

IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS

KANSAS APPLESEED CENTER FOR)
LAW AND JUSTICE, INC., ET AL.,)
)
 Plaintiffs,) Case No. DG-2025-CV-000206
)
v.)
)
SCOTT SCHWAB, in his official capacity)
as the Kansas Secretary of State; and) Division 7
JAMIE SHEW, in his official capacity as)
DOUGLAS COUNTY CLERK,)
)
 Defendants.)

Order to Brief Issue of Jurisdiction

Defendant Secretary of State Scott Schwab moves this Court under K.S.A. 60-262(c) to stay or suspend the temporary injunction issued July 16, 2026, during the Secretary's appeal of the Court's July 16, 2026, injunction. The Secretary thus requests that S.B. 4 (2025) remain in place during the pendency of the Secretary's appeal.

The Secretary's appeal was docketed with the Clerk of the Appellate Courts on July 16, 2026. Defendant Schwab's Emergency Motion to Stay or Suspend Temporary Injunction Pending Appeal was then filed in this Court on July 17, 2026.

"Generally, a district court loses jurisdiction over a case upon the filing of a docketing statement in the appellate courts. There are few exceptions to this rule."

State v. Thurber, 313 Kan. 1002, Syl. ¶ 3, 492 P.3d 1185 (2021). *See also ARY*

Jewelers v. Krigel, 277 Kan. 464, 473–74, 85 P.3d 1151 (2004); *In re Petition of City*

of *Shawnee for Annexation of Land*, 236 Kan. 1, 15, 687 P.2d 603 (1984). Thus, during any appeal, the district court generally may not rule on pending matters without a remand from the appellate court. See *Matter of Emerson*, 306 Kan. 30, 33, 392 P.3d 82 (2017).

K.S.A. 60-262(c), cited by the Secretary, generally gives this Court the authority to stay a temporary injunction pending appeal. But a request to stay an order from a district court usually must be taken up with the appellate court once an appeal has been docketed. See K.S.A. 60-2103(d), (e) (stating that an appellant may request from the district court a supersedeas bond to effect a stay pending appeal, but that “[a]fter the action is so docketed, application for leave to file a bond may be made only in the appellate court”).

This Court received the notice of docketing of the appeal on July 16, 2026, at 5:27 p.m. This notice stated that Defendant Schwab’s appeal of the Court’s injunction was now docketed with the Kansas Court of Appeals. The appellate case number is 130839. On July 17, 2026, at 10:45 a.m., the Clerk of the District Court received Defendant Schwab’s Emergency Motion to Stay or Suspend Temporary Injunction Pending Appeal.

Thus, at the time of the filing of the emergency motion to stay, the Kansas Court of Appeals already had jurisdiction over this case based on the filing of the docketing statement with that court on July 16, 2026. See *Emerson*, 306 Kan. at 33.

Neither Defendant Schwab nor Plaintiffs address this jurisdictional issue in their recent filings regarding the emergency motion. But this Court has a duty to

question its own jurisdiction. *See State v. Hunt*, 61 Kan. App. 2d 435, 452, 503 P.3d 1067 (2021); *Emerson*, 306 Kan. at 33.

For these reasons, the parties are ordered to brief whether this Court has jurisdiction to decide the emergency motion to stay without a remand from the Kansas Court of Appeals. The Court directs the parties to file any briefing on this matter by 12:00 p.m. on July 24, 2026.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'C. Folsom, III', written over a horizontal line.

Carl Folsom, III
District Judge