; circulator did not sign or date petition)	Less:	29
Out-of-state box blank (out-of-state circulator failed to check non-residency box in the Certificate of Circulator)	Less:	1
Paid/volunteer box blank (circulator did not mark paid/volunteer box)	Less:	1
Illegible (unable to read enough information provided by the signer to identify the signer)	Less:	1
Miscellaneous errors not provided above (voter is registered in city/township indicated but the voter's address is not located in the county in the petition heading) ³	Less:	6
Total number of valid signatures in sample before challenges		692

Staff's review of Americans for Citizen Voting–Michigan's (ACVM) signature sample identified 308 invalid signatures and 692 valid signatures, prior to the review of challenged signatures.

Date errors: DATE describes an instance where the signature is dated before the first date signatures may be circulated; the signer's signature is dated after the circulator dated their signature; or the date is incomplete, illegible, or missing. In the ACVM petition, eleven sampled signatures were dated more than 180 days before the petition was submitted. In other cases, the date was illegible, the signer wrote their birthdate instead of the date of signing, or the signature was dated after the circulator dated their signature. This error invalidated 31 signatures.

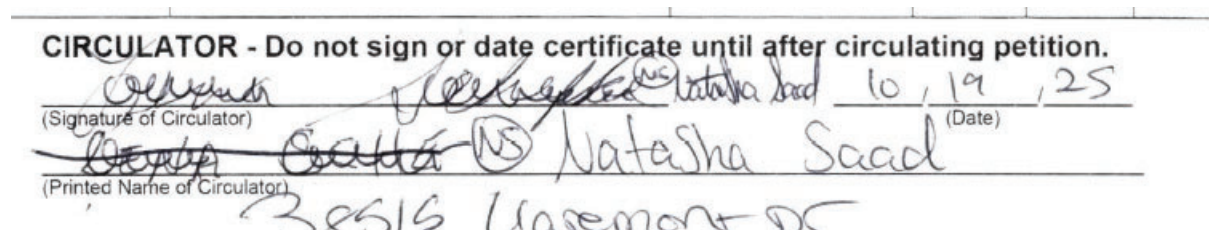
² In some instances, determination of required elements were made difficult by partial obstruction of elements caused by strike-throughs. Petition sponsors are encouraged to, before submitting, review signatures and cross off signatures that sponsors can determine are invalid. The *Ballot Proposal Petition Manual* instructs sponsors to "[u]se a pen or pencil to cross out rather than a marker that may bleed through." For ACVM, the sponsors often used crayon to cross out signatures, resulting in wax buildup on the scanners that slowed the scanning process, as well as occasional stray marks on petition sheets caused by the wax. In the future, the Bureau recommends revising the petition manual to advise petition sponsors not to use crayon for cross-outs.

³ MC applies when a signature is invalid for a reason not listed in the approved codes. Here, the code applies when, for example, the voter lives in Tekonsha, which is located in both Calhoun and Branch County. While the voter is registered in the portion that lies within Branch County, they signed a Calhoun County petition sheet. In this instance, the signature is invalid because only registered voters of the county in the heading may sign that petition sheet. However, the signature does not neatly fit into the NR error code (which applies when the voter is not registered in the city or township indicated) or the IC error code (which applies when the city or township indicated is not located in the county in the heading). This error is marked as MC for this petition cycle but following this cycle staff recommends a new code to account for the error.

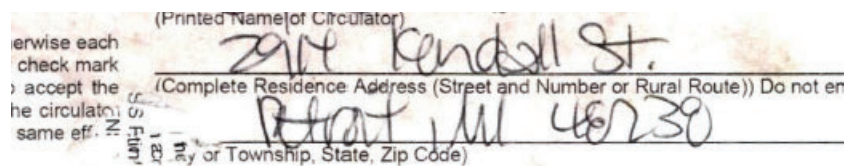
Circulator errors: CIRC describes an error in the information provided in the circulator certificate. In *Wickman v Norway Twp Clerk*,⁴ the court held that the circulator failed to strictly comply with the requirements in MCL 168.544c(1) by failing to include the circulator’s *city or township* when the circulator filled in their postal address *village* instead. In the ACVM petition, instead of their city or township circulators filled in the villages of Ahmeek, Alto, Comstock Park, Freeport, Hale, Interlochen, Luzerne, New Hudson, Pinckney, Remus, Snover, and Wolverine Lake. Other circulator errors identified by staff included the circulator’s failure to date the certificate, illegible dates, and dates that are before the date of the signer or outside the petition date range. In total, staff found that 29 signatures in the sample were invalid due to CIRC errors, of which 17 were instances in which the circulator addresses failed to include the circulator’s city or township in violation of statute as interpreted by *Wickman*.⁵

Visual examples: Listed in this section are 7 signatures for which the Board may wish to review visual examples of the petition sheets to determine whether it agrees with staff’s determinations. These 7 signatures were both challenged and included in ACVM’s response to the challenge.

Staff invalidated the signature on sheet number 52437 for a “CIRC” error because it appears that two different individuals signed the circulator certificate. While the first printed name is crossed off, the first signature is not:



Staff invalidated the signature on sheet number 63412 for a “DMG” error because there is a hole on the circulator’s city or township line. Staff provides the following image but recommends inspection of the original:



Staff invalidated the signature on sheet number 68816 for a “DATE” error because the year is illegible:



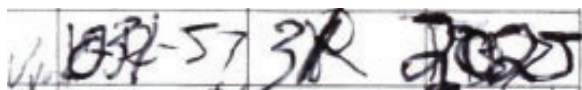
⁴ The reporter citation has not yet been assigned. The decision was issued by the Michigan Court of Appeals on July 18, 2024, docket number 367743.

⁵ As explained below, when processing the challenge, staff identified additional signatures it agreed with challengers were invalid under *Wickman*. The results of the challenge are described later in this report.

Staff invalidated the signature on sheet number 85577 for an “IS” error because the signer printed their name twice and then crossed out one printed version but did not include a signature that sufficiently agrees with the signer’s QVF signature:



Staff invalidated the signature on sheet number 86344 for a “DATE” error because the date is illegible:



Staff invalidated both signatures on sheet number 11630 for a “CIRC” error because the year, while not clear, more closely resembles 2020 or 2028 than 2025:

r circulating petition.
9 11 25
(Date)

Signature challenge: Robert LaBrant and Promote the Vote Action (collectively, PTVA) filed a challenge to specific signatures in the sample, alleging that 377 of ACVM’s sampled petition signatures should be rejected because the signatures included all of the following:

- The circulators include at least one forger from the Bureau’s memo from 2024.⁶
- Circulator fraud.
- ACVM actually filed 40,000 fewer signatures than they claimed.⁷
- Among the signatures filed are over 9,000 which were signed more than 180 days prior to the date of filing.⁸
- More than 9% of the sample signatures are duplicated in the overall filing, many several times.
- There are petition sheets which were submitted twice by ACVM.⁹
- Duplicate signatures.
- Date and circulator errors.
- Signers with invalid address information, including the use of “false” addresses.
- Signers with invalid city or township information.
- Signers with invalid signatures.

⁶ PTVA refers to staff’s 2024 memo, *Petition Sheets Showing Clear Indications of Fraud* as a “blacklist.” The memo named one circulator used by ACVM in the current petition. The individual has not been convicted of submitting fraudulent petition signatures nor been banned by the Board of State Canvassers from circulating petitions.

⁷ While sponsors indicate an estimated number of signatures upon submission, staff counts all signatures submitted by a ballot question committee, and the approved random sampling software generates the number needed for sufficiency based on staff’s count.

⁸ At its [March 20, 2023 meeting](#), the Board of State Canvassers approved proposed updates to staff’s random sampling procedures, including expansion to statewide candidate petitions. Accordingly, only signatures included in the random sample generated for ACVM’s submission are relevant to the estimated number of valid signatures for the petition, and therefore only these signatures are eligible for challenge.

⁹ This is alleged in the challenge’s introduction but is not discussed in the challenge.

- Signers who are not registered voters.

In sum, PTVA challenged 377 sampled signatures. Of these, 217 signatures “overlapped” signatures already determined to be invalid during staff’s review. Once these overlaps were removed, 160 challenges to signatures found to be valid on initial staff review, but challenged by PTVA, remained for review.

In addition, PTVA challenged the entire petition as “defective on its face” because PTVA alleges ACVM failed to reproduce on the petition sheets the full list of sections of the Michigan Constitution the amendment would *abrogate*, as required by MCL 168.482(3). Rather, PTVA argues, ACVM lists only the sections the amendment would *amend*. The challenge on this basis is described in detail in the *Challenge to summary and substance* section of this staff report.

Following staff’s initial review, ACVM was left with a “cushion” of 63 signatures—the number of signatures ACVM had in excess of the number needed to appear on the ballot. Because the number of signatures challenged exceeded ACVM’s cushion, staff processed the challenge as described in the following table. The table shows the challenges that were accepted by staff, thereby reducing the number of valid signatures; it does not include the challenges that overlapped with the signatures already found invalid by staff during its initial review or challenges that were reviewed and rejected.

Total number of valid signatures in sample before challenges		692
Duplicate (voter signed petition multiple times)	<i>Less:</i>	59
Invalid signature (signature is omitted or does not sufficiently agree with the signature on file)	<i>Less:</i>	2
Signer not registered to vote in the city or township indicated	<i>Less:</i>	1
Invalid city or township (no city or township by that name located within the county listed at the top of the petition sheet or the city/township field was left blank)	<i>Less:</i>	1
Circulator information missing (failure to include the circulator name or complete residential address; circulator did not sign or date petition)	<i>Less:</i>	15
Miscellaneous errors not provided above (indication of circulator fraud) ¹⁰	<i>Less:</i>	7
Total valid after processing challenge		607

ACVM response to signature challenge: ACVM responded to the challenge, asserting that 149 of the challenged signatures are valid.

ACVM’s response to the signature challenge is made using a spreadsheet attached to the response as Exhibit 4. The spreadsheet is a reproduction of the PTVA’s signature challenge spreadsheet with an additional column noting each signature ACVM asserts is a valid signature and the reason why it is a

¹⁰ MC applies when a signature is invalid for a reason not listed in the approved codes. Here, PTVA submitted sufficient evidence that the circulator who signed the petition sheet was not the person with that name registered at that address in QVF.

valid signature. ACVM argued signatures alleged by PTVA to be invalid should in fact be valid for a number of reasons, including:

- Alleged duplicate signers are actually two different people.
- The alleged duplicate signature outside the sample is an invalid signature, so the signature in the sample is the only valid signature from that voter and it is not a duplicate.
- Alleged nonmatching signatures should count because they have redeeming qualities.
- *Wickman* does not apply to out-of-state circulators.
- Challenges to “false places” must be rejected because a signature is valid if the signer is registered within the city or township listed on the petition.

ACVM’s response also identifies specific signatures invalidated for “DATE,” “CIRC,” or “DMG” errors and argues that the listed date, either by the voter or the circulator, is in fact legible and proper and the damage is minor.¹¹

ACVM’s response includes evidence refuting some of the allegations of circulator fraud. Specifically, ACVM attaches affidavits executed by circulators Darnell Beasley and Curtis Wilson as well as images of their driver’s licenses. ACVM’s response also includes videos of circulator Marquin Johnson signing a petition sheet showing Johnson’s signature and address and Johnson’s driver’s license.

Following the Bureau’s review of the challenge, ACVM was below the number needed to be sufficient in the 1000-signature sample by 22 signatures. Because the number of signatures ACVM sought to rehabilitate exceeded the gap, staff processed the response as described in the following table. The table shows the rehabilitation attempts that were accepted by staff, thereby increasing the number of valid signatures; it does not include the rehabilitation attempts that were reviewed and rejected.

During staff’s review of ACVM’s response, staff determined that ACVM successfully rehabilitated 5 signatures. Rehabilitated signatures are signatures that were deemed invalid by staff either during its initial review or while processing the challenge, but for which ACVM provided additional information that showed the signatures to be valid.

The following table describes the rehabilitated signatures:

Total number of valid signatures after processing challenge		607
Duplicate (voter signed petition multiple times) rehabilitated	<i>Plus:</i>	2
MC errors not provided above (indication of circulator fraud) rehabilitated	<i>Plus:</i>	3
Total valid after processing response to challenge		612

Staff’s evaluation of signature challenge and response:

¹¹ All of the signatures invalidated for “DMG,” “DATE” or “CIRC” errors identified in ACVM’s response are signatures that staff determined to be invalid during staff’s review and are discussed in detail in the “visual examples” section of this staff report.

Duplicate signature errors: PTVA alleged that there were at least 94 sampled signatures that were invalid because the same signer provided at least one other signature elsewhere in the universe. According to the procedure approved by the Board, to determine sufficiency staff confines its review to the 1,000 signatures within the sample drawn from the universe. However, when after reviewing a challenge it is determined that a signature in the sample has a duplicate signature in the universe (including outside the sample), and the sampled signature and at least one duplicate elsewhere in the universe are otherwise valid (i.e. the possible duplicate is not invalid for some other reason), the sampled signature is then rendered invalid as a duplicate. (If the duplicate signature is invalid for some other reason, the sampled signature is the only valid signature in the petition and is therefore not invalid as a DUP.)¹² Before processing ACVM's response, staff accepted 59 DUP challenges, rejected 6 (generally, because the alleged duplicate was invalid for another reason, leaving the sampled signature valid), and identified 29 that overlapped staff's determination.

ACVM's response to the challenge alleged that 45 signatures invalidated as duplicates should be rehabilitated because the alleged duplicate signatures were not those of the same person (for instance, two different John Smiths) or because the duplicate signature or signatures in the universe were invalid, rendering the sampled signature the only valid signature and negating the duplicate determination. Staff reviewed each alleged duplicate signature again in light of the additional information provided in ACVM's response. Staff rehabilitated 2 signatures that were initially coded as DUPs after reviewing ACVM's response. The signature on sample sheet 59314 was rehabilitated because ACVM's response provided evidence that the individual who signed the alleged duplicate in the universe was not the same person as the individual who signed the sample sheet. The signature on sample sheet 105665 was rehabilitated because ACVM's response provided evidence that the signature on the universe sheet did not sufficiently agree with the voter's signature in QVF, and therefore was not a valid signature. In sum, ACVM rehabilitated 2 duplicate signatures, and staff rejected the rehabilitation attempt for the remaining 43.

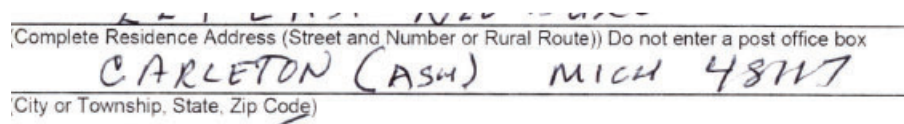
Wickman errors: PTVA alleged that there were 45 circulators who did not identify their city or township in the circulator certificate in violation of statute as interpreted by *Wickman*. Staff accepted 15 *Wickman* challenges,¹³ rejected 6, and identified 24 that overlapped with other staff determinations.¹⁴ Staff rejected all 5 of the *Wickman* challenges to out-of-state circulators who listed addresses with an unincorporated place. As discussed in the Michigan Money out of Politics (MMOP) staff report and subsequent meeting, *Wickman* did not consider out-of-state circulators, and states do not uniformly organize their jurisdictions into cities, townships, and villages in the same way that Michigan's

¹² In *Taxpayers United for Assessment Cuts v Austin*, 994 F.2d 291, 297-299 (1993), the plaintiffs argued that Michigan's procedures violated their Fourteenth Amendment due process and equal protection rights for various reasons. Specifically, plaintiffs argued "the practice in Michigan of excluding the signatures of any person who has signed the petition twice is irrational," and argued that the Board's practice of using both a system of random sampling and "technical checks" produced irrational results. *Id.* at 299. The court disagreed, holding that excluding duplicative signatures was "rationally related to Michigan's interest in protecting against fraud in its initiative system." The court further held that using both technical checks and random sampling was rational and "may even make the random sampling procedure more accurate." *Id.*

¹³ PTVA identified additional villages or unincorporated communities written by circulators in place of their city or township. These included Byron Center, Cass City, Goodrich, Gregory, Middleville, Ortonville, Romeo, and Tustin. Additionally, PTVA identified two circulators who indicated villages that share a name with a township—Metamora and St. Charles—as residing in the village and not the township by that name.

¹⁴ Of the 24 overlaps: 17 were already coded as CIRC errors by staff, 1 was coded as an "NR" error, 4 were coded as "IS" errors, and 2 were accepted DUP challenges.

municipalities are organized. Therefore, staff did not consider petitions in this category to be invalid. The final rejected *Wickman* challenge was rejected because the circulator included both the name of their village (Carleton) and their township (Ash) in the circulator certificate, as shown in the following image:



“Nonexistent” places: PTVA alleges that 31 sampled signatures had “nonexistent places” written on the petition in the place for the voter’s address. PTVA argues that the Petition Manual states that a signature will not be rejected when a signer indicates “a different street address within the same city or township,” and that the use of the term “street address” suggests that it must be a real address that exists. PTVA argues that the Board should reject all signatures that use an address that does not exist.

Again, as discussed in the MMOP staff report and meeting, in the memo on petition code changes drafted by staff and approved by the Board at the March 20, 2023, meeting, the Board eliminated the previous “RAT” code, which applied when the signer “was not registered at the *address* listed in the petition, but *was* registered at a different address within the *jurisdiction*.” While the RAT code was eliminated, the following was included in the procedure approved by the Board¹⁵:

If the voter cannot be found at the address listed on the petition, staff will continue to verify whether the individual is registered at a different address within the jurisdiction. This process will continue to be followed **whether or not the address provided is a valid address**. Where such determinations are disputed or challenged, staff will continue to provide comments explaining that the signer is registered within the jurisdiction and the question of whether the signer is registered at the address listed is irrelevant. (Emphasis added).

Because the Board approved a procedure that does not require the address listed by the voter to be vetted to determine whether it is a valid address, staff did not invalidate any signatures on the basis of a “false place” address. In relevant part, the approved Signature Coding¹⁶ includes in the description of the not registered error (“NR”) the following explanation: “Note: If a signer is registered to vote at a different address within the same city or township as written on the petition, the signature is valid.” This description does not include any requirement that the address written on the petition be an existing valid address. Staff notes that of the 31¹⁷ signatures challenged for this reason, 17 of them overlapped with staff’s determination of invalidity (for a different reason),¹⁸ 13 were rejected as registered voters, and one was accepted, but for a different reason (as an “IS” error).

Alleged circulator fraud: PTVA alleges various forms of circulator fraud. First, PTVA alleges that signers on the petition sheets circulated by Diallo Daniely have signatures that differ from signatures purportedly by the same signer found in Tom Leonard’s petition for Governor. Daniely was the circulator

¹⁵ See [March 20, 2023 SIGNED BSC Draft Minutes](#), Board approval of changes to petition validity codes and changes to procedures described in the Petition Manual.

¹⁶ [Petition Manual: Statewide Initiative, Referendum, and Constitutional Amendment Petitions](#), Appendix D: Signature Coding.

¹⁷ One of the 31 signatures identified in the “False Places Evidence” section of the appendix to the challenge (petition sheet 85632, line 8) was not included as a challenged signature in the Defective Signature Spreadsheet.

¹⁸ Staff coded 3 as “IS” errors and 14 as “NR” errors.

of the Tom Leonard sheets containing the purported signatures of the same voters. The ACVM petition and the Tom Leonard petition were both circulated by Daniely in 2025.¹⁹ PTVA argues the differences between the voter signatures on the two separate petitions clearly indicates circulator fraud. The challenge identifies 2 petition sheets that are part of the sample for which Daniely is listed as the circulator—sheets number 35239 and 81010. However, the voters identified in the challenge as also signing the Tom Leonard petitions using different signatures are not among the sampled signatures in the ACVM petition. The sampled signatures on those sheets are not challenged, and the sampled signatures sufficiently agree with the voters' QVF signatures. Accordingly, because this part of the challenge does not include evidence relevant to signatures in the sample and the sampled signatures on the affected petition sheets match the voter's QVF signature, staff recommends rejecting the challenge to the petition sheets circulated by Daniely.

Next, PTVA alleges that there are clear indicators of fraud for 5 circulators with a total of 22²⁰ signatures in the sample because those circulators each use different signature styles and handwriting in the circulator certificate throughout the petition. The 5 challenged circulators are: Curtis Wilson, Marquin Johnson, Darnell Beasley, Diana Green, and Kalisha Cofer. PTVA alleges that this is evidence that at least two people were signing as one identified circulator, and it is not possible to verify which, if any, circulator signature is the real signature or whether the circulator witnessed the signers signing the petition.

Staff initially accepted the challenges to the signatures on sheets circulated by Curtis Wilson because Wilson is a registered Michigan voter and the signature on the sampled sheets does not sufficiently agree with the signature in QVF. Throughout the petition, Wilson has two different signature styles. One of the two styles does sufficiently agree with Wilson's QVF signature; however, the petition sheets with the matching style are not in the sample. This error initially invalidated 3 signatures. However, ACVM's response to the challenge included an affidavit executed by Wilson swearing that the variation of Wilson's signature that does not sufficiently agree with Wilson's QVF signature is in fact a variation of Wilson's actual signature. Wilson further attests to signing the challenged petition sheets bearing the non-matching signature variation. Wilson's signature on the affidavit matches Wilson's QVF signature and the affidavit is notarized. Considering this evidence refuting the circulator fraud challenge, 3 signatures were rehabilitated.

Staff rejected the challenges to the signatures on sheets circulated by Marquin Johnson and Darnell Beasley because both Johnson and Beasley are registered Michigan voters and their signatures on the petition sheets that were within the sample sufficiently agree with their QVF signatures. The circulator signatures that do not sufficiently agree with Johnson's and Beasley's QVF signatures are on sheets that are outside the sample. Additionally, staff notes that ACVM submitted an affidavit from Darnell Beasley swearing that Beasley did in fact sign the challenged petition sheets as the circulator and a copy of

¹⁹ PTVA also argues that Daniely's inclusion in staff's 2024 memo, *Petition Sheets Showing Clear Indications of Fraud* is further evidence that Daniely committed circulator fraud in this petition drive. While staff's memo did name Daniely as one circulator who circulated petition sheets that showed clear indications of fraud, Daniely has not been convicted of submitting fraudulent petition signatures nor been banned by the Board of State Canvassers from circulating petitions.

²⁰ While the challenge indicates 22 sampled signatures are challenged for this reason, the Fraud Evidence – Circulator Signatures exhibit included in the Appendix includes images of only 19 signatures that are in the sample. However, all 22 challenges are identified in the Defective Signature Spreadsheet exhibit also included in the Appendix.

Beasley's driver's license. ACVM also submitted a video of Marquin Johnson signing a petition sheet showing Johnson's signature and address on the petition sheet and Johnson's driver's license.

Staff rejected the challenge to the signatures on sheets circulated by Diana Green because while Green has two styles of signature throughout the petition, all of Green's signatures on the petition sheets that are within the sample sufficiently agree with each other and staff does not have an exemplar signature for Green to determine whether the signature style appearing in the sample is Green's actual signature. (Green is an out-of-state circulator). Because staff cannot determine whether the signature used by Green on the sampled petition sheets sufficiently agrees with Green's true signature, staff cannot make a conclusion that Green fraudulently signed the circulator certificates on the sampled petition sheets. ACVM's response did not include an exemplar signature or any other evidence related to Green.

While previous challenges have alleged circulator fraud, they did so by alleging the circulator collected more signatures than typical, that more petition sheets than typical were fully completed with 10 signatures, and that normal petition-gathering practices were irregular, such as cross outs and incomplete lines.²¹ In those cases, upon investigation staff did not find sufficient evidence to indicate fraud that would invalidate petition signatures. Instead, in the case of Cornell West, after the Board found West sufficient for the ballot, staff investigated the allegations, comparing circulator signatures with their associated entries in QVF or out-of-state IDs submitted by the campaign.

In this case, PTVA submitted examples of circulator certificates that appear to be filled out by two different people. While a circulator need not be a registered voter (and need not be a resident of Michigan), the evidence submitted was compelling enough that staff compared the circulator signatures of circulators who are registered Michigan voters with their QVF signatures and, in the case of Kalisha Cofer, was able to determine that Cofer was not actually the person who signed. Cofer is a registered Michigan voter and the signature on the sampled sheets does not sufficiently agree with Cofer's signature in QVF. Additional evidence that Cofer is not the person who signed the circulator certificate is that each circulator block misspelled Cofer's name (Kailsha instead of Kalisha) and jurisdiction (Yipsilanti instead of Ypsilanti). This error invalidated 4 signatures. ACVM's response to the challenge did not attempt to rehabilitate Cofer's signatures.

Finally, PTVA alleges 8 additional sampled signatures are on sheets with evidence of circulator fraud.²² Of those 8 remaining circulator fraud challenges, 5 signatures were already invalidated by staff for various reasons.²³ For 2 of the remaining 3 signatures (petition sheets 70674 and 83726), PTVA argues that the voters' signatures are significantly different from the voters' signatures on previous petitions and that this difference is evidence of circulator fraud. Staff rejected the challenge to both sheets because each voter's signature on the ACVM petition sufficiently agrees with the voter's signature in QVF. Finally, for the one remaining signature (petition sheet 67372), PTVA notes that the circulator signature and printed name are crossed off and a different circulator name and signature is present.

²¹ Cornell West Challenge, received July 25, 2024.

²² The evidence of circulator fraud cited in the challenge for these 8 sampled signatures varied and included the handwriting on the entire sheet, crossed out circulator dates and other corrections, and the handwriting of the voter's signature.

²³ Three were invalidated as IS errors, 1 as an NR error, and one as a CIRC error where two different circulators signed the certificate.

Staff rejected this challenge because the voter signature on the petition sheet sufficiently agrees with the voter's signature in QVF and circulator corrections are not automatically disqualifying errors.

Challenge to petition's summary and substance: PTVA argues that ACVM's petition fails to list every section of the Michigan Constitution it would abrogate if it were enacted into law. PTVA cites MCL 168.477(1) and MCL 168.482(3) in support of its argument that the Board has the authority and duty to determine whether ACVM satisfied the legal requirement to republish all sections of the Michigan Constitution that would be altered or abrogated by the proposal.

PTVA alleges that Article 2, § 9 and Article 4, § 1 of the Michigan Constitution are abrogated by all sections of the proposed constitutional amendment because all of the proposed constitutional amendments could be enacted into law by the Legislature under the Legislature's Article 2, § 9 authority or through the people by a statutory initiative under the people's Article 4, § 1 authority. Specifically, PTVA argues that because the proposal would amend the Michigan Constitution, the Legislature's and people's constitutional authority to enact the proposal's provisions or to amend or repeal the provisions by legislation, statutory initiative, or referendum is abrogated. In other words, where the proposal provides a penalty or procedure where previously there was none, the sponsors must publish the Constitutional provisions where authority for that general topic had previously been granted to the legislature, executive, or judiciary.

In addition, PTVA also identifies specific sections of the proposed constitutional amendment that it argues abrogate existing specific sections of Michigan's Constitution. PTVA argues that the following sections of Michigan's Constitution should have been listed as being abrogated by the petition:

Section PTVA alleges should have been listed as abrogated by the petition	PTVA alleges unlisted section would be abrogated by proposed constitutional amendment to following section(s)
Article 2, § 9, providing for the people's power to "propose laws and to enact and reject laws"	Article 2, § 1(7), Article 2, § 1(8), and Article 2, § 1(9)
Article 4, § 1, vesting legislative power in a senate and a house or representatives	Article 2, § 1(7), Article 2, § 1(8), and Article 2, § 1(9)
Article 4, § 45, stating the legislature may provide for indeterminate sentences as punishment for crime	Article 2, § 1(9)
Article 5, § 2, granting the governor authority to make changes in the organization of the executive branch and assignment of duties within executive branch agencies	Article 2, § 1(2), Article 2, § 1(3), Article 2, § 1(4), and Article 2, § 1(7)
Article 5, § 8, stating governor may initiate court proceedings to enforce constitution	Article 2, § 1(8)
Article 6, § 1, judicial power is vested exclusively in one court of justice	Article 2, § 1(8)
Article 6, § 5, Michigan Supreme Court shall by general rules establish, modify, amend, and simplify the practice and procedure in all courts	Article 2, § 1(8)
Article 6, § 26, provides the Legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law	Article 2, § 1(8)

ACVM response to challenge to summary and substance: ACVM first argues that the question of whether the substance of a petition alters or abrogates an existing provision of the Michigan Constitution is not a question that the Board may decide because resolving that question requires complex legal judgment and falls outside of the Board’s ministerial role. ACVM notes that when the Board considered the sufficiency of the Promote the Vote 2022 petition, the Board deadlocked on whether it had authority to decide an alter or abrogate issue, and whether the petition must be certified to the ballot was determined by the Michigan Supreme Court. The court decided the question of certification without reaching the question of the Board’s authority to decide the alter or abrogate issue, but two Justices expressed the opinion that the Board did not possess the authority to consider alter or abrogate questions.

ACVM additionally argues that even if the merits of the abrogation challenge are considered, the proposed constitutional amendment does not abrogate any constitutional provision pertaining to the legislature, executive branch, or judiciary—either generally or in regard to the specific provisions identified by PTVA. ACVM argues that legal precedent has made it clear that the abrogation bar is very high and an amendment rarely abrogates an existing constitutional provision.

Staff evaluation of challenge to summary and substance and response: Michigan’s Constitution, Article XII, § 2 addresses amendment by petition and vote of electors and requires publication of “existing provisions of the constitution which would be altered or abrogated” by any proposed amendment. MCL 168.482(3) similarly states in relevant part: “If the proposal would alter or abrogate an existing provision of the constitution, the petition must so state and the provisions to be altered or abrogated must be inserted, preceded by the words: ‘Provisions of existing constitution altered or abrogated by the proposal if adopted.’”

In *Protect Our Jobs v Board of State Canvassers*, 492 Mich 763, 782-783 (2012), the court explained that “an existing provision of the Constitution is abrogated and, thus, must be republished if it is rendered wholly inoperative.” (Quotation marks and citation omitted). “An existing constitutional provision is rendered wholly inoperative if the proposed amendment would make the existing provision a nullity or if it would be impossible for the amendment to be harmonized with the existing provision when the two provisions are considered together.” *Id.* at 783. “An existing provision is not rendered wholly inoperative if it can be reasonably construed in a manner consistent with the new provision, i.e., the two provisions are not incompatible.” *Id.* The court noted that when an existing constitutional provision uses “nonexclusive or nonabsolute language” it is less likely that a proposed amendment abrogates the existing provision but when an existing constitutional provision “creates a mandatory requirement or uses language providing an exclusive power or authority” it is more likely that any proposed amendment would abrogate the existing constitutional provision. *Id.*

PTVA’s abrogation argument raises legal questions pertaining to the meaning of the Michigan Constitution and the impact of the proposed amendments. Staff does not make a recommendation as to the merits of the abrogation arguments raised in the challenge.²⁴

²⁴ Staff notes that in two concurrences and the dissent to the order in *Promote the Vote 2022 v Board of State Canvassers*, 510 Mich 884 (2022), the Justices disagreed about the Board’s authority to consider abrogation

Final result of signature sample:

<u>Number of valid signatures</u>	<u>Formula result</u>	<u>Sample result</u>
629 or more 628 or fewer	Certify Deny certification	612

Estimated number of valid signatures for petition: Based on the results of the random sample, it is estimated that the petition contains 434,423 valid signatures (at a confidence level of 90% and margin of error of $\pm 2.5\%$),²⁵ 11,775 signatures less than the minimum threshold for certification.

Staff recommendation: Determine petition insufficient.

Note that while the information provided in this staff report is current as of this writing, additional information may be submitted by the petition sponsor or challenger after the date of publication. Under the Board's rules, this must be submitted at least 48 hours before the relevant board meeting. R 168.846.

This staff report is being published on August 17, at least two business days prior to the August 24 meeting at which the Board of State Canvassers will consider the sufficiency of the ACVM's petition in accordance with MCL 168.476(3) ("At least 2 business days before the board of state canvassers meets to make a final determination on challenges to and sufficiency of a petition, the bureau of elections shall make public its staff report concerning disposition of challenges filed against the petition.").

arguments. Both Justice McCormack and Justice Welch authored concurring opinions that questioned whether the Board's duty to determine if a petition has sufficient signatures and if its form complies with statutory requirements extends to consideration of legal arguments such as whether the petition properly republished every section of the Michigan Constitution that would be abrogated by the proposal if it passed. Justice Zahra, in a dissenting opinion, asserts that Chief Justice McCormack is mistaken to suggest that the Board's duty is limited to determining the sufficiency of a petition's form and content and whether there are sufficient signatures to warrant certification. Staff does not make a recommendation on the scope of the Board's legal duty.

²⁵ In order to be determined sufficient, the sample had to have a validity rate of at least 62.9%. The validity rate of ACVM's sample is 61.2%.

Exhibit D



Edward D. Greim
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edgreim@gravesgarrett.com

Michael J. Scott
Direct Dial: (816) 285-3055
mscott@gravesgarrett.com

August 20, 2026

Via electronic mail

Michigan Board of State Canvassers
c/o Jonathan Brater
Director Bureau of Elections
Michigan Department of State
430 W. Allegan Street
Lansing MI 48918
mdos-canvassers@michigan.gov
BraterJ@michigan.gov

Re: Demand for Records Related to 92 Signatures Deemed “Invalid”
Americans for Citizen Voting-Michigan’s Ballot Initiative Signature
Sample

Dear Board of State Canvassers:

Please be advised that this firm represents Americans for Citizen Voting-Michigan (ACVM) and direct all further correspondence concerning this matter to the undersigned counsel. For the reasons described below, ACVM respectfully demands access to records related to the 92 signatures which the Bureau of Elections’ Staff Report deemed “invalid” on the grounds that the “signature is omitted or does not sufficiently agree with the signature on file,” including but not limited to, the 92 digitized signature records from the QVF that were compared to the 92 petition signatures.

As you are aware, ACVM is the sponsor of a ballot initiative for which it collected 709,841 signatures in support of the initiative, which is 59.1% greater than the minimum number of signatures required for the initiative to be certified for the ballot. From that universe of 709,841 signatures, staff from the Bureau of Elections selected and reviewed a sample of 1,000 signatures to determine the validity of the signatures collected through ACVM’s canvassing efforts. The Bureau’s Staff Report indicates that the signature validity rate in the sample was 61.2%, just short of the 62.9% required for the Bureau to recommend that the Board of State Canvassers (“Board”) certify the petition to appear on the general election ballot this November.

In terms of actual signatures, according to the Staff Report, the sample is 17 signatures short of the certification threshold.

As you are also aware, in addition to other categories of signatures deemed to be invalid, the Bureau's Staff Report concluded that 92 signatures in the sample were "invalid" because the "signature is omitted or does not sufficiently agree with the signature on file." According to guidance issued by the Bureau of Elections, a signature is invalid if there are no "redeeming qualities in the petition signature as compared to the signature on file."¹ Redeeming qualities "include but are not limited to similar distinctive flourishes [and] more matching features than nonmatching features."² The Bureau's guidance also provides an appendix showing comparisons between hypothetical signatures that are either valid or invalid.³

The conclusion in the Bureau's Staff Report that ACVM's petition sample contained 92 signatures that were invalid because they did not have any "redeeming qualities" and, thus, did not match the signature on file for that voter was presumably the result of the Bureau staff comparing those 92 petition signatures against the corresponding digitized signature records contained in the QVF. ACVM has reason to believe that the Bureau's conclusion is incorrect, and that many (if not all) of the 92 allegedly invalid signatures are, in fact, valid and genuine. And it's working diligently to find proof that the signatures are valid. But, without access to the QVF, ACVM cannot meaningfully challenge the Bureau's assertion that the signatures on the petition do not match the digitized signature in the QVF because it lacks the ability to view the digitized signature records in the QVF that presumably formed the basis for the Bureau's conclusion. Instead, ACVM—and this Board—are forced to trust the Bureau's conclusion about the 92 signatures without any ability to verify whether it was correct.

That's not how Michigan (or federal) law works. ACVM has a right to "due process" under both the Michigan and Federal Constitutions.⁴ Generally, due process requires that ACVM has a right to adequate "notice and an opportunity to be heard

¹ Ballot Proposal Petition Manual, p. 34 (July 2025), available at <https://www.michigan.gov/sos/-/media/Project/Websites/sos/Elections/Ballot-Access/FDC-FC-MAN-1-Ballot-Proposal-Petition-Manual.pdf>.

² *Id.* p. 34; see also Mich Admin R 168.23 (defining the "redeeming qualities" standard for absent voter ballot signature comparison).

³ Ballot Proposal Petition Manual, p. 36.

⁴ Const 1963, Art I, § 17; U.S. Const. Amend. XIV, § 1

in a meaningful time and manner”⁵ That requires, among other things, that ACVM be given “the chance to know and respond to the evidence.”⁶

With respect to the 92 signatures declared invalid based on the Bureau’s conclusions that they did not sufficiently match the corresponding signatures in the QVF, “the chance to know and respond to the evidence” demands that ACVM be given copies of any evidence that the Board or Bureau used to evaluate the validity or genuineness of the signatures on its petitions, including digitized signature records from the QVF or local authorities, in order to meaningfully contest the conclusions in the Staff Report, along with a specific explanation for why each one of the 92 allegedly invalid signatures in its petition sample was considered by the Bureau to lack any “redeeming qualities.”

As a result, AVCM therefore requests that the Board provide it with any and all documents pertaining to, and copies of, the 92 signatures that the Staff Report deemed “invalid” based on the notion that the “signature is omitted or does not sufficiently agree with the signature on file,” including but not limited to, the digitized signature records from the QVF that were compared to the 92 petition signatures.

AVCM is aware that signatures of voters are typically exempt from public disclosure under Michigan’s Freedom of Information Act. AVCM also understands the State of Michigan’s policy reasons for preserving the confidentiality of records related to its citizens’ signatures. But, as the committee that sponsored and spent millions of dollars supporting the ballot initiative under consideration, AVCM has a unique position and interest in this matter. And AVCM’s ability to issue a meaningful response to the Staff Report and the Board’s findings regarding the 92 allegedly invalid signatures hinges on the ability to review the related digitized signature records in the QVF. Moreover, AVCM’s due process rights can be respected without violating the privacy interests relating to the signatures at issue—put another way, AVCM’s due process interests can be preserved without violating the protections against public disclosure afforded to QVF signatures. Specifically, AVCM is amenable to working with the Board to review the 92 signatures *in camera*, subject to a protective order or confidentiality agreement, or in any other limited or confidential

⁵ See *Spranger v City of Warren*, 308 Mich App 477, 483; 865 NW2d 521 (2014); see also *Hieber v Oakland County, Michigan*, 136 F4th 308, 321 (CA 6, 2025) (citations omitted) (“Procedural due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner.”).

⁶ *Cummings v Wayne Co*, 210 Mich App 249, 253; 533 NW2d 13 (1995); see also *Hieber v Oakland County, Michigan*, 136 F4th 308, 322 (CA 6, 2025) (citations omitted) (a “critical element” of due process is “an opportunity to respond to the evidence”).



capacity that the Board deems acceptable so long as that process permits AVCM and its counsel to review the QVF signatures at issue here.

Given the short period of time remaining until the Board's August 24, 2026 meeting, AVCM respectfully request that the Board respond to this request within 24 hours so that it will have a meaningful opportunity to review this information as soon as possible. Additionally, to the extent the signatures in the QVF are available through any other mechanism or process, we respectfully request that you notify undersigned of the process with instructions for obtaining the corresponding QVF signatures through that process in the next 24 hours, and that you take all necessary steps to make those signatures available to AVCM and its counsel on an expedited basis.

Additionally, should the Board decline to make these signatures available, please ensure that you preserve any and all documents associated with ACVM's ballot initiative, the Bureau's review of the validity of the signatures, and the Board's review of the validity of the signatures in the event that AVCM is required to vindicate its rights in state and/or federal court.

In sum, due process demands that AVCM be given a meaningful opportunity to respond to the Staff Report's conclusion that 92 of the signatures in its petition sample are "invalid" because they do not "sufficiently agree with the signature on file." For that reason, AVCM respectfully demands that, at a minimum, access (even in a limited or confidential manner) allowing AVCM and its counsel to review the records that formed the basis for the Bureau's conclusion that those 92 signatures were invalid including, but not limited to, digitized signature records from the QVF.

Thank you for your consideration of this request. If you have any questions, please contact my colleague Michael Scott at (816) 285-3055 or msscott@gravesgarrett.com.

Sincerely,

A handwritten signature in black ink, which appears to read 'Edward D. Greim', is positioned below the 'Sincerely,' text.

Edward D. Greim

Exhibit E



August 20, 2026

Edward Greim
Michael Scott
Grave, Garrett, Greim
1100 Main Street, Suite 2700
Kansas City, MO 64105

Re: Demand for Access to QVF Signatures

Dear Mr. Greim and Mr. Scott:

This letter is in response to your August 20, 2026, request sent to the Board of State Canvassers (Board) and Bureau of Elections (Bureau), in which you request access to the digitized copy of the signatures contained in the Qualified Voter File (QVF) for the 92¹ signatures where the Bureau has recommended the signatures do not sufficiently agree with the QVF.

As you are aware, the QVF contains the digitized signature of registered voters in the State of Michigan – including those drawn from voters' driver's licenses or state ID cards. It is this signature that is utilized by the Bureau for the purposes of determining whether the signature on the petition sufficiently agrees. MCL 168.552(13).

In your letter, you request access to these signatures in order to respond to the Bureau's staff report which was issued on August 17, 2026. You state that you have a due process right to view these signatures and that the FOIA exemption should not apply. However, the withholding of QVF signatures is not based on the permissive FOIA exemption, but rather signatures are not released because of two statutory mandates.

Under Michigan Election Law, digitized signatures captured in the QVF "shall not" be released:

The secretary of state. . . *shall not* release a copy of that portion of a registration record that contains any of the following:

(f) The digitized signature of an elector that is captured or reproduced and transmitted to the qualified voter file by the secretary of state or a county, city, or

¹ Your letter requests access to 92 signatures identified as invalid. However, the staff report identifies 94 signatures—92 in a table on pg. 1 and two in a table on pg. 5.

township clerk under section 509hh or by the secretary of state under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307.

MCL 168.509gg(1)(f) (*emphasis added*).

Moreover, federal law also prohibits the Department from knowingly disclosing personal information obtained from motor vehicle records, except under narrowly defined circumstances:

(a) A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information, as defined in 18 U.S.C. 2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies.

18 U.S.C. § 2721(a)(1)-(2).

Michigan also has enacted legislation implementing the Driver's Privacy Protection Act defining "highly restricted personal information" in relevant part as "an individual's photograph or image, Social Security number, digitized signature, medical and disability information, and source documents presented by an applicant to obtain an operator's or chauffeur's license under section 307(1)." MCL 257.40b.

These sections are not permissive but rather mandate that the Bureau of Elections "shall not" release the digitized signature. As such, releasing these signatures or allowing ACVM to view the signatures *in camera*—even under a confidentiality agreement or protective order—would violate both state and federal law.

We appreciate ACVM's interest in verifying the basis for the Bureau's determination of invalid signatures, which is why staff provided ACVM with an individual breakdown of every determination it made with respect to the 1,000-signature sample. It is important to note that the Board has authority to review QVF signatures through the course of their canvassing responsibilities, and the Board has been provided the signatures for review.

While ACVM may not be able to obtain the signature from the QVF, there are still options that may be utilized to rehabilitate a signature. For example, you may contact the voters who have signed the petition and ask them to sign an affidavit detailing the page that was signed, indicating that they were the one who signed, and providing a signature that sufficiently agrees with the voter's signature in QVF. ACVM has already

done this process once by obtaining an affidavit from a circulator where staff accepted the rehabilitation.

As a reminder, any materials or responses to the staff report must be submitted to the Bureau of Elections no later than 48 hours before the start of the Board meeting. Materials can be emailed to MDOS-Canvassers@Michigan.gov and must be received no later than 10 a.m. on August 22, 2026 to be considered. R. 168.846.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Brater', with a stylized flourish at the end.

Jonathan Brater, Secretary
Michigan Board of State Canvassers

C: Eric Doster, Attorneys for Americans for Citizens Voting - Michigan
Sean T.H. Dutton, Attorneys for Americans for Citizens Voting - Michigan

Exhibit F

**STATE OF MICHIGAN
IN THE SUPREME COURT**

AMERICANS FOR CITIZENS VOTING-
MICHIGAN and FRED SMITH,

Supreme Court No. _____

Plaintiffs,

v.

THE BOARD OF STATE CANVASSERS,
JOCELYN BENSON, in her official capacity
as Secretary of State, and JONATHAN
BRATER, in his official capacity as Director
of Elections,

Defendants.

**PLAINTIFFS AMERICANS FOR CITIZEN VOTING – MICHIGAN AND FRED
SMITH’S COMPLAINT FOR IMMEDIATE MANDAMUS RELIEF AND
DECLARATORY JUDGMENT AND MOTION FOR ORDER TO SHOW CAUSE
AND IMMEDIATE CONSIDERATION**

*****IMMEDIATE AND EXPEDITED CONSIDERATION REQUESTED BY
SEPTEMBER 1, 2026, *****

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COMPLAINT

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action, now between these parties, arising out of the same transaction or occurrence as alleged in this complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this Court.

Americans for Citizens Voting – Michigan (ACVM) and Fred Smith, through counsel Bursch Law PLLC, Dickinson Wright, PLLC, and Doster Law Offices, PLLC, for its Original Action Complaint for Mandamus Relief against the Board of State Canvassers; Jocelyn Benson, in her official capacity as Secretary of State; and Jonathan Brater, in his official capacity as Director of Elections, state as follows:

INTRODUCTION

It's not every day that Michigan's bureaucracy violates state and federal law while disenfranchising more than 700,000 Michigan voters. But that's what happened this week. This Court should act immediately and restore those voters' voices.

Some 709,841 Michiganders exercised their First Amendment freedom of speech by signing ACVM's Petition to amend the Michigan Constitution to require proof of citizenship to vote in Michigan. ACVM submitted the signatures on March 4, 2026—more than four months ahead of the July 6, 2026 deadline. ACVM needed only 446,198 valid signatures for the measure to appear on the ballot.

The Board is tasked with canvassing petitions “to ascertain if the petitions have been signed by the requisite number of qualified and registered electors.” MCL 168.476. The Board claims to fulfill that duty by reviewing a 1,000-signature sample of all voters who signed a petition. Here,

that means Defendants reviewed a mere 0.1% of the more than 700,000 signatures contained in the Petition. Of that 1,000-signature sample, 629 needed to be accepted as valid.

On August 17, 2026, *some 5 1/2 months after submission*—equivalent to reviewing only six signatures per day during that period—the Bureau recognized 692 valid signatures before challenges, well above the 629-signature minimum. But after processing challenges by a political opposition group, the Bureau invalidated 80 more, leaving only 612 valid signatures. Nearly 100 signatures in all were thrown out because they allegedly did not match the voters' signature in the Secretary of State's digital Qualified Voter File, or QVF. Yet when ACVM protested and asked to see the QVF so it could respond, the Bureau refused and told ACVM it should find the signers whose signatures were invalidated and procure affidavits swearing to the authenticity of each signer's signature. So that's exactly what ACVM did.

At the conclusion of a meeting this past Monday, August 24, 2026, the Board met and concluded there was a three-signature deficiency. But ACVM presented *nine* affidavits from signers who swore it was their signature on the Petition—exactly the evidence the Bureau demanded. That should have resolved the matter. After all, each affidavit was a statement, made under oath and signed in front of a notary, swearing that the signatory was who he or she said they were and that the signature on the Petition was theirs. That's a legally binding statement.

Instead, the Board rejected all nine affidavits. To start, the Board said that four of the affiants' signatures did not match their signature in the QVF. But that was the whole point of providing affidavits. The QVF files can be decades old, and the digital files may no longer accurately reflect what a voter's current signature looks like. It's nonsensical (and illegal) to say that an affiant's *current oath* that a signature on the Petition was his or hers still doesn't count because of an old file that no one but election officials are allowed to view.

As for the other five affidavits, the Board said they were submitted too late for consideration under the Board's rule that "members of the public" submit information at least 48 hours before a Board meeting. That was unlawful many times over. The affidavits were submitted by ACVM, *not* members of the public, and the Board recognizes that a petition-sponsoring group is not a mere member of the public. The affidavits were also not mere information; they were testimony, and the Board routinely takes live testimony at its meetings. In addition, by running out the clock with their 5½-month review process, the Bureau and Board gave ACVM a mere five *days* to identify the individuals whose signatures were disregarded and obtain affidavits from them. That's a flagrant violation of ACVM's and the affiants' due-process rights. And consistent with the short time frames involved in proceedings like these, the Board has consistently accepted information from the public on the day of its meetings. Just not for ACVM.

Incredibly, the Board and the Bureau recognized on the record that *these affidavits were valid and would have cured the deficiency* had they been "timely" submitted. Yet the Board threw out the signatures anyway—plus two more based on information submitted at the meeting after ACVM was no longer allowed to make any further presentation or argument. That's rich.

By disregarding the very affidavits the Bureau directed ACVM to procure—and, thus, disregarding sworn testimony from nine Michigan voters that they signed the Petition--the Board violated Michigan law and the U.S. Constitution and disenfranchised hundreds of thousands of Michigan voters. Left uncorrected, the decision is an open invitation to future Boards to reject ballot measures for any arbitrary reason or no reason at all.

It cannot be the case that government officials demand proof of someone's identity, receive it, and then refuse to recognize that proof because those officials have a secret historical database that no one else is allowed to review or because those same officials were delinquent in their

processes and arbitrary in their rules. This Court should grant the writ and direct that the Petition be restored to the ballot.

PROCEDURAL AND FACTUAL HISTORY

A. In Michigan, the People have the Right to Amend their Constitution.

1. Our Constitution provides that “[a]ll political power is inherent in the people.” Const. 1963, art. 1, § 1.

2. Put another way, the people bestow power unto the branches of government—not the other way around. *Id.*

3. It is in that context that Article 12, Section 2 of the 1963 Michigan Constitution provides the People of the State of Michigan with the right to amend their Constitution. In full, it states as follows:

Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of

the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail. [See Const 1963, art XII, § 2.]

4. As this Court held over 100 years ago, “[o]f the right of qualified voters of the state to propose amendments to the Constitution by petition it may be said, generally, that it can be interfered with neither by the Legislature, the courts, nor the officers charged with any duty in the premises.” *Scott v Secretary of State*, 202 Mich 629, 643; 168 NW 709 (1918).

5. Simply put, the People of Michigan may amend the Michigan Constitution by initiative petition. To be placed on the ballot, an initiative petition must receive a number of signatures equal to or exceeding 10% of the number of votes cast in the last Michigan gubernatorial election. In Michigan’s 2022 gubernatorial election, 4,461,980 voters cast ballots for a candidate for governor. Thus, the People of Michigan had a right to see (and vote yes, or no on) ACVM’s Petition if it received at least 446,198 or more registered-electors signatures.

B. The Board of State Canvassers’ Role in Petitions to Amend the Constitution.

6. The Board of State Canvassers is a bi-partisan constitutional board created by Article 2, Section 7 of the Michigan Constitution.

7. The Legislature has empowered the Board to enforce the Michigan Election Law’s technical requirements, *see* MCL 168.1 *et seq.*, relating to the circulation and form of petitions to amend the Michigan Constitution.

8. Under MCL 168.22d(2), “[t]hree members of the board of state canvassers constitute a quorum of the board. However, an action of the board of state canvassers shall only

be effective upon concurrence of at least 1 member of each major political party appointed to the board.”

9. Board members, as constitutional officers, must take the constitutional oath of office, which states:

All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust. [Const 1963, art 11, § 1; *see also* MCL 168.22c (requiring Board members to take the constitutional oath of office prescribed in Section 1 of article XI of the state constitution of 1963).]

10. Taking this oath places on the Board no less solemn an obligation than the judiciary to consider the lawfulness and constitutionality of their every action. *See Lucas v Bd of Road Comm'rs*, 131 Mich App 642, 663; 348 NW2d 642 (1984) (noting Governor's obligation); *see also Rostker v Goldberg*, 453 US 57, 64, 101 S Ct 2646, 69 L Ed 2d 478 (1981) (same for Congresspersons).

11. Accordingly, Board members have a constitutional duty to ensure that their actions comport with both the United States Constitution and the Michigan Constitution.

12. The Board's duties and responsibilities are established by the Michigan Election law. *See e.g.*, MCL 168.22(2), MCL 168.841, and MCL 168.476.

13. Importantly, as Michigan courts have repeatedly recognized, the Board is of limited jurisdiction and can only exercise those duties provided to it by the Constitution or applicable Michigan law. *See Michigan Civil Rights Initiative v Bd of State Canvassers*, 268 Mich App 506, 515–20; 708 NW2d 139, 144–147 (2005) (recognizing that the Board has limited authority, which is vested only “by the Legislature, in statutes, or by the Constitution”); *Deleeuw v State Bd of*

Canvassers, 263 Mich App 497, 501; 688 NW2d 847, 850 (2004) (granting mandamus because the Board went beyond its specific statutory authority).

14. MCL 168.22(2) says that the Board “has the duties prescribed in section 841. The board of state canvassers shall perform other duties as prescribed in this act.” Those responsibilities include canvassing a petition. *See* MCL 168.476. The Board must determine whether a petition’s form “complies with the statutory requirements and whether there are sufficient signatures to warrant certification of the proposal.” *Citizens for Protection of Marriage v Bd of State Canvassers*, 263 Mich App 487, 492; 688 NW2d 538, 543 (2004).

15. What’s more, the Board’s duty with respect to petitions is “limited to determining the sufficiency of a petition’s form and content and whether there are sufficient signatures to warrant certification.” *Stand Up for Democracy v Sec’y of State*, 492 Mich 588, 618; 822 NW2d 159, 174 (2012); *see also Citizens for Protection of Marriage*, 263 Mich App at 492 (citing *Ferency v. Sec’y of State*, 409 Mich 569; *Council About Parochiaid v Sec’y of State*, 403 Mich 396; 279 NW2d 1 (1978); *Leininger v Sec’y of State*, 316 Mich 644; 26 NW2d 348 (1947)).

16. The Board is aided in carrying out its canvassing duties by staff at the Bureau of Elections under the supervision of the Director of Elections. MCL 168.32(1).

17. Stated differently, while the Bureau assists the Board in its work, only the Board determines whether the petition has enough valid signatures and whether the petition is in the proper form to be placed on the ballot.

18. The Board’s duties are ministerial in nature, and in reviewing a petition the Board may not examine questions regarding the merits or substance of a proposal. *Leininger v Alger*, 316 Mich 644, 655–656, 26 NW2d 348, 354 (1947); *see also Gillis v Bd of State Canvassers*, 453 Mich 881; 554 NW2d 9 (1996); *Automobile Club of Michigan Comm for Lower Rates Now v Sec’y of*

State, 195 Mich App 613, 624; 491 NW2d 269, 275 (1992) (“[T]he Board of State Canvassers possesses the authority to consider questions of form.”). In performing its function, the Board may not look beyond the four corners of the petition. *Michigan Civil Rights Initiative*, 268 Mich App at 519–520.

19. The process used by the Board to determine the sufficiency of a petition is laid out in guidance promulgated by the Secretary of State. See e.g., *Sampling Procedure for Canvassing Petitions*, Bureau of Elections (Nov 2023) [Sampling Procedure for Canvassing Petitions](#) (attached as **Exhibit A**); *Petition Manual: Statewide Initiative, Referendum, and Constitutional Amendment Petitions*, Secretary of State (July 31, 2025), [FDC FC MAN 1: Ballot Proposal Petition Manual](#) (attached as **Exhibit B**).

20. Pursuant to Article XII, § 2 of the Michigan Constitution, a petition must be placed on the ballot if it was “signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected.” Mich Const 1963, Art XII, § 2.

21. The Board must by law consider the sufficiency of a petition to amend the constitution, and it does so by considering the validity and number of signatures in support of a petition to amend the constitution. But it is not currently the Board’s practice to consider every signature from every voter who signs a petition.

22. As now-Secretary of State Jocelyn Benson noted nearly 20 years ago, the Board’s failure to review every signature is disturbing because it does not “entail an examination of all signatures submitted.” See *Election Fraud and the Initiative Process*, JF Benson, 34 Fordham Urb. L.J. 889, 922 (2007). Then-professor Benson recognized that if in doubt, the Board should “require that *all* signatories be contacted in order to verify that they supported the petition.” *Id.* (emphasis

added). Indeed, then-professor Benson excoriated the offices of Secretaries of State who hid behind “numerical analysis” rather than going beyond the numbers to consider the actual voters. *See id.* at 921-924. The Board does not follow then-professor, now-Secretary of State Jocelyn Benson’s advice. Instead, it limits its review to a mere 1,000 randomly selected signatures. And, based on the actions it took on August 24, 2026, the Board has little regard for actual voters.

23. Per the Secretary’s guidance, Bureau of Election staff use a computer program to “identify randomly selected signatures/sheets to review for signature validity,” through which it randomly draws 1,000 signatures when considering the sufficiency of a constitutional amendment. *See Sampling Procedure for Canvassing Petitions*, Bureau of Elections (Nov 2023) at 2 [Sampling Procedure for Canvassing Petitions](#) (Ex A).

24. After the computer program selects 1,000 signatures for review, Bureau of Election staff review the signatures to ascertain their validity.

25. The Bureau of Elections examines the 1,000-signature sample to determine, *inter alia*, whether “the signature on the petition sheet matches the signature contained in the [Qualified Voter File].” *Id.* at 3.

26. The QVF is a database maintained by the Secretary of State that contains the signature and identifying information of many registered voters in Michigan. It does not contain the signature of every registered voter, as some registered voters’ signatures are kept on file with local clerks’ offices.

27. If a voter’s signature on a petition does not match the voters’ signature in the QVF, the signature is deemed invalid.

28. If a sufficient percentage of the 1,000 signatures are valid such that, extrapolated to the whole, the petition would have sufficient signatures, the Bureau recommends to the Board that the Board certify the petition for the ballot.

29. It is the Board that certifies petitions to the ballot, not the Bureau.

C. The Secretary of State's role with respect to Petitions.

30. The Legislature has delegated the task of conducting proper elections to the Secretary of State, an elected Executive-branch officer, and the head of the Department of State. *See* Const 1963, art 2, § 4, art 5, §§ 3, 9. Section 21 of the Michigan Election Law makes the Secretary the “chief election officer” with “supervisory control over local election officials in the performance of their duties under the provisions of this act.” *See* MCL 168.21.

31. But the Secretary of State's duties with respect to initiative petitions is limited. *Citizens Protecting Michigan's Constitution v. Sec'y of State*, 280 Mich App 273, 286 (2008).

32. The Secretary acts as the filing official to receive petitions for referendum, initiative, and constitutional amendment. MCL 168.471.

33. The first task attendant to the Secretary's office is to “immediately” notify the Board upon the filing of any petition. MCL 168.475(1).

34. Thereafter, if the Board certifies the sufficiency of the petition and approves the statement of purpose, the Secretary certifies the statement of purpose to the counties, MCL 168.648, and communicates the ballot wording to the media, counties, and local precincts. MCL 168.477(1), MCL 168.480.

D. The Director of Elections' Role with respect to Petitions.

35. The Director of Elections is appointed by the Secretary of State and supervises the Bureau of Elections. MCL 168.32(1), MCL 168.34.

36. The Director of Elections is “vested with the powers and shall perform the duties of the secretary of state under . . . her supervision, with respect to the supervision and administration of the election laws.” MCL 168.32(1).

37. As “a nonmember secretary of the state board of canvassers,” the Director of Elections supervises the Bureau as it assists the Board in canvassing petitions, like the Proposal here. *Id.*

38. The Director of Elections is also responsible for preparing ballot language for proposals with the approval of the Board. MCL 168.32(2).

E. The Petition Sponsored by Americans for Citizen Voting – Michigan

39. Pursuant to Article 12, § 2 of the Michigan Constitution, Plaintiff ACVM sponsored a Petition to amend the Michigan Constitution to, *inter alia*, add protections for citizen-only voting, voter-roll verification, and photo ID requirements.

40. Pursuant to Article XII, § 2 of the Michigan Constitution, ACVM’s Petition would be placed on the Michigan ballot for the November 3, 2026, general election if it was “signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected.” Mich Const 1963, Art XII, § 2.

41. In Michigan’s 2022 gubernatorial election, 4,461,980 voters cast ballots for a candidate for governor.

42. Thus, ACVM’s Petition needed 446,198 registered-elector signatures to be placed on the ballot.

43. ACVM gathered 709,841 signatures in support of the Petition, more than 250,000 signatures *more* than required.

44. ACVM submitted the signatures on March 4, 2026—more than four months ahead of the July 6, 2026 deadline to submit signatures for review. *Americans for Citizens Voting submits 750,000 signatures for voter ID ballot proposal*, CBSnews.com (March 6, 2026) <https://www.cbsnews.com/detroit/news/americans-for-citizens-voting-750000-signatures-voter-id-ballot-proposal/> (attached as **Exhibit C**).

45. The Bureau of Elections thus had 169 days to review the sufficiency of the signatures in support of ACVM’s petition.

46. Despite the abundance of time, the Bureau of Elections waited nearly four months to review the signatures in support of ACVM’s petition—hence the time pressure now presented in this suit. Indeed, the Bureau reviewed only, on average, about 6 signatures a day.

47. After this long, inexplicable delay, the Bureau of Elections randomly drew 1,000 of the 709,841 signatures and determined that 62.9% of the total number of signatures would have to be valid for 446,198 of the total number of signatures to be valid ($.629 \times 709,841 = 446.489$). In other words, if 629 or more of the 1,000 randomly drawn signatures were valid, there was a statistical probability that there were sufficient signatures to place ACVM’s Petition on the ballot.

48. After both the initial review by Bureau staff and the staff’s processing of challenges, the Bureau concluded that 612 of 1,000 sample signatures were valid—i.e., the Petition was 17 signatures short. *See* August 17, 2026, Staff Report (Attached as **Exhibit D**). But, of the 388 signatures it threw out, the Bureau threw 94 out as “invalid” based on its determination that the signature of the voter on the Petition “d[id] not sufficiently agree with the signature on file”—i.e., the voters’ digitized signature in the QVF.

49. Because ACVM’s Petition needed only 629 signatures and had 612 otherwise valid signatures (according to the Bureau), the tossing out of 94 based on an alleged mismatch between

the voters' signature on the Petition and the voters' signature in the Qualified Voter File was dispositive of the Petition's fate. Put differently, if 94 signatures had not been rejected because they allegedly did not match the voters' signature on the Qualified Voter File, the Petition would have had sufficient signatures to be placed on the ballot.

50. ACVM responded to the tossing out of 94 signatures. *See* August 20, 2026 Demand Letter (Attached as **Exhibit E**). ACVM sent a demand letter to the Board of State Canvassers that explained: "The conclusion in the Bureau's Staff Report that ACVM's petition sample contained [94] signatures that were invalid . . . was presumably the result of the Bureau staff comparing those [94] petition signatures against the corresponding digitized signature records contained in the QVF." *Id.* at 2. It detailed that "ACVM has reason to believe that the Bureau's conclusion is incorrect, and that many (if not all) of the [94] allegedly invalid signatures are, in fact, valid and genuine." *Id.* ACVM explained that the Bureau refused ACVM access to the QVF, and "without access to the QVF, ACVM cannot meaningfully challenge the Bureau's assertion that the signatures on the petition do not match the digitized signature in the QVF[.]"

51. ACVM further explained that denying it the opportunity to compare the 94 signatures that allegedly mismatched against the corresponding digitized signature records was a denial of its due process rights under the Michigan and U.S. Constitutions. Indeed, while the U.S. Constitution and Michigan's Constitution guarantee "notice and an opportunity to be heard in a meaningful time and manner," *Id.* at 3 (citation omitted), that opportunity to be heard "in a meaningful time and manner" was denied by ACVM's inability to access the QVF at all. ACVM explained that it has a due process right to "the chance to know and respond to the evidence" brought against it; *i.e.*, the 94 signatures.

52. ACVM acknowledged the privacy concerns around the QVF signatures and suggested use of *in camera* or some other confidential method of review for the purpose of alleviating those privacy concerns. *See id.* at 3-4.

53. The Bureau of Elections responded to ACVM's demand letter just a few hours later. *See* Bureau Letter, August 20, 2026 (Attached as **Exhibit F**). The Bureau denied ACVM permission to see the QVF signatures of the 94 stricken voters—even *in camera* or with other privacy protections—meaning that neither ACVM nor the voters themselves could review the reason for the voters' signature on the petition being stricken. But the Bureau explained “there are still options that may be utilized to rehabilitate a signature. For example, you may contact the voters who have signed the petition and ask them to sign an affidavit detailing the page that was signed, indicating that they were the one who signed, and providing a signature that sufficiently agrees with the voter's signature in QVF.” *Id.* at 2.

54. Unable to review the 94 signatures or compare them to the digitized signatures in the QVF, ACVM contacted the stricken signers and obtained 23 affidavits in approximately 48 hours. Each affidavit explained that the affiant had reviewed their signature on the Petition and confirmed that it was their own signature. Each affidavit was sworn and notarized.

55. A valid affidavit is a document that is: (1) a written or printed declaration or statement of facts; (2) made voluntarily; and (3) confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation. *See Holmes v Capital Medical Center*, 242 Mich App 703, 711 (2000); *citing People v Sloan*, 450 Mich. 160, 177, n 8, 538 NW2d 380 (1995); Black's Law Dictionary (7th ed).

56. “In all the courts of this state the certificate of a notary public, under his hand and seal of office, of official acts done by him as such notary, shall be received as presumptive evidence

of the facts contained in such certificate.” *Dodson v Imperial Motors, Inc*, 295 F2d 609, 614 (1961). Indeed, “[i]ndependent of statute, Michigan, consistent with general law, holds that a notary’s certification . . . raises a presumption of the truth of the facts recited in such acknowledgment.” *Id.* (collecting cases from the Michigan Supreme Court).

57. In *June v School Dist No 11, Southfield Tp*, 283 Mich 533 (1938), this Court explained that an affidavit is “a written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath.” *Id.* at 537. This Court detailed that an affidavit is distinct from a mere oath to tell the truth in that “an affidavit consists of statement of fact, which is sworn to as the truth, while an oath is a pledge.” *Id.* at 538. An affidavit is, therefore, more constricting and severe than an oath given before testifying because an oath-giver must thereafter testify truthfully, while the affidavit is itself the testimony—the affidavit is in and of itself a “statement of fact, which is sworn to as the truth.” *Id.*

58. Pursuant to MCL 55.285, the Michigan Law on Notarial Acts, a notary public may only notarize a record “if a notary public has satisfactory evidence that an individual is the individual whose signature is on a record.” To that end, a notary has “satisfactory evidence “if that individual is . . . [i]dentified on the basis of a current license, identification card, or record issued by a federal or state government that contains the individual’s photograph and signature.” MCL 55.285(6)(b).

59. ACVM presented the 23 affidavits to the Board of State Canvassers on a rolling basis. The last of the affidavits were presented to the Board of State Canvassers before it voted on the sufficiency or insufficiency of the number of signatures in support of ACVM’s Petition. Put differently, the Board had affidavits from 23 voters averring under oath and before a notary that

their signature, which the Bureau of Elections had recommended tossing out, was validly placed on the Petition in front of it. By a 2-2 partisan vote, the Board chose to accept only 14 of the 23 affidavits presented to it—meaning it rejected the other nine affidavits—leaving ACVM three signatures short of qualifying its Petition for the ballot. Fourteen Accepted Affidavits attached as **Exhibit G**.

60. The Board rejected the nine affidavits for two reasons.

61. First, it rejected four affidavits—two by unanimous vote, one by a 3-to-1 vote, and one by deadlocking 2-2—because it determined that the voters’ signature on the affidavits did not match the voters’ signatures in the QVF. Four Affidavits attached as **Exhibit H**. The Board declined to recognize the notary publics’ notarizations as sufficient proof of the signers’ identities, and, thus, the genuineness of their petition signatures—regardless whether the signature on the affidavit matched the signature of the QVF, despite the requirements of the Michigan Law on Notarial Acts, and despite the Board’s written instructions to ACVM just days prior. *See Ex E*, Bureau Letter, August 20, 2026.

62. Second, the Board’s two Democrat members rejected five affidavits—all by 2-2 deadlock—because it found them untimely submitted to the Board. attached as **Exhibit I**. This was astonishing. The Board was presented with the sworn, notarized affidavits of five voters who, under penalty of perjury, averred that their signature was wrongly thrown out. And the Board ignored them because it took AVCM a full week to procure the affidavits after the Bureau took more than five months to disqualify the signatures. Incredibly, the Board and the Bureau recognized on the record that *the affidavits were valid and would have cured the deficiency had*

they been “timely.” See August 24, 2026 Rough Hearing Transcript at Page 104-153 (Member Cummings: “Well, I agree that the signature matches.”) (Attached as **Exhibit J**).¹

63. It is true that the Board has had a rule since May 12, 2025, requiring that “members of the public” must submit materials to the Board at least 48 hours before a meeting. See Rule 168.846.

64. But owing to the rush of election disputes, the Board routinely allows materials to be submitted the day of a meeting if justice requires it. For example:

65. During the Board’s August 17, 2026 meeting, in response to an inquiry from a member of the Board, the sponsor of a candidate petition provided—without objection from any other member of the Board—emails to the Board for the first time, including one she had received the night before the meeting.²

66. During the Board’s July 24 meeting, the counsel for the sponsor of an initiative submitted—without objection from any member of the Board—a handout purporting to rebut the challenger’s objections to the Staff Report, and referenced the handout several times throughout the hearing, again without objection. See **Exhibit K**, July 24, 2026, Hearing Transcript, pp. 246, 267, 269; *id.* at 262 (“I direct you to Page 8 of the handout that I passed out this morning...”).

67. During the Board’s May 28, 2026, meeting, the sponsor of a candidate nominating petition provided—without objection from any member of the Board—materials to the Board,

¹ Plaintiff ACVM has included a rough transcript in its Appendix. The reporter has told ACVM that a final copy of the transcript will be available Friday, August 28, 2026. ACVM will file the final transcript immediately after it receives it from the reporter.

² Michigan Department of State, Board of State Canvassers, 48:47 – 52:07, available at <https://www.youtube.com/live/lfrk6s0GSeg?si=3j3-SwctOOIGh3sF> (last accessed August 27, 2026)

including a detailed analysis of the chain of custody and timeline for signature review, for the first time.³

68. At the Board’s August 22, 2025 meeting, the counsel for the sponsor of an initiative petition provided to the Board for the first time—without objection—a handout containing suggested petition summary language.⁴

69. At the Board’s July 31, 2025 meeting, a member of the public provided to the Board for the first time—without objection—a handout containing suggested petition summary language.⁵

70. Thus, the Board routinely accepts materials from both petition sponsors, challengers, and members of the Public. Nevertheless, the Board failed to accept the nine affidavits from Michigan voters in which they testified, via sworn statement verified by a notary public, that they signed the Petition and that the disputed signature was, in fact, genuine.

71. Ultimately, the Board found the ACVM Petition was supported by 626 signatures, a mere ***three*** signatures short of the required 629, because it rejected the nine affidavits from voters. *See* August 24, 2026 Rough Hearing Transcript at Page 304 (Director Brater: “So either way, our recommendation at this point would be that you have 626 valid signature”) (**Exhibit J**).

72. Had just three of those nine affidavits been accepted by the Board, then it would have had no choice but to certify ACVM’s Petition for the November general election ballot.

73. This suit is about those nine affidavits and the Michigan voters who signed them.

³ Michigan Department of State, Board of State Canvassers, 5.28.26 at 09:00 – 12:00, available at <https://www.youtube.com/live/U1hS5qNJXg8?si=Emswwt-ILh6SlcKw> (last accessed August 27, 2026).

⁴ Michigan Department of State, Board of State Canvassers, 8.22.25 at 16:05-16:15, available at https://youtu.be/TmS_fjZFflk?si=tckky5DVBmQNmQPL (last accessed August 27, 2026).

⁵ Michigan Department of State, Board of State Canvassers, 7.31.25 at 5:00-5:15, available at <https://youtu.be/6j2kRn458RI?si=9VhoyKT9ZNalWx7q> (last accessed August 27, 2026).

PARTIES, JURISDICTION, AND VENUE

74. Plaintiff ACVM is a duly formed ballot question committee registered pursuant to the Michigan Campaign Finance Act, MCL 169.201, *et seq.* Its registered address is 1254 Woodbridge, St. Clair Shores, MI 48082. ACVM sponsored and organized the Petition to amend the Michigan Constitution to protect all Americans' right to cast an effective ballot by strengthening protections against non-citizens voting.

75. Plaintiff Fred Smith is one of the nine Michigan voters whose affidavit was rejected. Fred is a resident of Livingston County, Michigan, in the village of Fowlerville. He is a registered elector in Michigan. Fred signed ACVM's Petition on November 13, 2025. When Fred's signature was thrown out, he signed and had notarized an affidavit "to assist in defending my First Amendment rights against any challenge or opposition that may be raised regarding my signature[.]" Fred Smith Affidavit (Attached as **Ex H**). He averred that "if called to testify" he "could and would," and he confirmed, under oath, that "[t]he printed name that appears next to my name is my true and genuine signature." To remove all doubt, Fred averred: "I signed this petition by printing my name." Nevertheless, the Board rejected Fred's affidavit on August 24, 2026, deeming it "untimely." Indeed, the Board rejected Fred's affidavit *even after determining that it was a valid affidavit that proved that he had signed ACVM's Petition on November 13, 2025*. Fred now sues in his capacity as a Michigan resident and registered voter. He sues to protect his rights to Due Process and Equal Protection under the law, and to force, via a writ of mandamus, the Board to respect his constitutional rights.

76. Defendant Board is a public body created by Const 1963, art 2, § 7. The Board is tasked with, among other things, canvassing initiative petitions to amend the constitution "to ascertain if the petitions have been signed by the requisite number of qualified and registered electors." MCL 168.476(1).

77. Defendant Secretary Benson is Michigan’s Secretary of State. The Secretary of State is a publicly elected position created by the 1963 Michigan Constitution. *See* 1963 Const, art 5, §§ 3, 21. Secretary Benson is sued in her official capacity and only to the extent her participation in this case is necessary for relief granted by the Court.

78. Defendant Director Brater is Michigan’s Director of Elections and is vested with the authority to administer Michigan’s election laws under the supervision of the Secretary of State. Director Brater is sued in his official capacity and only to the extent his participation in this case is necessary for relief granted by the Court.

79. This Court has discretionary jurisdiction “as provided by the constitution or by law.” MCR 7.303(B)(6); *see also* MCR 3.305(A)(1)–(2) (noting that a statute or rule may allow mandamus actions in “another court” besides circuit courts and the Court of Appeals).

80. MCL 600.217(3) gives this Court the “jurisdiction and power to issue, hear, and determine writs of . . . mandamus.”

81. MCL 168.479 governs the review of a challenge to a Board decision and provides as follows:

(1) Notwithstanding any other law to the contrary and subject to subsection (2), any person who feels aggrieved by any determination made by the board of state canvassers may have the determination reviewed by mandamus or other appropriate remedy in the supreme court.

(2) If a person feels aggrieved by any determination made by the board of state canvassers regarding the sufficiency or insufficiency of an initiative petition, the person must file a legal challenge to the board’s determination in the supreme court within 7 business days after the date of the official declaration of the sufficiency or insufficiency of the initiative petition or not later than 60 days before the election at which the proposal is to be submitted, whichever occurs first. Any legal challenge to the official declaration of the sufficiency or insufficiency of an initiative petition has the highest priority and shall be advanced on the supreme court docket so as to provide for the earliest possible disposition.

82. MCL 168.479(1)-(2) “provides the method of review for those persons aggrieved by any determination of the State Board of Canvassers.” *Beechnau v Austin*, 42 Mich App 328, 330, 201 NW2d 699, 701 (1972). See *Graziano v Brater*, 342 Mich App 358, 363; 994 NW2d 521 (2022) (“The stated purpose of MCL 168.479 is to have our Supreme Court decide any legal challenge to the sufficiency or insufficiency of an initiative petition as promptly as possible.” (citations omitted)).

83. For the same reason, venue is proper in this Court. See *Comm to Ban Fracking in Michigan v Bd of State Canvassers*, 335 Mich App 384, 396, 966 NW2d 742, 749 (2021) (“MCL 168.479(2) is clear that any person challenging the determination made by defendant regarding sufficiency or insufficiency of an initiative petition is required to file a timely legal challenge in the Michigan Supreme Court.”).

COUNT I – MANDAMUS

84. Plaintiffs incorporate the allegations in the foregoing paragraphs as if fully stated herein.

85. “Mandamus is the appropriate remedy for a party seeking to compel action by election officials.” *Citizens Protecting Michigan’s Constitution v Secretary of State*, 280 Mich App 273, 283; 761 NW2d 210 (2008), *aff’d in part, lv den*, 482 Mich 960 (2008); *Protecting Mich Taxpayers v Board of State Canvassers*, 324 Mich App 240, 244; 919 NW2d 677 (2018) (“Mandamus is the proper remedy for a party aggrieved by an election official’s inaction”).

86. Thus, when the Board deadlocks or otherwise refuses to certify a petition despite the petition having sufficient signatures, the proper remedy is a writ of mandamus ordering the Board to certify the petition. *Wojcinski v State Bd of Canvassers*, 347 Mich 573, 578; 81 NW2d 390 (1957) (Granting writ of mandamus directing the State Board of Canvassers to “revoke its

‘determination of insufficiency’” and instead certify a candidate by “mak[ing] an official declaration of the sufficiency of the nominating petitions filed by the plaintiff.”)

87. A party seeking mandamus must show four elements: “(1) the plaintiff has a clear legal right to the performance of the duty sought to be compelled, (2) the defendant has a clear legal duty to perform such act, (3) the act is ministerial in nature such that it involves no discretion or judgment, and (4) the plaintiff has no other adequate legal or equitable remedy.” *Wilcoxon v City of Detroit Election Com’n*, 301 Mich App 619, 632-633; 838 NW2d 183 (2013) (citations omitted); *Deleeuw v State Bd of Canvassers*, 263 Mich App 496, 500; 693 NW2d 179 (2004).

88. In determining whether to grant mandamus, this Court’s “task is to decide whether the Board of State Canvassers has a clear legal duty to certify the petition,” a question it considers “independently of the decisions reached by the Bureau of Elections or the Board of State Canvassers.” *Protecting Mich Taxpayers v Board of State Canvassers*, 324 Mich App 240, 244; 919 NW2d 677 (2018).

89. “A clear legal right is a right ‘clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided.’” *Attorney General v Board of State Canvassers*, 318 Mich App 242, 249; 896 NW2d 485 (2016), quoting *Rental Props. Owners Ass’n*, 308 Mich.App. at 519, 866 N.W.2d 817 (quotation marks and citation omitted).

90. To obtain a writ of mandamus compelling the Board to certify an initiative petition, a petitioner must demonstrate that the Board has a clear legal duty to act. In *Beachnau v Austin*, the court held that a mandamus action requires the plaintiff to demonstrate a violation of a clear legal duty on the part of the defendants, and that MCL 168.479 provides the method of review for persons aggrieved by any determination of the Board. 42 Mich App 328 (1972).

91. The Board’s sole duty regarding qualifying petitions is to determine whether the signatures are valid, including whether they are signatures of registered voters and whether there are sufficient valid signatures to certify the petitions. *Deleeuw v State Bd of Canvassers*, 263 Mich App 497 (2004).

92. Importantly, “signatures on petitions are presumed valid and the burden is on the challenger to the signatures”—or the Board—“to prove by clear, convincing, and competent evidence that the signatures are invalid.” *Johnson v Board of State Canvassers*, 341 Mich App 671, 685; 991 NW2d 840 (2022). This is because “[i]t has long been recognized that handwriting similarity is so much a matter of opinion and so indefinite that generally it may not be acted upon in canvassing petitions.” *Jaffee v Allen*, 87 Mich App 281, 285; 274 NW2d 38 (1978) (“[S]ignatures appearing on petitions filed with the Secretary of State for initiative and referendum are presumed valid, and the burden is on the protestant to establish their invalidity by clear, convincing and competent evidence.”); *Thompson v Vaughan*, 192 Mich 512, 527; 159 NW 65 (1916) (same); *People ex rel Wright v Kelly*, 294 Mich 503, 518; 293 NW 865 (1940) (same). To combat the inherent uncertainty of comparing signatures, Michigan’s appellate courts have long held that “that ‘signatures appearing on petitions filed with the Secretary of State’ are ‘presumed valid, and the burden is on the protestant to establish their invalidity by clear, convincing and competent evidence.’” *Jaffee v Allen*, 87 Mich App 281, 285; 274 NW2d 38 (1978); *Farm Bureau Mut Ins Co of Mich v Com’r of Ins*, 204 Mich App 361, 365-368; 514 NW2d 547 (1994) (citations omitted) adopting *Jaffee*’s holding that “[S]ignatures appearing on petitions filed with the Secretary of State for initiative and referendum are presumed valid, and the burden is on the protestant to establish their invalidity by clear, convincing and competent evidence.”; *Grosse Pointe Farms Fire Fighters Assoc v Grosse Point Farms City Clerk*, 11 Mich App 112, 118; 157 NW2d 695

(1968) (“[P]etitions in proper form are presumed to be valid and to have been completed in accordance with the circulator’s affidavit” unless there is a showing of “sufficient magnitude tending to rebut this presumption.”); 22 Mich. Civ. Jur. Statutes § 302 (“Signatures appearing on petitions filed with Secretary of State...are presumed valid, and the burden is on the challenger to establish their invalidity by clear, convincing and competent evidence.”); 42 Am. Jur. 2d Initiative and Referendum § 34 (“Signatures on [a] petition may be presumed to be valid, and in such a case, the challenger may have the burden of overcoming that presumption.”).

93. Here, the Board breached its clear legal duty to certify the ballot initiative in two distinct but dispositive ways. First, the Board breached a clear legal duty by refusing to count signatures the Board admitted were valid simply because supporting affidavits arrived after the Board’s arbitrary 48-hour deadline. Second, the Board breached a clear legal duty by rejecting timely affidavits and their associated signatures because, in the Board’s view, the signatures on the affidavits did not match those contained within the QVF. Neither provides a valid basis to reject sworn evidence establishing that the rejected signatures were valid and both establish that a writ should lie in this case.

The five affidavits received within 48 hours of the Board’s hearing.

94. As noted above, five Michigan voters whose petition signatures the Bureau of Elections recommended striking as allegedly non-matching submitted sworn and notarized affidavits attesting that they had signed the Petition and that the stricken signatures were in fact their own.

95. The Board did not find those affidavits defective in form, defective in substance, or wanting in authentication. To the contrary, the Board (and the Bureau) acknowledged on the record that the affidavits were valid and that they would have cured the claimed signature deficiency had

they been received earlier. See Tr at 124, 136-37. The Board nonetheless deadlocked over whether to count them.

96. The two Democrat Board members who voted against accepting the five affidavits explained that they did so for only one reason: the affidavits were delivered too late, after the 48-hour submission deadline imposed by the Board’s promulgated procedures, Mich Admin Code R 168.846.

97. On its face, that rule only applies to materials submitted by “members of the public.” And the Board’s rules differentiate between the “sponsor” of a petition (who is a “party to the hearing”) under Rules 168.841 and 168.844—who are entitled to notice of the hearing and have the ability to appear “by counsel”—and “members of the public” who wish to “address the board.” See Rules 168.845 and 168.846. Thus, by its own terms, the 48-hour rule contained in Rule 168.846 *does* not apply to ACVM as a petition sponsor.

98. Had the Board correctly followed its rules, it would have accepted the five affidavits.

99. Further, the Board’s failure to accept the five affidavits received within 48 hours of the Board’s meeting ignores the reality that those five affidavits are categorically different than other “materials” submitted to the Board.

100. Each affidavit submitted by ACVM constitutes sworn testimony that the affiant signed the petition, that their signature is genuine, and (because it is notarized) that the affiant is, in fact, who they say they are.

101. That is, the five affidavits received within 48 hours of the Board’s meeting are sworn testimony from five Michigan voters—whose identity was verified by a notary—that they in fact signed ACVM’s Petition and that their allegedly invalid signature is, in fact, genuine.

102. The Board would not have rejected sworn, in-person testimony from a voter who appeared at the hearing and testified *in person* regarding the validity of their signature. Indeed, at the August 24, 2026 hearing, the Board accepted another affidavit based on in-person testimony from the notary public who notarized it. *See* August 24, 2026, Rough Hearing Transcript at Page 132-134.

103. But, by failing to accept the five affidavits submitted within 48 hours of the Board's meeting, that's exactly what happened.

104. This was also inconsistent with the Board's past practice. As noted above, although the Board promulgated a rule requiring that "members of the public" to submit materials to the Board at least 48 hours before a meeting, the Board routinely allows materials to be submitted the day of a meeting if justice (or convenience) requires it and, in fact, has done so multiple times since Rule 168.846 was promulgated in May 2025. *See infra* at ¶¶ 64-70.

105. Nevertheless, in contrast to this routine practice, the Board failed to accept the nine affidavits from Michigan voters in which they testified, via sworn statement verified by a notary public, that they signed the Petition and that the disputed signature was, in fact, genuine.

106. The Board did so despite conceding that the affidavits *were authentic and would have rehabilitated the subject signatures if they were received earlier*. An affidavit is defined as "a written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath." *June v School Dist No 11, Southfield Twp*, 283 Mich 533, 537 (1938); accord *Holmes v Michigan Capital Med Ctr*, 242 Mich App 703, 711 (2000).

107. Each of the five affidavits was sworn before a notary public, whose certificate is "received as presumptive evidence of the facts contained in such certificate." *Dodson v Imperial*

Motors, Inc., 295 F2d 609, 614 (CA 6, 1961) (collecting Michigan authority). And each stated that the signature the Bureau had questioned was, in fact, the affiant's own. An affidavit is not a promise to testify later; it "is itself the testimony," a "statement of fact, which is sworn to as the truth." *June*, 283 Mich at 538.

108. The Board did not dispute any of this. It accepted fourteen materially identical affidavits from fourteen materially identical affiants. As to the five at issue, the Board confirmed on the record that the affidavits were valid and would have cured the deficiency.

109. Regarding the Doughty affidavit, the Chair stated that "all four of us agree that the signature matches." **Ex F**, 8.24.26 Hrg Tr at 124. The Chair then confirmed with the Vice Chair that the signature "matches the voter," that "that is a valid signature," and that the only remaining question was "whether it was submitted on time . . . [w]ithin the 48-hour rule." Tr at 136. Asked whether the ground for rejection was "the 48-hour procedural rule, primarily," the Vice Chair answered: "That's correct." Tr at 136-37. Member Cordes then squarely addressed the issue. "I agree the procedure is important, but I don't necessarily know that it trumps someone who is confirming that they put their name on these petitions." Tr at 126.

110. Faced with the five affidavits, the Board confronted no contested question of fact, no credibility determination, and no evidentiary conflict requiring judgment. There was no question that the affidavits—and, thus, the five signatures—were genuine, so no judgment was required.

111. Instead, the Board was confronted only with arithmetic. Adding five admittedly valid signatures to a running total is "an act in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or

judgment.” *Hillsdale Co Senior Servs, Inc v Hillsdale Co*, 494 Mich 46, 58 n 11 (2013) (quotation marks omitted).

112. This Court has said as much for over a century—once the Board has the relevant numbers before it, making the canvass and certifying the result is a “statutory ministerial duty.” *Withey v Bd of State Canvassers*, 194 Mich 564, 567 (1917).

113. The bottom line is that the Board’s duty to canvass a petition “to ascertain if the petitions have been signed by the requisite number of qualified and registered electors” comes from the Legislature. MCL 168.476(1). So, regardless what Rule 168.846 says, the statute governs. See *West Bloomfield Hosp v Certificate of Need Bd*, 208 Mich App 393 (1995), rev’d on other grounds 452 Mich 515 (1996); *Mich Charitable Gaming Ass’n v Michigan*, 310 Mich App 584, 593 (2015). A rule the Board wrote for its own convenience cannot authorize the Board to refuse to count a signature that it admits is valid.

114. So the Board had a clear legal duty to accept the five affidavits and count the five signatures that they rehabilitated.

The QVF Affidavits

115. Four affidavits were rejected on a different and even more troubling ground.

116. With respect to these four affiants, the Board did not doubt that the affiants existed, that they were registered electors, or that they had appeared before a notary public and confirmed that the allegedly invalid petition signatures were their own.

117. A majority of the Board rejected the sworn testimony contained in three of these affidavit—the Board deadlocked with respect to the fourth—because, in the view of a majority of its members, the signature on the affidavit did not sufficiently resemble the signature stored in the QVF.

118. In other words, the Board disregarded sworn testimony from a Michigan voter that had been authenticated by a notary public under Michigan law and chose to rely instead on its own lay comparison of handwriting samples in a historical database.

119. The Michigan Law on Notarial Acts, MCL 55.261 et seq., prescribes exactly how the identity of a person signing a sworn affidavit is to be established. A notary public may not perform a notarial act with respect to a record unless the signer appears before the notary and the notary either personally knows the signer or is presented with satisfactory evidence of the signer's identity. MCL 55.285; MCL 55.285(6).

120. The Legislature thus made a deliberate choice about who authenticates sworn statements and specifically chose commissioned public officers, applying a statutorily defined standard while in the physical presence of the signer. And there are evidentiary consequences to that choice. A notarial certificate is "received as presumptive evidence of the facts contained in such certificate," and "[i]ndependent of statute, Michigan, consistent with general law, holds that a notary's certification . . . raises a presumption of the truth of the facts recited in such acknowledgment." *Dodson v Imperial Motors, Inc*, 295 F2d 609, 614 (CA 6, 1961) (collecting Michigan Supreme Court authority).

121. Indeed, a document accompanied by a certificate of acknowledgment lawfully executed by a notary public is self-authenticating and requires no extrinsic evidence of authenticity. MRE 902(8).

122. All the affidavits presented to the Board—including the four that were rejected because the signature on the affidavit apparently didn't match the corresponding signature in the QVF—therefore arrived carrying a legal presumption that the facts were as stated therein. That is,

the four affidavits constitute “presumptive evidence” that the subject signatures were in fact valid and genuine. *Dodson v Imperial Motors, Inc*, 295 F2d 609, 614 (1961).

123. Of course, that presumption may be rebutted by evidence. But the Board received none. No testimony that a signature was forged, no handwriting experts, no affiant disclaimed his or her affidavit, and no notary’s certificate was challenged or otherwise accused containing a false certification.

124. To the contrary, the Board’s sole basis for setting aside four sworn affidavits was a visual inspection by its members comparing an inked signature to a digitized image in the QVF that may have been captured decades earlier, under different circumstances, at a different age, with a different instrument. That’s not evidence sufficient to overcome the statutory presumption provided by MCL 55.285.

125. Again, the Board’s charge is very narrow. It is tasked with determining whether the petition was signed by the requisite number of qualified and registered electors by comparing the signatures on the petition sheets to those contained within the QVF. But there is no authority, and the Board cited none, that directs or even permits the Board to run the same comparison against a notarized affidavit and to reject an affidavit if the Board determines that the affidavit signature does not match the QVF. The law on this point is clear. “The qualified voter file shall be used to determine the genuineness *of a signature on a petition.*” MCL 168.552(13) (emphasis added). The law says nothing about a signature on an affidavit, and there is nothing authorizing the Board to reject or otherwise disregard sworn testimony based on a comparison to the QVF.

126. Accordingly, when the Board declared a notarized affidavit unreliable because of its own signature comparison, it ran afoul of MCL 55.285 and violated its clear legal duty to count the signatures confirmed by the notarized affidavits at issue. That exceeded the scope of the

Board's canvass, which is "limited to determining the sufficiency of a petition's form and content and whether there are sufficient signatures to warrant certification." *Stand Up for Democracy v Secretary of State*, 492 Mich 588, 619 (2012).

127. So the Board had a clear legal duty to accept all nine affidavits and count the nine signatures they rehabilitated. And, because counting those nine signatures would mean that the Petition would have at least 631 signatures—more than the 629 signatures required for certification—the Bureau had a clear legal duty to certify the Petition.

128. Because the Board refused to consider or count signatures confirmed by sworn affidavits, and disregarded binding law on notarial acts, the Board violated its clear legal duty to count the 9 signatures and, thus, certify the Petition for inclusion on the November ballot.

129. Mandamus is therefore warranted.

COUNT II – VIOLATION OF DUE PROCESS AND EQUITABLE ESTOPPEL

ACVM is entitled to Due Process.

130. Plaintiffs incorporate the allegations in the foregoing paragraphs as if fully stated herein.

131. The Due Process and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution state:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. [US Const, Am XIV.]

132. The Due Process Clause of the Michigan Constitution says: "No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law." Const 1963, art 1, § 17. It further guarantees "[t]he right of

all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of...investigations and hearings shall not be infringed. Const 1963, Art I, § 17.

133. Both the Michigan and federal due-process clauses require that the government provide citizens with notice and an opportunity to be heard before it deprives those citizens of life, liberty, and property. Further, the more than 700,000 voters who signed the Petition have a First Amendment right to have their voices heard and signatures counted. *Socialist Workers Party v. Secretary of State*, 412 Mich. 571, 588, 317 N.W.2d 1 (1982) (The “expression of political preference ... [is] the bedrock of self-governance.”); *Norman v Reed*, 502 US 279, 288; 112 S Ct 698; 116 L Ed 2d 711 (1992) (recognizing the “the constitutional interest of like-minded voters to gather in pursuit of common political ends, thus enlarging the opportunities of all voters to express their own political preferences.”); *League of Women Voters of Michigan v Secretary of State*, 508 Mich 520, 553; 975 NW2d 840 (2022), quoting *Meyer v. Grant*, 486 U.S. 414, 421-422, 108 S.Ct. 1886, 100 L.Ed.2d 425 (1988) (“Petition circulation is protected by the First Amendment because it is ‘core political speech’ that ‘involves both the expression of a desire for political change and a discussion of the merits of the proposed change.’”).

134. In civil matters such as the proceedings before the Board, “due process requires notice and an opportunity to be heard in a meaningful time and manner, and by an impartial decision maker.” *Spranger v City of Warren*, 308 Mich App 477, 483; 865 NW2d 52 (2014); see also *Hieber v Oakland County, Michigan*, 136 F4th 308, 321 (CA 6, 2025) (citations omitted) (“Procedural due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner.”).

135. Specifically, a party has a meaningful opportunity to be heard if they have “the chance to know and respond to the evidence.” *Cummings v Wayne Co.*, 210 Mich App 249, 253;

533 NW2d 13 (1995); see also *Hieber v Oakland County, Michigan*, 136 F.4th 308, 322 (CA 6, 2025) (citations omitted) (a “critical element” of due process is “an opportunity to respond to the evidence”).

136. The right to vote is protected in more than the initial allocation of the franchise because equal protection applies to the manner of its exercise as well. See *Bush v Gore*, 531 US 98, 110; 121 S Ct 525; 148 L Ed 2d 388 (2000).

137. Thus, after granting the right to vote on equal terms, a government may not, by later arbitrary and disparate treatment, value one person’s vote over that of another. See, e.g., *Harper v Virginia Bd of Elections*, 383 US 663, 665; 86 S Ct 1079; 16 L Ed 2d 169 (1966). Further, “the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.” *Reynolds v Sims*, 377 US 533, 555; 84 S Ct 1362; 12 L Ed 2d 506 (1964).

138. The U.S. Supreme Court has recognized that “the importance of First Amendment protections is ‘at its zenith’” in the context of voters engaging in political speech such as signing or circulating initiative petitions. *Meyer v Grant*, 486 US 414, 425; 108 S Ct 1886; 100 L Ed 2d 425 (1988) (citations omitted). Thus, that Court has rejected the notion that, because “the power of the initiative is a state-created right,” states are “free to impose limitations on the exercise of that right.” *Id.* at 424.

139. Along the same lines, the Sixth Circuit has recognized that “although the right to an initiative is not guaranteed by the federal Constitution, once an initiative procedure is created, [a] state may not place restrictions on the exercise of the initiative that unduly burden First Amendment rights.” *Taxpayers United for Assessment Cuts v Austin*, 994 F.2d 291, 295 (6th Cir. 1993). It further concluded that “the principle stated in *Meyer*...that a state that adopts an initiative

procedure violates the federal Constitution if it unduly restricts the First Amendment rights of its citizens who support the initiative” applies to the “methods used to validate and invalidate signatures of voters to an initiative petition.” *Id.* Thus, if a state “create[s] an initiative procedure,” it “cannot place restrictions on its use that violate the federal Constitution.” *Id.*

140. As noted, Michigan creates a process for amending its state constitution via initiative petition. Article XII, § 2 of Michigan’s Constitution allows for state constitutional amendments to be “proposed...by petition of the registered electors of this state” and mandates that “[t]he person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition.”

141. Once the State of Michigan created a process by which to amend its constitution, the State—including Defendants—cannot place restrictions on its use that violate the federal or State constitutions.

142. Both the federal and State constitutions prohibit the Board from treating an adequate number of petition signatures submitted on a proper form in an arbitrary and disparate manner, or in canvassing ACVM’s petitions in a manner that denies it (and the voters who signed its petition) due process of law.

Defendants violated ACVM’s due process rights by refusing to provide the digitized signature records from the QVF used to invalidate signatures on ACVM’s petitions.

143. By refusing to certify the Petition even though the total number of valid signatures—i.e., the number determined to be valid by the Bureau and Board, in combination with the nine uncounted signatures verified by affidavit—exceeded the threshold for certification, the Board violated the due process rights of both ACVM (as the sponsor of the petition) and the voters who signed its petition.

144. Defendants also violated ACVM’s due-process rights by refusing to allow it to review the digitized signature records contained in the QVF that the Board and Bureau used to invalidate signatures on ACVM’s petition.

145. As noted, in its Staff Report, the Bureau concluded that 94 signatures in the 1000-signature sample were “invalid” because the “signature is omitted or does not sufficiently agree with the signature on file.” *Id.*

146. According to guidance issued by the Bureau of Elections, a signature is invalid if there are no “redeeming qualities in the petition signature as compared to the signature on file.” Ballot Proposal Petition Manual, p. 34 (July 2025), available at <https://www.michigan.gov/sos/-/media/Project/Websites/sos/Elections/Ballot-Access/FDC-FC-MAN-1-Ballot-Proposal-Petition-Manual.pdf>. Redeeming qualities “may include but are not limited to similar distinctive flourishes [as well as] more matching features than nonmatching features.” *Id.* p. 34; see also Mich Admin R 168.23 (defining the “redeeming qualities” standard for absent voter ballot signature comparison).

147. At the Board’s August 24, 2026 meeting, it was made clear that, as required by MCL 168.476(1), the Bureau’s conclusion regarding the alleged invalidity of those 94 signatures was the result of the Bureau staff visually comparing those 94 petition signatures against the corresponding digitized signature records contained in the QVF.

148. But the Bureau’s Staff Report does not include images of the digitized signature records contained in the QVF that would allow ACVM to evaluate, respond to, and rebut the Bureau’s conclusions. Nor has the Board or Bureau allowed ACVM to see the 94 digitized signature records in any other format.

149. Instead, the Board rejected ACVM’s request to view the signature with sufficient protections against public disclosure of the signature records by, for example, an *in camera* review of the records or review by attorneys pursuant to a protective order. **Ex E**, ACVM Demand Letter.

150. By refusing to allow ACVM to view the digitized signature records in the QVF—even in limited, non-public, confidential fashion—the Board deprived ACVM of any opportunity whatsoever, let alone a *meaningful* opportunity, to evaluate, respond to, or contest the Bureau’s conclusions that the 94 signatures do not match the signatures on file because they lack “redeeming qualities.” Without access to the associated digitized signature records—i.e., without an opportunity to see or respond to the evidence used to invalidate the signatures on its petition—ACVM cannot perform anything like the visual comparison presumably used by the Bureau staff to render its conclusion that the 94 signatures were invalid.

151. Due Process requires more.

Defendants violated ACVM’s due-process rights by refusing to provide the digitized signature records from the QVF used to invalidate signatures on ACVM’s petitions.

152. The Board rejected ACVM’s request for limited, confidential access to the digitized signature records in the QVF corresponding to the 94 invalidated based on a Michigan statute exempting “digitized signature[s]” in the QVF from FOIA and a federal statute prohibiting public disclosure of motor vehicle records (including digitized signatures).

153. In the Board’s view, “releasing these signatures or allowing ACVM to view the signatures *in camera*—even under a confidentiality agreement or protective order—would violate both state and federal law.” **Ex E**, BOSC Response to ACVM Demand Letter, p. 1-2. The Board further claimed that, “[w]hile ACVM may not be able to obtain the signature from the QVF, there are still options that may be utilized to rehabilitate a signature.” *Id.*

154. Specifically, the Board affirmed that ACVM “may contact the voters who have signed the petition and ask them to sign an affidavit detailing the page that was signed, indicating that they were the one who signed, and providing a signature that sufficiently agrees with the voter’s signature in QVF.” *Id.*

155. But the Board rendered their proposed alternative method of rehabilitating allegedly non-matching signatures—providing affidavits from affected signers—illusory in two ways.

156. First, the Bureau unreasonably delayed reviewing ACVM’s petitions from the get-go.

157. ACVM turned in its petitions with more than 700,000 signatures on March 4, 2026.⁶ The Bureau then inexplicably waited 166 days to produce its staff report containing its conclusions regarding the 1,000 signatures contained in the “sample.” **Ex D**, August 17, 2026 Bureau Staff Report.

158. That means the Bureau staff averaged examining a mere six signatures per day.

159. The Bureau’s decision to wait 166 days to throw out the 94 allegedly non-matching signatures meant that ACVM had a mere five days to: (1) identify and contact the 94 affected voters; (2) confirm that they signed ACVM’s petition; and (3) produce and obtain an affidavit rehabilitating the signature.

160. Despite the Bureau’s slow-walk of its staff report, ACVM was able to contact 23 voters whose petition signature—according to the Bureau, at least—did not match the digitized

⁶ Solis, *Citizens-only voting ballot group to turn in 750k signatures to state, well ahead of deadline*, Michigan Advance (March 4, 2026), available at <https://michiganadvance.com/2026/03/04/citizens-only-voting-ballot-group-to-turn-in-750k-signatures-to-state-well-ahead-of-deadline/>.

signature records in the QVF and obtain affidavits from those voters confirming that they signed ACVM's petitions and that their signature was in fact genuine.

161. That herculean effort should not detract from the reality that the Bureau's decision to wait more than five months to produce its staff report—and, by doing so, *leaving ACVM with a mere 5 days to rehabilitate signatures*—deprived ACVM of a “meaningful” opportunity to rebut the Bureau's conclusion with respect to the remaining 71 voters whose signature was stricken for allegedly not matching the corresponding signature in the QVF.

162. Accordingly, even if the Board's proposed mechanism for rehabilitating allegedly invalid signatures—obtaining affidavits from the affected voters—is a valid alternative to viewing signatures in the QVF (it is not), the Bureau's 166-day delay in publishing the staff report still deprived ACVM of its right to a “meaningful” opportunity to know and respond to the evidence used to strike signatures from its petitions.

163. The Board's proposed alternative to allowing ACVM to compare signatures also violates due process for the same reason as the Bureau's invalidation of allegedly non-matching signatures: it depends on comparing signatures to the QVF that ACVM is not allowed to view.

164. A notarized affidavit constitutes sworn testimony under penalty of perjury, verified by a notary public who, before notarizing the document, confirmed that the individual signing the affidavit is, in fact, who they claimed to be based on government ID. MCL 55.285(6)(b); *June v School Dist No 11, Southfield Tp*, 283 Mich 533 (1938).

165. Here, after receiving the rehabilitative affidavits from ACVM, Defendants failed to treat those affidavits as “presumptive evidence” of the facts contained in the affidavits—i.e., that the signatories of the affidavits had, in fact, signed ACVM's petitions. *Dodson v Imperial Motors, Inc*, 295 F2d 609, 614 (1961). Instead, Defendants subjected the affidavits to the same inquiry as

the original petition signatures. That is, Defendants compared the signature on each affidavit to the corresponding signature in the QVF. The Board rejected four of the affidavits—and, thus, invalidated signatures on ACVM’s petitions—based on their subjective conclusion that the signature on the affidavit did not match the QVF.

166. The process of comparing the affidavit signatures to the QVF signatures violates due process for several reasons.

167. First, it reviews (and invalidates) signatures on ACVM’s petitions based on evidence from the QVF that ACVM cannot meaningfully respond to at all. That is, just like ACVM cannot meaningfully rebut Defendants’ conclusion that signatures on its petitions do not match the corresponding signature in the QVF, ACVM also meaningfully cannot rebut Defendants’ conclusion that the signatures on the submitted affidavits do not match the corresponding signature in the QVF. Either way, signatures were invalidated based on evidence that ACVM cannot know or to which ACVM was deprived of a meaningful opportunity to respond. Once again, that falls short of the due process required by the Michigan and federal constitutions.

168. Second, the Board’s reasoning is fatally circular. According to the Board, ACVM doesn’t need access to the QVF signatures because it can rehabilitate petition signatures by obtaining affidavits from the affected voters. But, by subjecting signatures on affidavits to comparison with the digitized signature records in the QVF, the Board negates the value of providing petition sponsors with an alternative to QVF comparison. Put differently, the Board denied ACVM a meaningful opportunity to rebut the unknown evidence against it (digitized signatures in QVF) by subjecting the submitted affidavits to the same unknown evidence against it.

169. The Board’s decision to subject the affidavits to QVF comparison ignores the reality of what each affidavit submitted by ACVM constitutes—sworn testimony that the affiant signed the petition, that their signature is genuine, and (because it is notarized) that the affiant is, in fact, who they say they are—in lieu of yet another visual comparison.

170. Because the affidavit is sworn testimony, the Board was required to accept it as-is, absent some other evidence impeaching the *substance* of the affidavit.

171. The four affidavits rejected (or, at least, not accepted) by the Board because the signature on the affidavit allegedly did not match the signature on the QVF are proof positive that Defendants violated the due-process rights of not only ACVM, but also the four Michigan voters who expressed their First Amendment rights by signing both the petition and an affidavit but still didn’t have their signature counted. They should have been accepted by the Board.

If the Board hadn’t violated ACVM’s due-process rights, the Petition would have been certified.

172. Consistent with constitutional principles of due process and equal protection, Defendants had a clear legal duty to, at a minimum, provide ACVM with “notice and an opportunity to be heard in a meaningful time and manner.” *Spranger v City of Warren*, 308 Mich App 477, 483; 865 NW2d 52 (2014). Defendants also had a clear legal duty to provide ACVM with a “hearing to allow [it] the chance to know and respond to the evidence.” *Cummings v Wayne Co*, 210 Mich App 249, 253; 533 NW2d 13 (1995).

173. Absent Defendants’ violation of ACVM’s due process rights—i.e., had it given ACVM a meaningful opportunity to compare the 94 disputed signatures against the QVF and/or accepted all nine disputed affidavits, including the affidavits stricken because it did not match the QVF, as well as the two signatures that the Bureau deemed were a match but on which the Board deadlocked—ACVM would have had, at minimum, 633 valid signatures, more than the 629

required for the Board to certify that the Petition satisfied the signature requirements of the Michigan Election Law. Therefore, the Board had a clear legal duty to certify the Petition for the November general election ballot and breached that duty by failing to do so.

**COUNT III – VIOLATION OF THE EQUAL PROTECTION CLAUSE
OF THE U.S. CONSTITUTION AND THE MICHIGAN CONSTITUTION**

Legal Framework.

174. Plaintiffs incorporate the allegations in the foregoing paragraphs as if fully stated herein.

175. Under the Fourteenth Amendment to the U.S. Constitution, a State may not “deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV.

176. The Michigan Supreme Court has noted: “the scope of the equal protection guarantee afforded by our state constitution is coextensive with its federal counterpart.” *Gora v City of Ferndale*, 456 Mich 704, 576 NW2d 141 (1998).

177. Voters’ right to equal protection of the laws in the exercise of the franchise is fundamental. *See Bush v Gore*, 531 US 98, 104, 121 S Ct 525, 529 (2000) (“the right to vote as the legislature has prescribed is fundamental”). “[O]ne source of its fundamental nature lies in the equal weight accorded to each vote and the equal dignity owed to each voter.” *Id.* Thus, and as the United States Supreme Court held in *Bush v Gore*, the importance of equal protection of the right to vote does not arise from the source of the right to vote—*i.e.*, whether that right arises from the federal constitution, state constitutions, or federal or state statutory law—but rather from the “equal weight accorded to each vote and the equal dignity owed to each voter.” *Id.* When States give unequal weight or dignity to voters’ exercise of the franchise, they violate the Fourteenth Amendment.

178. Indeed, “[t]he right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well *to the manner of its exercise*. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.” *Id.* at 104–05 (citation omitted) (emphasis added).

179. To be clear, “[w]hen a State exercises power wholly within the domain of state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right.” *Reynolds v Sims*, 377 US 533, 566, 84 S Ct 1362, 1384 (1964) (quotation omitted). Further, “[t]o the extent that a citizen’s right to vote is debased, he is that much less a citizen.” *Id.*

180. Accordingly, the discarding of a citizens’ vote is—at its heart—a violation of that citizen’s right to equal protection of the laws. States cannot escape the Fourteenth Amendment’s reach by declaring a matter wholly within the domain of state interest.

181. There is no distinction—at least as far as Equal Protection Clause protections—between voters’ right to cast a vote on a ballot and voters’ right to sign a petition. In *Green v City of Tucson*, 340 F3d 891 (2003), the Ninth Circuit held that “signatures on a petition” “are the constitutional equivalent of votes” and are thus protected by the Equal Protection Clause. *See id.* at 897-898. “Because the [petition signatures] are analytically like votes, and are a substitute for them, legally they must be treated as votes.” *Id.*

182. In *Lemons v Bradbury*, 538 F3d 1098 (2008), the Ninth Circuit again considered whether a state’s rules regarding “verifying referendum petition signatures” were sufficiently uniform, or whether they violated the equal protection rights of voters that were established in *Bush v Gore*. *See id.* at 11105-1106. In *Lemons*, the Ninth Circuit emphasized the constitutional requirement that analyzing the validity of a petition signature must be uniform, because only

uniformity “has ‘sufficient guarantees of equal treatment.’” *Id.* at 1106. The Ninth Circuit had no hesitation in applying the “one man, one vote” of *Bush v Gore* to signatures on a petition. In the Ninth Circuit’s view, uniform review of petition signatures was the baseline protection guaranteed by the Equal Protection Clause. *Id.* at 1107.

183. Michigan’s Constitution grants every registered voter the right to propose amendments to the Constitution by petition. Mich Const Art XII, § 2.

184. A petition to amend the Michigan Constitution must “be signed by registered electors of the state.” Mich Const Art XII, § 2.

185. When considering the People’s exercise of their direct-democracy power to initiate laws, this Court has used the “democracy principle” to guide its analysis. See *Mothering Just. v. Att’y Gen.*, 515 Mich 328, 348, 29 NW3d 346, 356, *opinion clarified*, 515 Mich 920, 10 NW3d 845 (2024). This Court has held that “[w]ith respect to constitutional interpretation, where, as here, ‘the people reserve to themselves a direct legislative voice,’ this Court must ‘liberally construe[]’ such provisions in favor of the people.” *Id.* at 347. Specifically, this Court succinctly described this construction in favor of direct democracy “the democracy principle.” *Id.*

186. This Court explained: “The democracy principle is a helpful tool to analyze our laws—especially those statutes and constitutional provisions that implicate elections and direct democracy.” *Id.* at 348, n 7. “The democracy principle,” this Court continued, “can . . . shed new light on the relationship between representative and direct democracy, and it recognizes that ‘democracy’ itself is core to our Constitution and must inform the lens we use to interpret laws.” *Id.* (quoting *The Democracy Principle in State Constitutions*, 119 Mich L Rev 859, 923 (2021)).

187. In *League of Women Voters of Michigan v Sec’y of State*, 508 Mich 520, 975 NW2d 840 (2022), this Court considered the constitutionality of a statute that, *inter alia*, limited the

People’s exercise of their power to initiate legislation and constitutional amendments by requiring that no more than 15% of the signatures in support of a petition to initiate legislation or constitutional amendments come from the same congressional district. This Court struck down the law as unconstitutional, finding that the cap on the percentage of signatures that may come from each district disenfranchised voters. Thus, there is no question that the rights that are part and parcel to exercising the franchise apply in the context of signing petitions, too.

188. Indeed, as this Court held just four years ago, the Legislature’s attempt to limit what percentage of signatures could come from a single district “would effectively ensure that some voters’ signatures would be rendered void merely because they were obtained after the 15% cap for that district had been reached, something that voters are unlikely to know when signing a petition.” *Id.* at 542. This Court continued, reasoning that “[s]uch disenfranchisement would weigh most heavily on those residing in more densely populated parts of the state, and it would run directly contrary to the clear intention that nothing more than a minimum number of signatures from the statewide population is necessary to propose changes to Michigan’s laws.” *Id.* (emphasis added).

The Defendants’ Actions denied Nine Michigan Voters’ right to the Equal Protection of the Laws.

189. Here, more than 700,000 registered voters signed ACVM’s petition to amend the Michigan Constitution.

190. As required by MCL 168.476, the Board met to “canvass the petition[] to ascertain if the petition[] ha[d] been signed by the requisite number of qualified and registered electors.”

191. As a part of its process, and as required by MCL 168.476 and the Secretary of State’s guidance, the Board compared the signatures of 1,000 voters against those voters’ signatures in the Qualified Voter File.

192. The Board found that 94 voters' signatures did not sufficiently match the voters' signature in the Qualified Voter File, and so could not be counted.

193. Twenty-three of the 94 voters whose votes were not counted submitted signed, sworn, notarized affidavits to the Board that averred under penalty of perjury that the signature on the Petition that the Board had found did not sufficiently match the voters' signature in the Qualified Voter File was their signature.

194. The Board accepted only fourteen of the twenty-three voters' affidavits, finding that they sufficiently proved the voters' identity.

195. The Board refused to accept nine of the twenty-three voters' affidavits.

196. The Board rejected three of the nine affidavits because, in the opinion of a majority of the Board, the voters' signature on the affidavit did not sufficiently match the voters' signature in the QVF. The Board deadlocked on one more of the nine affidavits over whether the voters' signature on the affidavit sufficiently matched the voters' signature in the QVF.

197. For all four of those affidavits VF, the Board ignored that the affidavits were sworn, signed, *and notarized*.

198. The Board rejected five more of the nine affidavits because, even though the Board received the affidavits before voting on whether to reject or accept voters' signatures, the Board held the affidavits had not arrived in a timely fashion because the five affidavits were not produced 48 hours before the Board's August 26, 2025 meeting. See Rule 168.846 ("Members of *the public* shall submit material to the board at least 48 hours before the relevant board meeting. The board shall not consider material received after the 48-hour deadline.") (emphasis added). Significantly, the Board did not address the Bureau's inexplicable decision to wait more than five months to

issue its Staff Report, which left ACVM with a mere five days to obtain rehabilitative affidavits before the 48-hour deadline.

199. On record, each member of the Board acknowledged that the five affidavits were unrefuted evidence that sufficiently identified the voters who signed the Petition. The Board reviewed each of the five affidavits closely.

200. Nonetheless, the Board refused to consider the affidavits, and it refused to hold that the five voters who submitted affidavits had sufficiently proven their identity such that their signatures on the Petition should count.

201. Nine Michigan voters who produced affidavits were denied equal protection of the law—their votes weren't counted, when other, similarly situated votes were.

202. Nine Michigan voters who exercised their First Amendment rights by signing the petition just like more than 700,000 other voters and just like the 94 voters who, like the nine, had their signatures challenged.

203. Nine Michigan voters, just like fourteen other voters, took extraordinary steps to cure perceived deficiencies with their ballots by executing sworn, notarized affidavits.

204. Nine Michigan voters submitted affidavits, just like fourteen other voters, to prove their identity and to ensure that their signature on the Petition was counted.

205. But nine voters who submitted affidavits were treated differently than the other fourteen affidavits. Indeed, rather than accepting the affidavits of the nine voters, the Board *rejected* them (three were rejected outright by a majority of the Board, and six were rejected by a 2-2 deadlock).

206. By arbitrarily and disparately accepting fourteen voter affidavits while simultaneously rejecting nine voter affidavits, the Board denied the nine equal protection of the laws.

207. By arbitrarily and disparately accepting fourteen voter affidavits while simultaneously rejecting nine voter affidavits, the Board deprived nine voters of their right to vote.

208. Indeed, the Board's rejection of the nine voters disenfranchised those nine voters and "value[d] one person's vote over that of another." *Bush v. Gore*, 531 US at 104–05.

Defendants' Actions denied ACVM's right to the Equal Protection of the Laws.

209. The Board's actions also denied ACVM equal protection under the law by subjecting them to different rules than other petitions.

210. Under Michigan law, there is a deadline by which a challenger to a Petition's sufficiency must submit a challenge. See *Challenge deadline established for constitutional amendment sponsored by Americans for Citizen Voting – Michigan*, Michigan Board of State Canvassers (July 24, 2026) [Board of State Canvassers Americans for Citizen Voting Challenge Deadline](#).

211. In their guidance, the Board states, in bold, in a notice titled "Challenge deadline established for constitutional amendment sponsored by Americans for Citizen Voting – Michigan" that **"the deadline to submit challenges to this petition will elapse at 5:00 p.m. on August 7, 2026."** (emphasis in original). The Board's instruction in this case accords with the Board's generally applicable rules. In its guidance "Sampling Procedure for Canvassing Petitions," the Bureau of Elections states: "Under the Board's current practice, challenges are due 10 business days after the release of the sample and rebuttals are due as soon as possible after challenges are

received.” *Sampling Procedure for Canvassing Petitions*, Bureau of Elections at 3 (Nov 2023) [Sampling Procedure for Canvassing Petitions](#).

212. The Board’s notice is in accord with the Secretary’s description of the procedure of the Board. In the Secretary’s guidance, titled “Petition Manual: Statewide Initiative, Referendum, and Constitutional Amendment Petitions” (July 31, 2025) [FDC FC MAN 1: Ballot Proposal Petition Manual](#), the Secretary instructs “Under the current practice of the Board of State Canvassers, challenges are due 10 business days after the release of the sample.” The Secretary’s guidance continues: “[A] challenge **must be received no later than 5 p.m. on the date of the deadline, irrespective of postmark.**” *Id.* at 27-28. (emphasis in original). In this case, the Petition’s signature sample was released to the public on July 24, 2026, meaning that challenges were due no later than “5:00 p.m. on August 7, 2026.” *Challenge deadline established for constitutional amendment sponsored by Americans for Citizen Voting – Michigan*, Michigan Board of State Canvassers (July 24, 2026) [Board of State Canvassers Americans for Citizen Voting Challenge Deadline](#).

213. In *Callahan v. Board of State Canvassers*, 650 NW2d 656 (Mich. 2022), this Court held that challenges filed after the Board of State Canvassers’ deadline may not be considered by the Board.

214. Despite the clear, long-established rule that late-filed challenges may not be considered, the Board here considered two challenges to the sufficiency of signatures on the ACVM Petition. Ultimately, the Board deadlocked on whether to accept the two challenges, but their deadlock, 2-2, on the challenges means that the challenged signatures are deemed invalid.

215. Here, the Board did not certify the validity of two signatures on the Petition based on arguments raised in a late-filed challenge, yet simultaneously the Board refused to consider five

affidavits curing alleged deficiencies with voters' signatures because the affidavits were allegedly untimely.

216. The Board treated ACVM and the voters who signed ACVM's petition differently than it treated the Challengers. The Board's actions cross from unequal treatment under the law into naked animus towards the ACVM Petition. Indeed, as the Board would have it, a voter who submitted a signed, sworn, notarized affidavit cannot cure an allegedly deficient signature, but a challenge may challenge—and strike—a voters' signature on the very day of ballot certification.

217. So the ACVM Petition did not receive equal treatment. The Board rejected the validity of two signatures based on a late-filed challenge, but it rejected five voters' efforts to rehabilitate their allegedly defective signatures because those efforts were ostensibly untimely. That is the definition of arbitrary and disparate treatment. *See Bush v Gore*, 531 US 98, 104-105; 121 S Ct 525, 529 (2000).

**MOTION FOR ORDER TO SHOW CAUSE AND
FOR IMMEDIATE CONSIDERATION**

218. Plaintiffs incorporate the allegations in the foregoing paragraphs as if fully stated herein.

219. MCR 3.305(C) says: "On ex parte motion and a showing of the necessity for immediate action, the court may issue an order to show cause."

220. Importantly, this "motion may be made in the complaint." *Id.* And "[t]he facts on which the court shall determine the existence of a necessity for immediate action are those stated in the *ex parte* motion." *Gogebic County Clerk v Gogebic County Bd of Com'rs*, 102 Mich App 251; 301 NW2d 491 (1980).

221. “An order to show cause will be granted” where “the public interests require the immediate disposition of the case, and forbid the delay of awaiting an opportunity to apply to the...court.” *Loranger v Navarre*, 97 Mich 615, 616; 58 NW 47 (1893).

222. The Court should immediately adjudicate the merits of this case on an expedited basis because it involves the constitutional rights of voters and ACVM.

223. Further, any delay would deprive ACVM of the opportunity to have its Proposal appear on the November 2026 General Election Ballot. Ballots must be finalized at least 60 days prior to the election. *See* MCL 168.32; MCL 168.474a; MCL 168.480. The printing and mailing of absentee ballots must be accomplished by September 4, 2026. County clerks must also deliver absent voter ballots for the November General Election to local clerks by September 4, 2026, *see* MCL 168.714, in time for local clerks to issue absent voter ballots to military and overseas voters in compliance with state and federal law and to issue absent voter ballots to all other registered voters by mail and in person beginning the 40th day before the November General Election. *See* Const art 2, § 4. Significant work on ballot proofing and preparation must take place before that.

224. ACVM also wishes to educate voters about the Proposal’s merits, but it cannot do so until it knows whether the Proposal will appear on the ballot.

225. This Court has repeatedly said that election-related cases must be considered on an expedited basis because of the “extreme time constraints” they can involve. *See, e.g., Scott v Director of Elections*, 490 Mich 888, 889; 804 NW2d 119 (2011); *see also Gracey v Grosse Point Farms Clerk*, 182 Mich App 193, 196-196; 452 NW2d 471 (1989) (acknowledging that “[c]onstraints of time...are characteristic of election cases,” and holding that “[g]iven the necessity that ballots be printed in time...it is traditional in these election cases for the courts to rule peremptorily.”).

226. Along the same lines, MCL 168.479(2), under which this mandamus action is being brought, says that “[a]ny legal challenge to the official declaration of the sufficiency or insufficiency of an initiative petition has the highest priority and shall be advanced on the supreme court docket so as to provide for the earliest possible disposition.”

227. The statutory deadline for delivering absentee ballots to local clerks and to mail ballots to military or overseas voters is September 19, 2026. MCL 168.759a; MCL 168.714. To meet that deadline for mailing the ballots, the relevant government bodies must be able to print, proof, and approve ballots with the proper list of candidates and initiatives before that date.

228. Defendant Director Brater has previously represented that it takes two weeks to proof and print ballots. Thus Plaintiffs estimate that all September 5 is the deadline by which all proceedings must be completed.

229. If this Court disagrees with the allegations in this complaint and declines to grant mandamus relief, due process requires that Plaintiffs be given sufficient time to exercise and perfect their right of appellate review of this Court’s decision by pursuing relief in the Supreme Court of the United States on an emergency basis. This takes time as well.

230. The extreme time constraints imposed by the relevant statutory deadlines—to say nothing of the practical realities of producing completed ballots in a few short weeks—demonstrates the “necessity for immediate action” necessary for this Court to issue an order to show cause in the immediate future and to impose an abbreviated briefing schedule. See MCR 3.305(C).

231. Without such immediate action, Plaintiffs will suffer irreparable injury because the Petition will not be certified for the November ballot.

232. Therefore, pursuant to MCR 3.305(C), ACVM respectfully requests that this Court order Defendants to show cause why a writ of mandamus should not issue and to order that responding briefs be filed within the time frame necessary such that the Court can issue a decision by September 1, 2026. ACVM further asks that the Court's order:

- a. Mandate briefing be completed with enough time for this Court to issue its ruling by Tuesday, September 1, 2022, so that ACVM (or any other party) has time to perfect its appellate rights in time for Defendants to comply with their statutory obligations regarding ballot distribution.
- b. Direct Defendants to articulate as soon as possible the latest possible date on which they can initiate the ballot proofing and printing process while still complying with their obligations under state and federal law.

CONCLUSION

WHEREFORE, Plaintiffs respectfully request that this Court order the following relief:

- A. Grant ACVM's Motion for an order to Show Cause and for Immediate Consideration, given the necessity for immediate action occasioned by the extreme time constraints imposed by the election and ballot-printing process;
- B. Issue a writ of mandamus on or before September 1, 2026 directing Defendants to take all necessary actions to certify the Petition for placement on the November 2026 General Election Ballot.
- C. Remand this matter to the Defendant Board for immediate entry of an official declaration by the Defendant Board of State Canvassers on or before September 4, 2026 that ACVM's Petition is sufficient and for certification of the Petition by Defendant Michigan Secretary of State Jocelyn Benson, and for any other act

requisite to ensuring that ACVM's Petition appears on the November general election ballot.

- D. Directing the Secretary of State and Director of Elections to take any and all necessary action to certify the Proposal and place it on the November 2026 General;
- E. Grant any other relief it deems just and equitable.
- F. Alternatively, ACVM requests that the Court directed that the Petition be placed on the ballot while reserving the question of its propriety to be litigated on a more ordinary timeline.

Respectfully submitted,

Dated: August 27, 2026

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CERTIFICATE OF SERVICE

The undersigned certifies that on August 27, 2026, the foregoing document PLAINTIFF AMERICANS FOR CITIZEN VOTING – MICHIGAN’S AND FRED SMITH’S COMPLAINT FOR IMMEDIATE MANDAMUS RELIEF AND DECLARATORY JUDGMENT AND MOTION FOR ORDER TO SHOW CAUSE AND IMMEDIATE CONSIDERATION was electronically filed with the Clerk of the Court using the electronic filing system, and was served on all Defendants via personal service at the below addresses and email addresses and upon their usual attorneys at their below email addresses:

Michigan Board of State Canvassers
Michigan Department of State
430 W. Allegan Street
Lansing MI 48918
mdos-canvassers@michigan.gov

Secretary of State Jocelyn Benson
Michigan Department of State
430 W. Allegan Street
Lansing MI 48918
Secretary@michigan.gov

Director of Elections Jonathan Brater
Michigan Department of State
430 W. Allegan Street
Lansing MI 48918
BraterJ@michigan.gov

Assistant Attorney General Erik Grill: Grille@michigan.gov

Assistant Attorney General Heather Meingast: meingasth@michigan.gov

/s/ Daniel C. Ziegler

Daniel C. Ziegler (P86312)

Exhibit G

Jonathan B. Koch

From: Daniel C. Ziegler
Sent: Thursday, August 27, 2026 2:50 PM
To: mdos-canvassers@michigan.gov; Secretary@michigan.gov; BraterJ@michigan.gov; Grille@michigan.gov; meingasth@michigan.gov; BensonJ4@Mi.gov
Cc: ClerkInfo@courts.mi.gov; msc_clerk@courts.mi.gov; Charles R. Spies; Robert L. Avers; Jonathan B. Koch
Subject: URGENT: Americans for Citizen Voting – Michigan and Fred Smith's Original Complaint for Mandamus Relief against the Board of State Canvassers
Attachments: ACVM v. Board - Complaint for Mandamus Relief.pdf; ACVM v. Board - Brief ISO of Complaint for Mandamus Relief.pdf

Good afternoon,

We represent Americans for Citizen Voting – Michigan and Fred Smith. Please find attached a copy of the Complaint for Immediate Mandamus Relief and Declaratory Judgment and Motion for Order to Show Cause that we filed this afternoon on behalf of our clients. The Complaint names the Board of State Canvassers, Secretary of State Jocelyn Benson, and Director of Elections Jonathan Brater and defendants. Please also find attached a copy of the Brief in Support that was filed with the Complaint.

Exhibits to the Original Complaint will follow in a separate email due to size constraints.

Consistent with direction from the Michigan Supreme Court Clerk's office, we are providing electronic copies via email to both the parties and their usual attorneys. Hard copies of these documents will be hand delivered to each of the Defendants shortly.

Thank you,
Dan



Daniel C. Ziegler

Associate Attorney

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