

**STATE OF MICHIGAN
IN THE SUPREME COURT**

Appeal from the Court of Appeals
(Riordan, P.J., and Stephens, and Letica, JJ.)

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.

MSC No. 162245

COA No. 355443

Trial Court No. 20-014780-AW

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

**INTERVENOR DEFENDANT-APPELLEE'S RESPONSE TO PLAINTIFFS-
APPELLANTS' MOTION FOR IMMEDIATE CONSIDERATION**

Intervenor Defendant-Appellee Michigan Democratic Party (“Intervenor”) hereby opposes Plaintiffs-Appellants’ (“Plaintiffs”) motion for immediate consideration of its emergency application for leave to appeal.

Although Plaintiffs assert that immediate consideration of their extraordinary and never-before-seen demands for relief “is necessary to prevent Defendants/Appellees from certifying the election results in Wayne County prior to a full results audit of the election being performed,” no such immediate consideration is warranted in this case.

First, and for the reasons stated in Intervenor’s opposition to Plaintiffs’ application for leave to appeal, the record and law simply do not support Plaintiffs’ legal and factual allegations.

Thus, this Court's consideration of the Plaintiffs' legal claims is not warranted at all— let alone on an immediate, expedited basis.

Second, to the extent any immediate consideration is necessary, it is due to Plaintiffs' own delay. Although their complaint relies on asserted irregularities at the TCF Center on election day (November 3, 2020), Plaintiffs waited six days to file their complaint demanding immediate injunctive relief.

Had Plaintiffs filed their complaint sooner, it is likely that this Court would not be asked *the same day* that the Wayne County Board of Canvassers is statutorily obligated to certify the county election results to enter the extraordinary remedy of stopping the election certification.

CONCLUSION

For the reasons stated Intervenor respectfully submits that this Court should deny Plaintiffs' motion for immediate consideration under the circumstances.

Respectfully submitted,

Dated: November 17, 2020

s/Scott R. Eldridge

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PROOF OF SERVICE

Scott Eldridge certifies that on the 17th 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