

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

PEOPLE NOT POLITICIANS, *et al.*, )  
 )  
 Plaintiffs, )  
 )  
 v. ) Case No. 25AC-CC07128  
 )  
 MISSOURI SECRETARY OF STATE, )  
 )  
 Defendant, )  
 )  
 and )  
 )  
 PUT MISSOURI FIRST, )  
 )  
 Intervenor. )

**INTERVENOR'S RESPONSE TO PLAINTIFFS' MOTION FOR PROTECTIVE ORDER**

Intervenor respectfully ask this Court to deny Plaintiffs' request for a protective order. Plaintiffs' request seeks to prevent Intervenor from conducting discovery into issues which Plaintiffs themselves have pled, stipulated to, and sought relief for. Intervenor's request for production of signed referendum petition pages is (i) relevant to the legal issues in this case; (ii) proportionate, narrowly tailored, and unobtainable from other sources; and (iii) does not seek protected materials.

**I. Background**

The Missouri General Assembly truly agreed and passed House Bill 1 (HB1) on September 12, 2025. Petition ¶ 25. HB1 purported to redraw Missouri's Congressional Districts. Petition, Exhibit B. On that same day, Plaintiffs submitted two separate referendum petition sample sheets numbered 2026-R001 and 2026-R002. Petition ¶ 32; Joint Stip. of Facts and

Exhibits, ¶ 10-12. On September 14, 2025, Secretary of State Denny Hoskins (the “Secretary”) sent Plaintiffs a letter stating “the Secretary of State has not yet made a final determination whether your referendum petition may be accepted for processing or circulation.” Petition ¶ 38-39; Petition Exhibit D.

On September 15, 2025, Plaintiffs submitted another separate referendum petition sample sheet number 2026-R003. Petition ¶ 42; Joint Stip. of Facts and Exhibits ¶ 17-18. On that same day, the Secretary sent Plaintiffs a response letter that “the Secretary of State has not yet made a final determination whether your referendum petition may be accepted for processing and circulation[.]” Petition ¶ 43-45; Petition Exhibit E. Plaintiffs began gathering signatures for one or all<sup>1</sup> of the submitted referendum petition sample sheets Nos. 2026-R001:003 on September 15, 2026. Joint Stip. of Facts and Exhibits ¶ 23.

On September 26, 2025, the Secretary rejected referendum petition sample sheets Nos. 2026R-001, 2026-R002, 2026-R003 as to form. Petition ¶ 51; Joint Stip. of Facts and Exhibits ¶ 24. On September 28, 2025, HB1 was signed by Governor Mike Kehoe. Petition ¶ 31; Joint Stip. of Facts and Exhibits ¶ 26. On September 29, 2025, Plaintiffs submitted a fourth separate referendum petition sample sheet number 2026-R004. Joint Stip. of Facts and Exhibits ¶ 27. On October 14, 2025, the Secretary approved the fourth separate referendum petition. Joint Stip. of Facts and Exhibits ¶ 30.

Plaintiffs’ claimed that, at the time of filing their petition, they have “gathered more than 20,000 signatures of Missouri voters supporting the referendum on House Bill 1.” Petition ¶ 57. Plaintiffs have stipulated that

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<sup>1</sup> It is unknown which petition if any Plaintiffs actually gathered signatures for, something the requested discovery would clarify.

“[b]etween September 15, 2025, and September 28, 2025, Plaintiffs collected approximately 32,600 signatures in support of the referendum petition.” Joint Stip. of Facts and Exhibits ¶ 29. Plaintiffs have also stipulated that “[b]etween September 29, 2025, and October 14, 2025, Plaintiffs collected approximately 70,200 signatures in support of the referendum petition.” Joint Stip. of Facts and Exhibits ¶ 32.

## II. Legal Standard

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter, provided the discovery is proportional to the needs of the case considering the totality of the circumstances, including but not limited to, the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expenses of the proposed discovery outweighs its likely benefit.

Information within the scope of discovery need not be admissible in evidence to be discoverable if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Mo. Sup. Court Rule 56.01(b)(1). Further, discovery is limited if the Court determines that:

- (A) The discovery sought is cumulative, duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;
- (B) The party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or
- (C) The proposed discovery is outside the scope permitted by this Rule 56.01(b)(1).

Mo. Sup. Court Rule 56.01(b)(2). Finally, that Rule also authorizes the Court to issue orders “to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense,” including orders forbidding discovery, limiting its scope, or prescribing alternative means. Mo. Sup. Court Rule 56.01(c).

### III. Argument

#### **A. The requested signature pages and related materials are relevant to the claims and defenses in this lawsuit and are relevant to the needs of this case.**

Intervenor’s demand for “all signed petition pages” and similar compilations of individual voter signatures bears on the legal issues presented here as (1) pled by Plaintiffs and stipulated to by both Plaintiffs and Defendant, and (2) as the basis of a justiciable question for both Counts and the relief sought therein. Plaintiffs have pled that they have gathered nearly 20,000 signatures at the time of filing their amended petition in this matter. Petition ¶ 57. Plaintiffs have stipulated that they gathered approximately 32,600 signatures between September 15 and 28, 2025. Joint Stip. of Facts and Exhibits ¶ 29. Plaintiffs have further stipulated that they have gathered approximately 70,200 signatures between September 29, 2025, and October 14, 2025. Intervenor has not so stipulated and seeks discovery on these claims. Discovery to which it is entitled.

#### **1. Plaintiffs’ own pleadings and stipulation make discovery of the signature pages relevant.**

The scope of matters subject to discovery was intended to be broad, consistent with the purposes behind the rules of discovery. *State ex rel. Creighton v. Jackson*, 879 S.W.2d 639, 642 (Mo.App. W.D. 1994). Plaintiffs’ claim of having gathered nearly 20,000 signatures is a factual allegation.



“Discovery has a number of purposes, including the elimination of surprise, assisting in determining the truth, narrowing issues, obtaining relevant information, and aiding trial preparation.” *Concerned Citizens for Crystal City v. City of Crystal City*, 334 S.W.3d 519, 523 (Mo.App. E.D. 2010). Intervenor’s are not bound to accept Plaintiffs’ own self-serving contentions in their pleading as truth. Instead, the point of discovery is to find the factual basis underlying claims within the petition to better narrow the issues, obtain relevant information, and aid in trial preparation. *Id.* Since Plaintiffs decided that pleading a specific quantifiable number of signatures acquired, Intervenor’s are permitted to discover the truth of such an allegation.

Furthermore, even though Plaintiffs claimed to have obtained nearly 20,000 signatures in their pleadings, they also claim to have obtained 32,600 signatures at the same time in their stipulation. Petition ¶ 57; Joint Stip. of Facts and Exhibits ¶ 29. This creates an interesting dichotomy over which of these numbers are in fact correct. First, “[a]s a general rule, however, allegation or admissions of fact contained in pleadings upon which a case is tried are binding on the pleaded.” *Rauch Lumber Co. v. Medallion Dev. Corp.*, 808 S.W.2d 10, 12 (Mo.App. E.D. 1991). At the same time however “[stipulations] are controlling and conclusive, and courts are bound to enforce them.” *Griffin Contracting Co., Inc. v. Hawkeye-Sec. Ins. Co.*, 867 S.W.2d 602, 604 (Mo.App. S.D. 1993) (quoting *Pierson v. Allen*, 409 S.W.2d 127, 130 (Mo. 1966)). Accordingly, Intervenor’s are left with the question of which number is accurate?

This question becomes even more crucial when considering Plaintiffs’ requested relief. “Plaintiffs also seek an injunction prohibiting the Secretary of State and anyone acting in concert with him from taking any other actions with respect to the referendum petition on the basis that it does not comply

with the form proscribed by statute[.]” Petition ¶ 76. This relief would preclude the Secretary of State from taking any action against the gathered signatures as they are part of the referendum petition. Accordingly, whether this relief would preclude the Secretary of State from taking any action against 20,000 signatures or 32,600 signatures, or any other number of such is crucial to understanding the scope of the relief sought by Plaintiffs.

Therefore, Intervenor’s request for Plaintiffs’ signature pages is relevant in that it allows Intervenor to (1) test the truth of Plaintiffs’ assertions, (2) determine whether the Stipulation, the Petition, or neither’s Signature Count is accurate, and (3) understand the scope of the relief sought by Plaintiffs.

## **2. The heart of Plaintiffs’ claims as justiciable or not are predicated upon signatures.**

“[T]he question for the determination of this court is whether the document is relevant and material to the subject matter in the pending action or is reasonably calculated to lead to the discovery of admissible evidence, and the simple test is whether the document sought tends to prove an issue in the case”. *State ex rel. Bush v. Elliott*, 363 S.W.2d 631, 633 (Mo. 1963) (internal citations omitted). In every case, whether a justiciable question is present or not is inherently an issue. *Bray v. Lee*, 620 S.W.3d 278, 281–82 (Mo.App. E.D. 2021) (“Justiciability is a ‘prudential’ rather than a jurisdictional doctrine and, prior to addressing the substantive issues on appeal, we must determine whether a case meets the requirements for a justiciable controversy.”). “With regard to justiciability, a case is moot if a judgment rendered has no practical effect upon an existent controversy.” *State ex rel. Chastain v. City of Kansas City*, 968 S.W.2d 232, 237 (Mo.App. W.D. 1998).

Plaintiffs seek in Count II “a declaratory judgment that approval as to form is not required to gather signatures.” Petition ¶ 85. Further, Plaintiffs in

Count II seek “a declaratory judgment that signatures are not per se invalid because they were gathered prior to the Secretary of State approving the referendum petition sample sheet as to form.” Petition ¶ 86. Accordingly, for relief to be granted on either of these requests, Plaintiffs must have actually gathered signatures before approval by the Secretary of State. If Plaintiffs have not actually gathered such signatures, then this Court would be sitting as a moot court “determining speculative issues for the benefit of some other case at some other time.” *City of Lee's Summit*, 277 S.W.3d at 743.

Therefore, Plaintiffs’ signature pages would show whether or not Plaintiffs’ claim in Count II are moot and making it relevant to whether they present a justiciable question or not.

**B. Intervenor’s request is proportionate in that it is not over intrusive nor overtly burdensome.**

Plaintiffs contend that producing their signature pages is unduly burdensome and disproportionate, but that argument has no substance. Intervenor seeks precisely the same documents Plaintiffs will soon be required to deliver to the Secretary of State for their referendum to be considered for the ballot. Once submitted, those pages become public records. It is therefore difficult to imagine how producing now what must be publicly filed in the near future could impose any meaningful burden at all.

Plaintiffs further suggest that Intervenor may obtain the documents from the Secretary of State, yet in the next sentence concede that the Secretary does not—and cannot—possess them because Plaintiffs have not submitted them. Plaintiffs’ own proposed protective order underscores the point they attempt to obscure: the signature pages Intervenor seeks are documents Plaintiffs are already compiling, that are exclusively within their possession, and that will have to be filed at some point with the state in order for a

referendum could be called. For that reason, Intervenor's request is plainly proportional to the needs of the case.

**C. Intervenor's request does not target core First Amendment speech and association, and Plaintiffs cannot avoid discovery through such a claim.**

Plaintiffs, in what amounts to a final attempt to obstruct discovery, contend that their referendum signature pages constitute "core First Amendment speech and association" and are therefore protected from disclosure absent exacting scrutiny. They rely on *Peters v. Johns*, 489 S.W.3d 262, 271 (Mo. banc 2016), which quoted language from *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186–87 (1999), as well as *NAACP v. Alabama*, 357 U.S. 449 (1958). But none of these authorities support the sweeping privilege Plaintiffs seek to manufacture.

To begin with, *Buckley* and its predecessor *Meyer v. Grant*, 486 U.S. 414 (1988), addressed state regulations that burdened the circulation of initiative petitions. *Id.* These cases squarely concern governmental restrictions on political speech—an element entirely absent here. *Id.* Intervenor's discovery request is not a regulation of speech, a licensing requirement, or a condition on political activity; it is a routine request for documents directly relevant to the factual allegations Plaintiffs themselves placed into controversy. As Missouri courts recognize, NAACP-style protections apply only when **state action** threatens to expose confidential internal membership or associational information. *Moore v. City of Pacific*, 534 S.W.2d 486, 497 (Mo. App. 1976). There is no such state action here, nor is there any confidential internal membership information at issue.

Furthermore, *NAACP v. Alabama* bears no resemblance to the circumstances of this case. In *NAACP*, the State sought the internal



membership lists of a private political organization—documents never intended for public disclosure and whose compelled exposure posed a genuine threat of reprisals against private members. *Alabama*, 357 U.S. at 453. A referendum petition is the opposite of such a document. Petition signature pages are public-facing instruments of direct democracy, intentionally circulated in public, solicited from voters in public, and submitted to a government official for the express purpose of triggering a constitutional process controlled by Article III, §50–53 of the Missouri Constitution and Chapter 116, RSMo. Once submitted, these signatures become public records available for inspection by any Missouri resident. Indeed, the entire statutory scheme presupposes such transparency: state officials must inspect, verify, and count these signatures to determine whether statutory thresholds have been met. See §116.120, RSMo. Petition pages therefore contain no private associational information—they are not membership rosters, donor lists, or internal organizational documents. They are instruments designed by law for public filing and verification.

*Buckley* itself acknowledges that “there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” *Buckley*, 525 U.S. at 187. Intervenor does not seek to restrain the circulation of a referendum petition, nor does it challenge the right to advocate or solicit signatures. Rather, Intervenor simply seeks production of the very documents Plaintiffs rely on in Count II of their Petition to assert that signatures gathered before September 28, 2025, must be treated as valid notwithstanding the Secretary’s refusal to approve the sample sheets as to form. Plaintiffs cannot simultaneously allege that these pre-approval signatures establish their legal

entitlement to relief while refusing to disclose the actual petition pages that would substantiate (or contradict) their factual claims.

Accordingly, Plaintiffs' attempt to cloak publicly circulated and publicly filed referendum petitions in the same constitutional protection afforded to private membership lists in *NAACP v. Alabama* is untenable. The First Amendment does not provide a shield to prevent opposing parties from obtaining discovery necessary to test the factual basis of Plaintiffs' own allegations. Plaintiffs placed these signatures at the center of their claims; they cannot hide behind an inapposite associational-privacy theory to deny Intervenor access to a fair adjudication of the issues.

#### IV. Conclusion

WHEREFORE, Intervenor respectfully requests that the Court deny Plaintiffs' Motion and refuse to enter a protective order under Rule 56.01(c) and that the Court grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via the Court's electronic filing system on December 3, 2025 on all parties of record.

/s/ Marc H. Ellinger

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