

BRIAN K. KIRKHAM

JIS CODE: COA
2nd copy - Appellee
3rd copy - Appellant

Approved, SCAO

Original - Court of Appeals/Circuit court
1st copy - Trial court

37 JUDICIAL <input checked="" type="checkbox"/> CIRCUIT <input type="checkbox"/> DISTRICT Calhoun COUNTY <input type="checkbox"/> IN THE COURT OF APPEALS	CLAIM OF APPEAL	CASE NO. 2017-3468 - AA
		CIRCUIT DISTRICT PROBATE

Court address: 161 E. Michigan Ave., Battle Creek, MI 49014
Court telephone no.

Plaintiff's/Petitioner's name(s) and address(es) <input checked="" type="checkbox"/> Appellant GARRETT Q. BROWN, Mayor of the City of Albion 1016 S. Superior St. Albion, MI 49224	v	Defendant's/Respondent's name(s) and address(es) <input type="checkbox"/> Appellant CALHOUN COUNTY ELECTIONS COMMISS <input type="checkbox"/> Appellee 315 W. Green Street Marshall, MI 49068 <i>Anne Norlander David Gilbert Brian Weisauer</i>
Plaintiff's attorney, bar no., address, and telephone no.		Defendant's attorney, bar no., address, and telephone no. <div style="text-align: center;"> FILED DEC 01 2017 17-3468 37th CIRCUIT COURT CLERK 11:40 AM <i>Hj</i> </div>

Probate In the matter of _____
Other interested party(ies) of probate matter _____

1. Garrett Brown Name _____ claims an appeal from a final judgment or order entered on
November 20, 2017 Date _____ in the Calhoun County Elections Commission Court name and number or county
Court of the State of Michigan.
 by district judge circuit judge probate judge district court magistrate

Name of judge or district court magistrate _____ Bar no. _____

2. Bond on appeal is filed. attached. waived. not required.

3. a. The transcript has been ordered.
 b. The transcript has been filed.
 c. No record was made.

4. THIS CASE INVOLVES
 a. A CONTEST AS TO THE CUSTODY OF A MINOR CHILD.
 b. AN ADULT OR MINOR GUARDIANSHIP UNDER THE ESTATES AND PROTECTED INDIVIDUALS CODE OR UNDER THE MENTAL HEALTH CODE.
 c. AN INVOLUNTARY MENTAL HEALTH TREATMENT CASE UNDER THE MENTAL HEALTH CODE.
 d. A RULING THAT A PROVISION OF THE MICHIGAN CONSTITUTION, A MICHIGAN STATUTE, A RULE OR REGULATION INCLUDED IN THE MICHIGAN ADMINISTRATIVE CODE, OR ANY OTHER ACTION OF THE LEGISLATIVE OR EXECUTIVE BRANCH OF STATE GOVERNMENT IS INVALID

November 30, 2017 Date _____
 _____ /s/ Appellant/Attorney signature

PROOF OF SERVICE

I certify that copies of this claim of appeal and bond (if required) were served on

_____ on _____ by personal service. first-class mail.
 Name Date

_____ on _____ by personal service. first-class mail.
 Name Date

_____ on _____ by personal service. first-class mail.
 Name Date

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF CALHOUN

FILED

GARRETT Q. BROWN, Mayor of the City of Albion, Michigan
Appellant

vs.

CALHOUN COUNTY ELECTIONS COMMISSION,
and ANNE NORLANDER, in her official capacity as Calhoun County Clerk,
and DAVID GILBERT, in his official capacity as Calhoun County Prosecutor,
and Brian Wensauer, in his official capacity as Calhoun County Treasurer
Appellees

DEC 01 2017
17-2468
37th CIRCUIT COURT CLERK
11:40 AM *dy*

Case # 2017-3468 - AA

CLAIM OF APPEAL

A COMPLAINT

Garrett Brown

1016 S. Superior St.

517-648-7090

Garrett Brown claims an appeal from the decision on November 20, 2017 by the Calhoun County Election Commission.

(A) The nature of the proceedings before the agency

This is an appeal of a decision of the Calhoun County Election Commission on November 20, 2017.

Chad Baase, an elector and resident of the City of Albion, Michigan, submitted recall petition language against Albion City Mayor Garrett Brown on November 3, 2017.

The Calhoun County Election Commission—made up of County Clerk Anne Norlander, County Prosecutor David Gilbert, and County Treasurer Brian Wensauer—on November 20, 2017 approved the recall petition language submitted by Chad Baase.

(B) Citation to the statute, rule, or other authority enabling the agency to conduct the proceedings

Calhoun County Election Commission was enabled to conduct the proceedings based on the following statute, rule, or other authority: MCL 168.952.

(C) Citation to the statute or constitutional provision authorizing appellate review of the agency's decision or order in the circuit court

MCL 168.952(6) states:

The determination by the board of county election commissioners may be appealed by the officer whose recall is sought or by the sponsors of the recall petition drive to the circuit court in the county. The appeal shall be filed not more than 10 days after the determination of the board of county election commissioners. If a determination of the board of county election commissioners is appealed to the circuit court in the county, the recall petition is not valid for circulation and shall not be circulated until a determination of whether each reason is factual and of sufficient clarity is made by the circuit court or until 40 days after the date of the appeal, whichever is sooner.

(D) The facts on which venue is based

This claim of appeal is submitted to the 37th Judicial Circuit Court of Michigan in Calhoun County based on the following facts:

- Garrett Brown is an elector, resident, and mayor of the City of Albion, Michigan.
- Chad Baase is an elector and resident of the City of Albion, Michigan.
- The Election Commission of the County of Calhoun in the State of Michigan rendered the determination in Marshall, Michigan on November 20, 2017.



Garrett Brown

11/30/2017

Date



Garrett Brown <gqbrown09@gmail.com>

Fwd: Determination of Election Commission

1 message

Garrett Brown <gqbrown09@gmail.com>
 To: annenorlander@hotmail.com
 Cc: Teri Loew <TLoew@calhouncountymi.gov>

Thu, Nov 30, 2017 at 4:00 PM

Dear Clerk Norlander,

Please send a certified copy of the record of my recall petition language factual and clarity hearing to the Calhoun Circuit Court as I am appealing the decision of the Calhoun County Election Commission.

Thanks,
 Garrett Brown
 Mayor
 City of Albion, Michigan

517-648-7090

 Forwarded message

From: Teri Loew <TLoew@calhouncountymi.gov>
 Date: Mon, Nov 20, 2017 at 4:53 PM
 Subject: Determination of Election Commission
 To: "chad.baase@gmail.com" <chad.baase@gmail.com>, "Mayor@cityofalbionmi.gov" <Mayor@cityofalbionmi.gov>
 Cc: David Gilbert <dgilbert@calhouncountymi.gov>, Jim Dyer <JDyer@calhouncountymi.gov>, Albion City Clerk <jadomingo@cityofalbionmi.gov>, Anne <AnneNorlander@hotmail.com>, Brian Wensauer <BWensauer@calhouncountymi.gov>, Cindy Rude <CRude@calhouncountymi.gov>, LeeAnn Hollister <Lhollister@calhouncountymi.gov>, "Michael L. Jaconette" <Jaconette@calhouncountymi.gov>

To all involved with the Albion City Mayor Recall:

Thank you for participating in the Clarity/Factual Review Hearing held this morning, Nov. 20, 2017. The County Election Commission heard comments from Recall Petition Sponsor Chad Baase and from Albion City Mayor Garrett Brown. The Commission unanimously voted to **approve** the petition language, determining that the language does meet statutory criteria.

The Determination of the Election Commission is attached, as well as posted on our County Clerk webpage. The Albion City Recall Summary has also been updated.

Teri Loew

Calhoun County Election Specialist
 Phone: 269.781.0988; Fax: 269.781.0703
 Email: tloew@calhouncountymi.gov
 Website: co.calhoun.mi.us
 Make Freedom Count, VOTE !!!



11/30/2017

Gmail - Fwd: Determination of Election Commission

 **Declaration approved.pdf**
580K

COUNTY OF CALHOUN
ELECTION COMMISSION

IN RE: Petition to Recall Garrett Brown
City of Albion Mayor

DETERMINATION OF ELECTION COMMISSION

A Petition was filed with the Calhoun County Clerk seeking the recall of Albion City Mayor, Garrett Brown. The Election Commission met in public session on Monday, November 20, 2017 at 9:00 a.m. and took comments and arguments on the clarity and factual nature of the petition language.

The Commission is charged with determining whether each reason stated in the petition is based upon conduct occurring during the official's current term of office, and whether each reason, "is factual and of sufficient clarity to enable the officer whose recall is sought and the electors to identify the course of conduct that is the basis for the recall."

The language filed is as follows:

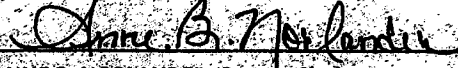
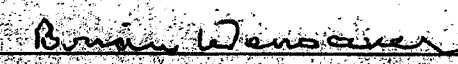

"Whereas, on October 5th, 2017 Garrett Brown, gave Dr. Sheryl Mitchell scores as low as 2 out of 5 in Judgement and Decision making. Whereas, on October 13th, 2017 a personal protection order was issued against Garrett Brown for allegedly Stalking an Albion Resident. Whereas, on October 16th, 2017, Councilman Maurice Barnes and Councilman Andrew French drafted and submitted to council resolution 2017-40 which reflects Dr. Sheryl Mitchell has articulated concern with the mayors behavior towards her."

The Election Commission is charged as follows:


"... shall meet and shall determine whether each reason for the recall stated in the petition is factual and of sufficient clarity to enable the officer whose recall is sought and the electors to identify the course of conduct that is the basis for the recall. If any reason for the recall is not factual or of sufficient clarity, the entire recall petition shall be rejected." MCL 168.952

The Election Commission determines by a vote of 3 Approved and 0 Rejected that the reason for recall stated in the petition is factual in nature and of sufficient clarity to enable the officer whose recall is sought and the electors to identify the course of conduct that is the basis for the recall.

Appeals to this determination may be made to the Circuit Court of Calhoun County no later than NOVEMBER 30, 2017.

Dated: <u>11/20/17</u>	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Rejected	 ANNE B. NORLANDER, County Clerk
Dated: <u>11/20/17</u>	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Rejected	 BRIAN WENSAUER, County Treasurer
Dated: <u>11/20/17</u>	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Rejected	 DAVID GILBERT, County Prosecutor, in absence of Probate Judge

CERTIFIED COPY OF
ORIGINAL ON FILE


37th JUDICIAL CIRCUIT
DEPUTY COURT CLERK

011 441 110

REPUTATION
GLOBALLY

RECALL PETITION

INSTRUCTIONS ON REVERSE SIDE

We, the undersigned, registered and qualified voters of the City of Albion in the County of Calhoun and State of Michigan, petition for the

calling of an election to recall Garrett Brown from the office of MAYOR (Title of Office) (District, if Any) for the following reason(s):

Whereas, on October 5th, 2017, Garrett Brown, gave Dr. Sheryl Mitchell scores as low as 2 out of 5 in Judgement and Decision making. Whereas, on October 13th, 2017 a personal protection order was issued against Garrett Brown for allegedly stalking an Albion Resident. Whereas, on October 16th, 2017, Councilman Maurice Barnes and Councilman Andrew French drafted and submitted to council resolution 2017-40 which reflects Dr. Sheryl Mitchell has articulated concern with the mayors behavior

WARNING - A PERSON WHO KNOWINGLY SIGNS A RECALL PETITION MORE THAN ONCE OR SIGNS A NAME OTHER THAN HIS OR HER OWN IS VIOLATING THE PROVISIONS OF THE MICHIGAN ELECTION LAW.

For Check Use Only	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					MONTH	DAY	YEAR
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CIRCULATOR - DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is a qualified and registered elector of the electoral district of the official whose recall is sought, that each signature on the petition was signed in his or her presence, and was not obtained through fraud, deceit or misrepresentation, and that he or she neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once. The undersigned circulator of the above petition further asserts that to his or her best knowledge, information and belief each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a qualified registered elector of the City or Township listed in the heading of the petition, and the elector was qualified to sign the petition.

WARNING - A CIRCULATOR KNOWINGLY MAKING A FALSE STATEMENT IN THE ABOVE CERTIFICATE, A PERSON NOT A CIRCULATOR WHO SIGNS AS A CIRCULATOR, OR A PERSON WHO SIGNS A NAME OTHER THAN HIS OR HER OWN AS CIRCULATOR IS GUILTY OF A MISDEMEANOR.

Form No. 918 - Rev. 03/03 - Approved by the State Director of Elections

(Signature of Circulator)
 (Printed Name of Circulator)
 (City or Township Where Registered)
 Complete Residence Address (Street and Number or Rural Route)

Ann d. Jones
 37th JUDICIAL CIRCUIT
 DEPUTY COURT CLERK

CERTIFIED COPY
 ORIGINAL ON FILE