

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

CHERYL A. COSTANTINO and EDWARD
P. MCCALL, JR.,

Plaintiffs-Appellants,

v.

CITY OF DETROIT; DETROIT ELECTION
COMMISSION; JANICE M. WINFREY, in
her official capacity as the CLERK OF THE
CITY OF DETROIT and the Chairperson of
the DETROIT ELECTION COMMISSION;
CATHY M. GARRETT, in her official
capacity as the CLERK OF WAYNE
COUNTY; and the WAYNE COUNTY
BOARD OF CANVASSERS,

Defendants-Appellees,

v.

MICHIGAN DEMOCRATIC PARTY,

Intervenor Defendant-
Appellee.

Court of Appeals No. 355443

Circuit Court No. 20-014780-AW

HON. TIMOTHY M. KENNY

David A. Kallman (P34200)
Erin E. Mersino (P70886)
Jack C. Jordan (P46551)
Stephen P. Kallman (P75622)
GREAT LAKES JUSTICE CENTER
Attorneys for Plaintiffs
5600 West Mount Hope Highway
Lansing, Michigan 48917
(517) 322-3207

Lawrence T. Garcia (P54890)
Charles N. Raimi (P29746)
James D. Nosedo (P52563)
CITY OF DETROIT LAW DEPT.
Attorneys for Detroit Defendants
2 Woodward Ave., 5th Floor
Detroit, MI 48226
(313) 237-5037

Marc E. Elias (DC #442007)***
John M. Devaney (DC #375465)*
Jyoti Jasrasaria (DC #1671527)***
PERKINS COIE LLP
Attorneys for Proposed Intervenor
700 Thirteenth Street NW, Suite 800
Washington, DC 20005
(202) 654-6200

Kevin J. Hamilton (WA # 15648)***
William B. Stafford (WA #39849)***
Jonathan P. Hawley (WA #56297)**
PERKINS COIE LLP
Attorney for Proposed Intervenor
1201 Third Avenue, Suite 4900
Seattle, WA 98101
(206) 359-8000

David H. Fink (P28235)
Darryl Bressack (P67820)
FINK BRESSACK
Attorneys for Detroit Defendants
38500 Woodward Ave., Suite 350
Bloomfield Hills, MI 48304
(248) 971-2500

Scott R. Eldridge (P66452)
MILLER CANFIELD
Attorney for Proposed Intervenor
One Michigan Avenue, Suite 900
Lansing, Michigan 48933 (USA)
1.517.483.4918
eldridge@millercanfield.com

James W. Heath (P65419)
Janet Anderson-Davis (P29499)
Attorneys for Wayne County Defendants
500 Griswold, 21st Floor
Detroit, MI 48226
(313) 347-5813/Fax: (313) 967-3532

Mary Ellen Gurewitz (P25724)
CUMMINGS & CUMMINGS
Attorney for Proposed Intervenor
423 North Main Street, Suite 200
Royal Oak, Michigan 48067
(248) 733-3405

*Admitted *pro hac vice*
***Pro hac vice* motion pending
****Pro hac vice* motion forthcoming

**INTERVENOR DEFENDANT-APPELLEE'S RESPONSE TO PLAINTIFF-
APPELLANTS' MOTION FOR PEREMPTORY REVERSAL UNDER MCR 7.211(C)(4)**

Intervenor Defendant-Appellee, in Response to Plaintiffs-Appellants' Motion for Peremptory Reversal Under MCR 7.211(C)(4), states as follows:

1. Plaintiffs-Appellants seek peremptory reversal of the lower court's November 13, 2020 denial of their motion for temporary restraining order and preliminary injunction. MCR 7.211(C)(4) provides that an appellant may seek peremptory reversal in one very limited circumstance — i.e., when “reversible error is so manifest that an *immediate* reversal of the judgment or order appealed from should be granted without formal argument or submission.” (emphasis added).

2. Furthermore, as this Court has held, “[p]eremptory reversal should be reserved for those cases in which the law is settled and no factual assessment is required.” *Hicks v. Department of Commerce, Bd. of Medicine*, 560 NW2d 54, 58, 220 Mich App 501, 509 (1996) (citing *People v Kelley*, 433 Mich 882, 885, 446 NW2d 821 (1989) (Levin, J., separate opinion)).

3. Plaintiffs-Appellants' submission to this Court is completely devoid of law and acknowledges that there are "significant and substantial . . . factual issues." Therefore, Plaintiffs-Appellants are not entitled to this extraordinary relief.

WHEREFORE, Intervenor Defendant-Appellee, based on the foregoing and based on its Brief in Opposition to Plaintiffs-Appellants' Application for Leave to Appeal, respectfully requests that this Honorable Court deny Plaintiffs-Appellants' Motion for Peremptory Reversal in its Entirety, for failure to persuade this Court that any alleged error in the Circuit Court was "so manifest that an immediate reversal of the judgment or order appealed from should be granted without formal argument or submission[.]" award Intervenor Defendant-Appellee its costs, interest, and attorney fees, and grant any other relief this Court deems just and appropriate.

Respectfully submitted,

Dated: November 16, 2020

s/Scott R. Eldridge

Scott R. Eldridge
MILLER CANFIELD
Attorney for Proposed Intervenor
One Michigan Avenue, Suite 900
Lansing, Michigan 48933
(517) 483-4918

Mary Ellen Gurewitz (P25724)
CUMMINGS & CUMMINGS
Attorney for Proposed Intervenor
423 North Main Street, Suite 200
Royal Oak, Michigan 48067
(248) 733-3405

Marc E. Elias (DC #442007)***
John M. Devaney (DC #375465)*
Jyoti Jasrasaria (DC #1671527)***
PERKINS COIE LLP
Attorneys for Proposed Intervenor
700 Thirteenth Street NW, Suite 800
Washington, DC 20005

(202) 654-6200

Kevin J. Hamilton (WA #15648)***
William B. Stafford (WA #39849)***
Jonathan P. Hawley (WA #56297)**
PERKINS COIE LLP
Attorneys for Proposed Intervenor
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
(206) 359-8000

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PROOF OF SERVICE

Scott Eldridge certifies that on the 16th day of November 2020, he served a copy of the above document in this matter on all counsel of record via the Court's electronic filing system and via courtesy email.

s/Scott R. Eldridge
Scott Eldridge

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