

IN THE STATE COURT OF KANSAS  
DISTRICT COURT OF SHAWNEE COUNTY

LEAGUE OF WOMEN VOTERS OF  
KANSAS, LOUD LIGHT, KANSAS  
APPLESEED CENTER FOR LAW AND  
JUSTICE, INC., and LOIS CURTIS  
CENTER,

Plaintiffs,

v.

SCOTT SCHWAB, in his official capacity  
as Kansas Secretary of State, and KRIS  
KOBACH, in his official capacity as  
Kansas Attorney General,

Defendants.

Case No. SN-2021-CV-000299

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO STRIKE**  
**PLAINTIFFS' SUMMARY JUDGMENT BRIEF**

COMES NOW the Plaintiffs, by and through counsel, and in response to Defendants' Motion to Strike Plaintiffs' Summary Judgment Brief, alleges and states:

The Court should deny Defendants' motion, which seeks the extraordinary—and it appears unprecedented—remedy of striking Plaintiffs' summary judgment brief, which violates no rules and appropriately reflects the voluminous record demonstrating that Kansas's Signature Verification Requirement ("SVR") cannot survive under the applicable tests laid out by the Kansas Supreme Court in *League of Women Voters v. Schwab*. Tellingly, Defendants make their extraordinary demand without citing even a single Kansas case or rule that actually justifies it—or making clear what Plaintiffs might have done differently that would have avoided Defendants' objection. There are no page limits on summary judgment briefs in Kansas's rules or this Court's rules, and the Defendants themselves filed lengthy briefs in this matter—even when there was *no*

record to speak of. Now, there is an extensive record, reflecting an extensive discovery process to which Defendants were parties. That is what supports Plaintiffs' motion for summary judgment—and, indeed, Defendants do not claim to have been taken by surprise by any of it. The Court should decline to change the rules in the middle of the game, or to countenance Defendants' attempt to delay briefing or deciding this important case. Indeed, the Defendants' own legal arguments in their summary judgment motion seriously undermine their claim that any additional time should be necessary to address a record that—in Defendants' view—is largely irrelevant. Defendants are wrong about this, but the Court should decline to allow them to have it both ways.

As this Court knows, this case concerns Plaintiffs' challenge to a statewide voting law that applies to every single advance ballot cast by a Kansas voter by mail. In *League of Women Voters v. Schwab*, the Supreme Court remanded this case to give Plaintiffs “their full opportunity to prove up their claims as a matter of evidence in the district court.” 318 Kan. 777, 807, 549 P.3d 363, 384 (2024). That record now includes: (1) testimony from county officials, the Secretary of State's Office, Plaintiffs, and voters who have been disenfranchised by the challenged SVR, (2) records from the Secretary's Office regarding the implementation of the SVR, (3) business records from more than two dozen counties regarding their practices in applying and enforcing the SVR, and (4) testimony from experts in election administration and signature authentication. None of this can possibly come as a surprise to Defendants. As Defendants' own motion for summary judgment acknowledges, over the course of discovery, the Parties exchanged over 50,000 documents. *See* Defs.' Mem. in Supp. of Mot. for Summ. J. at 1. The Parties also conducted ten depositions and produced five expert reports, three of which were from Defendants.

That record underlies Plaintiffs' motion for summary judgment, which—pursuant to Supreme Court Rule 141—lays out in concise, separately numbered paragraphs, the

uncontroverted contentions of fact upon which Plaintiffs rely, with each fact supported with precise references to pages, lines and/or paragraphs (or a time frame, for electronic recordings), of the portion of the record relied upon. Yes, the record is voluminous, but necessarily so: One of the legal questions the Court must decide on remand is whether the SVR “achieve[s] reasonable uniformity on objective standards.” *League of Women Voters of Kansas*, 318 Kan. at 807. An examination of whether a statewide law “achieves reasonable uniformity” across Kansas’s counties required Plaintiffs to gather, and requires this Court to examine, how Kansas counties interpret and apply the law. Plaintiffs ultimately put forward evidence of how 15 Kansas counties interpret and apply the SVR, sufficient to give this Court an adequate picture of how the SVR is applied without overwhelming the Court with the practices of every county.

Based on its summary judgment brief, Defendants appear to take the position that this Court need not look beyond the face of the statute and its implementing regulation to side with the State. If that is the State’s position, Defendants can merely respond that each of Plaintiffs’ facts are uncontroverted for the purposes of summary judgment and need not engage further. If Plaintiffs’ facts do actually matter to the legal analysis, however, Defendants cannot be heard to complain that Plaintiffs included them.

In any event, in their briefing, Plaintiffs were attuned to following the rules for summary judgment, supporting *every* statement of fact and *every* contention with supporting documentation, and using subparagraphs only to arrange the facts topically for the ease of this Court’s review. *See* Pls.’ Statement of Additional Material Facts. Defendants, meanwhile, appear to have blown past the traditional rules for summary judgment, utilizing newspaper articles, ChatGPT, and asking the Court to navigate to websites on its own to search for evidence, rather than providing admissible evidence to the Court. *See* Defs.’ Mem. in Supp. of Mot. for Summ. J. at 4, 37, 40 (directing court

to search website for the proposition that “[t]here are many examples of voter fraud involving mail ballots from across the country over the last ten years”); *but see* Sup. Ct. R. 141(d) (evidence supporting summary judgment motion must be admissible).

Kansas Supreme Court Rule 141, however, does not include any page limits. And Defendants failed to identify any Kansas court that has *ever* struck a summary judgment brief for length. Nor do Plaintiffs’ statement of facts contain “inflammatory characterizations of the evidence” or “facts that are entirely irrelevant to the litigation,” such as was the case in the case from Maine that Defendants cite. Defs.’ Mot. to Strike at 3 (quoting *First Tracks Invs., LLC v. Murray, Plumb & Murray*, 121 A.3d 1279, 1280 (Me. 2015)).

This case simply involves complex issues that require consideration of a wide variety of facts. Indeed, even before discovery began, Defendants submitted lengthy briefs to the court in its repeated efforts to obtain dismissal of the matter. *See, e.g.*, Defs.’ Mem. in Supp. of First Mot. to Dismiss (July 12, 2021) (60 pages); Defs.’ Mem. in Supp. of Second Mot. to Dismiss (Aug. 23, 2021) (64 pages). It would raise serious due process concerns for this Court to strike Plaintiffs’ brief based on a rule that did not exist before and based on Defendants’ arbitrary declaration that Plaintiffs’ briefing materials are too long. “[L]itigants are to have their case decided in court on the merits and . . . judges should not be hypertechnical in interpreting statutes and rules to defeat the parties having their day in court.” *McDonald v. Hannigan*, 262 Kan. 156, 161, 936 P.2d 262, 265 (1997) (citation omitted); *see also Credit Union of Am. v. Lunkwitz*, No. 125,511, 2023 WL 2195774, at \*4 (Kan. Ct. App. 2023) (“Courts are not in the ‘gotcha’ business; rather, courts prefer actions to be determined on the merits of the case . . .”). Moreover, any appeal is likely to go the Supreme Court, and Defendants should not be permitted to impose limitations that do not exist to

restrict the evidence that Plaintiffs may put before this Court or any subsequent reviewing court on these important questions.

The Court should likewise deny any attempts by Defendants to obtain an extension to respond to Plaintiffs' materials. The Parties agreed to and requested this specific schedule from the Court, which already permits the Parties more than the typical 21 days to respond to summary judgment. The timeline Defendants request, for instance, would necessarily require moving the Parties' January 2026 pretrial conference that has been set since May 2025. This litigation has been ongoing for more than four years; more time would only prejudice Plaintiffs' ability to obtain relief in advance of the 2026 elections.

WHEREFORE, for all of the reasons stated above, Plaintiffs respectfully request the Court deny Defendants' request to set an in-person hearing on this matter and deny the Defendants' Motion to Strike Plaintiffs' Summary Judgment Brief.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of November, 2025, a true and correct copy of the above and foregoing was served on all parties by electronic transmission via the Court's electronic filing system and electronically mailed.

/s/ Nicole M. Revenaugh  
Nicole M. Revenaugh (#25482)

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