

## **GENERAL INFORMATION**

On January 6, 2005 the Michigan Civil Rights Initiative submitted 508,202 signatures to the Secretary of State to be reviewed for certification on the 2006 ballot.

The state has pulled a sample of 500 signatures and has determined that 450 signatures of the 500 signature sample are valid (i.e. the validity rate of the MCRI petition is 90%). This means that we have near 140,000 extra VALID signatures. In order to be certified, MCRI needs 331 signatures in the sample to be valid.

An anti-MCRI group, By Any Means Necessary (BAMN) and its affiliates, have filed a challenge against the MCRI signatures.

The challenge consisted of 3 basic types of claims:

- Technical claims
- Claims of misrepresentation through an "Affidavit"
- Claims that "affidavits" should be extended to additional signers

Note: Some signatures are challenged by multiple claims.

## **TECHNICAL CLAIMS**

<b>Description of Claim</b>	<b>Description of Rebuttal</b>	<b>#-sigs challenged</b>	<b>#-valid</b>
Fields on petition are incomplete (zip codes, signer used initials) or illegible	In signatures designated as valid all fields are complete according to Michigan law. Nine of the signatures challenged were legible.	11	9
Address is Non-Existent or invalid	Challenger uses a combination of driving down streets and mapquest. Assessor cards, Voter Registration cards, printouts from the Qualified Voter File and maps from a variety of sources are presented to dispute challenger's claim.	20	12
Apparent Fraud or Forgery	Challenger claims that because dates and/or other fields have been re-written signatures should be disqualified. Elections bureau policy indicates that dates and all fields except the actual signature can be re-written. Registration cards are also presented when necessary.	11	11
Signer is not registered to vote	Printouts from the QVF as well as copies of voter registration cards are presented to show that 59 challenged signers are registered to vote.	90	59
Date is Invalid	Date is clearly valid.	3	1

**ITEMS OF INTEREST: TECHNICAL CHALLENGES**

There are addresses that are challenged as “non-existent or invalid” in which the opposition’s witness states “under the penalties of perjury” that he/she drove down the street and the street number does not exist. In some cases, another witness from the opposition states in his/her notarized affidavit that he/she actually knocked on the door of the address in question and/or spoke with the person and the person indicated that his/her address was, in fact, the address listed on the petition.

Challenger uses mapquest to attempt to show that addresses do not exist. However, in many cases, by the oppositions own admission, the challenger typed the address into mapquest incorrectly.

**CLAIMS OF MISREPRESENTATION THROUGH AN “AFFIDAVIT”**

Description of claim	Description of rebuttal	#-sigs challenged	#-valid
“Affidavit” signed “over the phone”	“Affidavit” does not show misrepresentation and is not even a legal document. It can be shown that it is actually challenger that misrepresented the issue to signers.	37	37
“Affidavit” with “cookie-cutter” language	“Affidavit” does not show misrepresentation and is not even a legal document. It can be shown that it is actually challenger that misrepresented the issue to signers.	38	35
“Affidavit” allegedly written by signer	“Affidavit” does not show misrepresentation and is not even a legal document. It can be shown that it is actually challenger that misrepresented the issue to signers.	3	3
Claims “Affidavit”, but no “Affidavit” exists	No “affidavit” exists.	6	6

**ITEMS OF INTEREST: CLAIMS OF MISREPRESENTATION THROUGH AN “AFFIDAVIT”**

None of the “affidavits” are notarized. None of the “affidavits” are legal documents

Challenger had people sign “affidavits” claiming “under the penalties of perjury” that the circulator misrepresented the issue. However, by challenger’s own admission, many signers either did not recall signing the petition or did not recall what the circulator said. All petition signers had the opportunity to read the initiative language on the petition prior to signing.

After talking with people that signed “affidavits” it has been clear and is shown through notarized affidavits that it is actually the anti-MCRI group that misrepresented the issue when talking with petition signers.

It can be shown that opposition was present while many circulators gathered signatures. Opposition passed out challenger’s “Decline to Sign” documentation, spilled beverages on completed petitions, followed circulators with bull-horns, etc. Therefore, many signers had the opposing view presented to them while signing the MCRI petition.

**CLAIMS THAT “AFFIDAVITS” SHOULD BE EXTENDED TO ADDITIONAL SIGNERS**

Description of Claim	Description of Rebuttal	#-sigs challenged	#-valid
Extension from an “affidavit” signed “over the phone”	“Affidavit” does not show misrepresentation; “Affidavit” is not a legal document, BAMN witnesses have misrepresented issue.	75	69
Extension from a cookie-cutter “affidavit”	“Affidavit” does not show misrepresentation; “Affidavit” is not a legal document, BAMN witnesses have misrepresented issue.	50	42
Extension from an “affidavit” allegedly written by signer	“Affidavit” does not show misrepresentation; “Affidavit” is not a legal document, BAMN witnesses have misrepresented issue.	4	2
Extension from an “affidavit” signed by circulator	“Affidavit” does not show misrepresentation; “Affidavit” is not a legal document, Circulators own statements contradict BAMN’s claim; BAMN witnesses have misrepresented issue.	10	10
“Affidavit” does not exist, therefore extension claim cannot be made	No affidavit exists.	35	34

**ITEMS OF INTEREST: CLAIMS THAT “AFFIDAVITS” SHOULD BE EXTENDED TO ADDITIONAL SIGNERS**

No legal affidavits have been submitted by signers and/or circulators.

The presumption that witnesses are trustworthy and that their statements are valid disappears if it can be shown that the witness has committed fraud. Using the standards set forth by BAMN, it can be shown that many of their witnesses committed fraud and that fraud permeates the organization from the top down. Beyond that, the Michigan Court of Appeals ruled in the 2004 case *Deleeuw v. State Board of Canvassers* “There is a fundamental difference between actions taken to get ... [an issue] on the ballot and actions taken to prevent it from appearing. Associating for the purpose of getting a ... proposal on the ballot is protected activity under the First Amendment; conspiring for the purpose of having it removed is not. *Meyer v Grant*, 486 US 414, 421-422; 108 S Ct

1886; 100 L Ed 2d 425 (1988).” Therefore, all challenges submitted by witnesses who told deliberate lies and/or falsified information should be thrown out. See *Citizens Committee for the lottery v. District of Columbia Board of Elections*.

Circulators have come forward stating that they understood the issue and presented the issue fairly.

## **GENERAL ITEMS OF INTEREST**

In the 2004 case, *Deleeuw v. State Bd. Of Canvassers*, challengers tried to argue that the Board should look behind the signatures to disqualify Nader from the ballot. The court stated in *Deleeuw*, “There is nothing in the statute that would permit the board to look behind the signatures to determine the motives of the individual signatories.”

In the 2004 case, *Citizens for Protection of Marriage v. Bd. Of State Canvassers*, the Court ruled “the board’s authority and duties with regard to proposed constitutional amendments are limited to determining whether ... there are sufficient signatures to warrant certification of the proposal.”

A ruling giving BAMN’s claims merit would undercut the free speech rights of initiative proponents far more than ever allowed by the courts.

Some states, unlike Michigan, allow a person to withdraw their signature from a petition. Those states (Alaska, Arizona, California, Colorado, Florida, Hawaii, Idaho, and Kansas) that allow such withdrawal require that the party submit this request **before** the petition is filed by the proponents. Not a single state allows signatures to be **withdrawn after** the signatures are collected and the petitions submitted. No state wants the constantly shifting targets BAMN would like this Board to adopt. Michigan has decided to use a simple standard when determining whether or not a signature counts – does the signature match.

Not a shred of law or fact supports BAMN’s last minute tactics before the Board of Canvassers. Instead, the law and the facts unanimously support the validity of the signatures gathered by MCRI.