

STATE OF MICHIGAN
IN THE SUPREME COURT

ANGELIC JOHNSON, et al.
Petitioners,

v

JOCELYN BENSON, et al.,
Respondents.

Supreme Court Case No. _____

**PETITIONERS' MOTION FOR IMMEDIATE
CONSIDERATION OF THEIR PETITION
FOR EXTRAORDINARY WRITS**

REQUESTED BEFORE DECEMBER 8, 2020

SPECIAL COUNSEL FOR THOMAS MORE SOCIETY—
AMISTAD PROJECT

Ian A. Northon, Esq. (P65082)
Gregory G. Timmer (P39396)
RHOADES MCKEE, PC*
55 Campau Avenue
Suite 300
Grand Rapids, MI 49503
Tel.: (616) 233-5125
Fax: (616) 233-5269
ian@rhoadesmckee.com
ggtimmer@rhoadesmckee.com

Erin Elizabeth Mersino, Esq. (P70886)
GREAT LAKES JUSTICE CENTER*
5600 W. Mt. Hope Highway
Lansing, Michigan 48917
(517) 322-3207
erin@greatlakesjc.org

*for identification purposes only
COUNSEL FOR PETITIONERS

Robert J. Muise, Esq. (P62849)
AMERICAN FREEDOM LAW CENTER*
PO Box 131098
Ann Arbor, Michigan 48113
Tel: (734) 635-3756
Fax: (801) 760-3901
rmuise@americanfreedomlawcenter.org

NOW COME Petitioners, by and through their attorneys, and respectfully ask this Honorable Court to grant their Motion for Immediate Consideration of their Petition for Extraordinary Writs and Brief in Support and to grant the immediate declaratory and injunctive relief requested. Pursuant to MCR 7.311(E), Petitioners state as follows:

1. Petitioners incorporate herein all the allegations and statements contained in their Petition, Brief in Support, and all exhibits and affidavits attached thereto.

2. Immediate consideration is necessary to prevent the destruction of ballots and election materials, to prevent an illegally and improper canvass from serving as the basis for the distribution of Michigan's 16 electoral votes, and to allow the Michigan Legislature to complete the canvass, audit the election results, and investigate allegations of irregularities and fraud before doing so is meaningless.

3. Upon information and belief, the official State election results must be canvassed and finalized by December 8, 2020.

4. In this case, with all due respect to Respondents, the Petition, Brief in Support, Exhibits, and Appendix raise significant and substantial constitutional, statutory, legal, and factual issues of merit. Respondents committed procedural and legal errors in their handling of the November 2020 General Election, as delineated in the attached Petition, that must be addressed.

5. Respondents' derogation of statutory duty under Michigan Election Law raise significant issues of merit under the United States and Michigan Constitutions and under Michigan Election Law, as described in the Petition, Brief in Support, Exhibits, and Appendix.

6. There is a significant public interest for all Michigan citizens, including Petitioners, to a free and honest election, that ensures the accuracy and integrity of the election process.

7. This Court has previously recognized that time sensitive election related matters deserve immediate consideration. *Scott v Director of Elections*, 490 Mich 888, 889; 804 NW 2d 119 (2011).¹

¹ See also Order of November 23, 2020 in *Constantino, et al, v City of Detroit, et al*, Case Nos 162245 & (27)(38)(39). Under a similar post-election challenge, Justice Zahra recognized in his concurrence: "[I] would order the most expedited consideration possible of the remaining issues.

8. There would be no risk to the administration of justice posed by granting Petitioners' requests in this matter, and it is apparent that the relief they are seeking, by way of this motion and their Petition, is not simply for delay, as can be seen by the fact that they have promptly filed their Petition within 48 hours of Respondent Board of State Canvassers' certification of the November 2020 General Election.

9. If Petitioners are not granted the relief requested, then Petitioners will suffer irreparable harm by the infringement upon their fundamental right for their vote to count as a whole vote and not to be diluted by error or fraud. *Bush v Gore*, 531 US 98; 121 S Ct 525 (2000). Further, the relief that Petitioners request: for the canvass to be completed, to be completed properly, and for the Michigan Legislature to investigate error and fraud, must be completed now and finalized by December 8, 2020. Otherwise, the November 2020 election results will be based upon an incomplete and improper canvass and finalized with no audit or investigation into its integrity. The People of the State of Michigan cannot have confidence in such election results.

10. If Petitioners are not granted speedy relief, then the critical issue of preserving the integrity of the November election results will be rendered moot. Petitioners will have suffered irreparable injustice and harm through the denial of their constitutional and statutory rights and protections.

11. MCR 7.311(E) allows Petitioners to file this Motion for Immediate Consideration to review the decision of state election officials and tribunals, including the Board of State Canvassers and Secretary Benson, to grant injunctive relief, and to grant a writ of mandamus. A

. . .”;“I would have this Court retain jurisdiction [] under both its appellate authority and its superintending authority under Const. 1963, art 6, § 4”; “Federal law imposes tight time restrictions on Michigan’s certification of our electors. Plaintiffs should not have to file appeals following our standard processes and procedure to obtain a final answer from this Court on such weighty issues.”

copy of this motion, the Petition, and its Brief in Support will be served on Respondents' attorneys at the Attorney General's Office. Further, Assistant Attorney General Heather Meingast counseled the Board of State Canvassers at their meeting on November 23, 2020. Therefore, a copy of all documents have been served specifically to her as well by email on this same date pursuant to MCR 2.107(C)(1) and MCR 1.109(G)(6)(a). Therefore, this motion, the Petition, and its Brief in Support may be submitted to this Honorable Court immediately on filing.

12. The interests of justice, fairness, and due process require that Petitioners' motion be granted immediately and without delay.

WHEREFORE, for all the reasons stated above, Petitioners respectfully ask this Honorable Court to immediately consider their Petition for Extraordinary Writs, issue a writ of mandamus, and issue an order granting immediate injunctive relief to stay the certification of the Board of State Canvassers, to order the completion of the State canvass, and to order the Michigan Legislature to convene to resolve the outstanding issues raise by Petitioners in their Petition, Brief in Support, Exhibits, and Appendix; and grant such other and further relief as appropriate.

Dated: November 26, 2020

Respectfully submitted,

/s/ Ian A. Northon
Ian A. Northon, Esq. (P65082)
Gregory G. Timmer, Esq. (P39396)
RHOADES MCKEE, PC
55 Campau Avenue, Suite 300
Grand Rapids, MI 49503
Tel.: (616) 233-5125
Fax: (616) 233-5269
ian@rhoadesmckee.com
ggtimmer@rhoadesmckee.com
ATTORNEY FOR PETITIONERS

PROOF OF SERVICE

I, Ian Northon, hereby affirm that on the date stated below I delivered a copy of the above Petitioners' Motion for Immediate Consideration upon the State of Michigan, Attorney General's Office and specifically to Assistant Attorney General Heath Meingast, and the Clerk of the Supreme Court, by electronic mail to counsel and by First Class U.S. Mail on the next available business day. I hereby declare that this statement is true to the best of my information, knowledge, and belief.

Dated: November 26, 2020.

/s/ Ian A. Northon
Ian Northon (P65082)
Attorney for Petitioners