

STATE OF MICHIGAN
IN THE COURT OF APPEALS

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

COA Case No.: 355443

Plaintiffs/Appellants,

Cir. Ct. Case No. 20-014780-AW
Hon. Timothy M. Kenny

vs.

CITY OF DETROIT; DETROIT ELECTION
COMMISSION; JANICE WINFREY, in her official
capacity as the CLERK OF THE CITY 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.

and

MICHIGAN DEMOCRATIC PARTY,

Intervenor Defendant/Appellee,

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**CITY DEFENDANTS' ANSWER TO
EMERGENCY MOTION FOR PEREMPTORY REVERSAL**

NOW COME City of Detroit, Detroit Elections Commission and Janice Winfrey, in her official capacity as the Clerk of the City of Detroit (“City Defendants”) and for their Answer to Plaintiffs’ Emergency Motion for Peremptory Reversal, state as follows:

- 1) City Defendants incorporate their responses to the Application for Leave to Appeal and any accompanying exhibits and affidavits;
- 2) City Defendants deny that there is any reversible error and state affirmatively that the audit and other injunctive relief sought would interfere with the timely completion of certification of Michigan’s election results and could prevent the timely appointment of presidential electors.
- 3) City Defendants neither admit nor deny this allegation.
- 4) City Defendants deny any error by the trial court.

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- 5) City Defendants deny any error by the trial court.
- 6) The risk to the administration of justice posed by granting the relief requested would be incalculable; the relief sought could prevent the certification of Michigan’s election results and could prevent the timely appointment of presidential electors, disenfranchising the voters of the State of Michigan. City Defendants deny that the Plaintiffs “promptly [began] the appellate process.” Instead, Plaintiffs delayed in filing suit and did not file an adequately prompt appeal in light of the significance of this matter and notice from the trial court of when its ruling would issue.
- 7) City Defendants deny this allegation for reasons more fully set forth in the Response to the Application for Leave to Appeal.
- 8) City Defendants neither admit nor deny this allegation.
- 9) Any relief granted prior to completion of the appellate process could effectively grant Plaintiffs the delay they seek and the dire consequences the City Defendants fear. An audit can be performed after the election is completed, as set forth by statute.
- 10) City Defendants neither admit nor deny this allegation.
- 11) City Defendants deny this allegation for reasons more fully set forth in the Response to the Application for Leave to Appeal.

WHEREFORE, City Defendants respectfully request that this Court deny Plaintiffs-Appellants’ Emergency Motion for Peremptory Reversal.

November 16, 2020

Respectfully submitted,

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By: /s/ David H. Fink
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CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2020, I electronically filed the foregoing paper with the Clerk of the court using the MiFile system and e-mailed copies to all counsel of record.

FINK BRESSACK

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