

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

PEOPLE NOT POLITICIANS, *et al.*,)
)
Plaintiffs,)
)
v.)
)
MISSOURI SECRETARY OF STATE,)
)
Defendants.)

Case No. 25AC-CC07128

**INTERVENOR’S RESPONSE TO PLAINTIFFS’ MOTION TO END
ABEYANCE AND RENDER JUDGMENT**

Intervenor respectfully asks this Court to deny Plaintiffs' Motion to End Abeyance and Render Judgment. The Court’s decision on December 12, 2025, to hold this case in abeyance and its subsequent decisions to continue holding the case in abeyance are not erroneous, an abuse of discretion, or otherwise unjust as evinced by Plaintiffs' own pleadings and requested relief.

A. The Abeyance was Lawful at Inception and Not an Abuse of Discretion

“The term ‘abeyance’ means certain rights or conditions are ‘in expectancy.’ It clearly implies that the situation is not yet fully completed. When a matter is held in abeyance it is in a condition of being undetermined.” *Savannah Place, Ltd. v. Heidelberg*, 164 S.W.3d 64, 66 (Mo. App. S.D. 2005) (citing *Bernyce Belitz v. City of Omaha, Nebraska*, 172 Neb. 36, 108 N.W.2d 421, 425 (1961)). Since Courts must be able to control and move their dockets, an abeyance may be challenged only as an abuse of discretion. *Shirrell v. Missouri Edison Co.*, 535 S.W.2d 446, 450 (Mo.1976).

Plaintiffs claim that the current abeyance is unique and that “no rule of procedure authoriz[es] an open-ended, indefinite abeyance of proceedings.” *Plaintiffs Motion*, p. 17. This claim, however, ignores the terms of the current

abeyance. This is not an open-ended, indefinite abeyance, but one dependent on the outcome of a specific event that must occur before a certain deadline. Specifically, as Plaintiffs point out, the abeyance is only “until the requisite number of signatures have been certified or up until enough signatures have been rejected so as to prevent plaintiffs’ referendum from appearing on the ballot.” 12/12/2025 Order; Plaintiffs Motion, p. 5. Further, this cannot be “indefinite” because the Secretary of State must make such a decision before a statutorily imposed deadline. 116.150.3 RSMo.

This kind of abeyance, in wait for final administrative action, is not new nor even unique in Missouri law. See *Knapp v. Missouri Local Gov't Employees Ret. Sys.*, 738 S.W.2d 903, 910 (Mo. App. W.D. 1987). In *Knapp*, a lineman appealed the denial of his disability benefits request. *Id.* at 905. However, his petition was premature, as the City’s Board of Trustees had already decided to grant him an evidentiary hearing. *Id.* at 909. Accordingly, the parties stipulated to an abeyance until the decision of the evidentiary hearing was released. *Id.* In the Court’s review of when the Petition should be considered filed, it took no objection to the abeyance pending the agency’s administrative review. *Id.* Further, the Court held that this abeyance was sufficient to waive the defendants’ right to a motion to dismiss. *Id.* Accordingly, an abeyance in anticipation of an administrative decision is a perfectly valid usage. *Id.*

Further, a Court’s dismissal for lack of subject matter as opposed to an abeyance to figure out the justiciability of a question was ruled to be an abuse of discretion. *Logan v. Sho-Me Power Elec. Co-op.*, 122 S.W.3d 670, 683 (Mo. App. S.D. 2003).¹ In *Logan*, a worker was fatally electrocuted by a high-voltage optic cable. *Id.* at 673. In the Plaintiffs’ complaint, they alleged that the Contractor, Irby, and his employee in charge of the Plaintiff, Gorman,

¹ Abrogated on other grounds by *Burns v. Smith*, 214 S.W.3d 335 (Mo. 2007)

intentionally exposed Plaintiff to the hazard of electrocution. *Id.* After such, Plaintiffs asked the Division of Workers Compensation to find that the facts were, in fact, intentional and create a *Killian* cause of action to proceed directly against the employer in the Circuit Court of Camden County. *Id.* Plaintiffs then brought an action for wrongful death against Irby and Gorman. *Id.* Both moved to dismiss on the ground that the trial court lacked subject matter jurisdiction because the Workers' Compensation Act provided the exclusive remedy available for the death. *Id.* The trial court sustained the motions leading to the appeal. *Id.*

On appeal, Plaintiffs acknowledged that the question of whether an employer's acts were intentional or accidental lay solely with the Division of Workers' Compensation. *Id.* at 681. However, they contended that the administrative action and the wrongful death suit could be pending simultaneously. *Id.* They therefore argued that the trial court abused its discretion in granting the motion, as it should instead have held the wrongful death suit in abeyance until the Commission resolved the question of whether the death was accidental or intentional. *Id.* The Court agreed with the Plaintiffs and held "the trial court abused its discretion by dismissing Plaintiffs' suit against Irby and refusing to stay or hold in abeyance that count of Plaintiffs' petition until the Commission resolved the 'accident versus intentional act' issue. *Id.* at 683.

As in *Logan* and *Knapp*, the present case turns on the outcome of a pending administrative determination. Here, the question of mootness depends entirely on the Secretary of State's certification decision regarding the sufficiency of the petition signatures. Until that determination is made, the justiciability of Plaintiffs' claims cannot be definitively assessed. Plaintiffs' request that this Court dismiss the case based on potential mootness would

therefore require the Court to resolve a question that may be clarified—or entirely eliminated—by the Secretary of State’s statutory determination. Furthermore, a ruling on the pleadings would be equally improper. Because the administrative determination may imminently moot the claim, any adjudication on the pleadings would risk resolving an issue that may cease to exist before judgment is entered, rendering the opinion entirely advisory. Under these circumstances, and consistent with the reasoning articulated in *Logan*, the Court’s proper course is to maintain the action in abeyance until the Secretary of State completes the certification process; dismissal or adjudication on the pleadings before that determination would constitute an abuse of discretion.

B. Plaintiffs’ Claims Depend on a Future Action Which Would Otherwise Moot Their Claims

“This Court is obligated, either upon motion of a party or acting sua sponte, to examine an appeal for mootness because ‘[m]ootness implicates the justiciability of a controversy and is a threshold issue to appellate review.’” *Missouri Mun. League v. State*, 465 S.W.3d 904, 906 (Mo. 2015) (quoting *LeBeau v. Commissioners of Franklin County*, 459 S.W.3d 436, 438 (Mo. banc 2015)).

A cause of action is moot when the question presented for decision seeks a judgment upon some matter which, if the judgment was rendered, would not have any practical effect upon any then existing controversy. When an event occurs which renders a decision unnecessary, the appeal will be dismissed. And where an enactment supersedes the statute on which the litigants rely to define their rights, the appeal no longer represents an actual controversy, and the case will be dismissed as moot.

Humane Society of United States v. State, 405 S.W.3d 532, 535 (Mo. banc 2013)

(quoting *C.C. Dillon Co. v. City of Eureka*, 12 S.W.3d 322, 325 (Mo. banc 2000)). “[A]n event rendering a decision unnecessary may occur at any point, including on appeal.” *Missouri Mun. League*, 465 S.W.3d at 906. “Even a case vital at inception of the appeal may be mooted by an intervenient event which so alters the position of the parties that any judgment rendered [merely becomes] a hypothetical opinion.” *State ex rel. Reed v. Reardon*, 41 S.W.3d 470, 473 (Mo. banc 2001).

Plaintiffs contend that a ruling in their favor would affect a present controversy because Defendant did not transmit the disputed signature pages to the local election authorities for verification. According to Plaintiffs, this alleged omission interferes with their ability to place their referendum before the voters. Petition ¶ 43. That claimed injury, however, is entirely contingent upon the outcome of the ongoing signature verification process.

Whether the disputed pages were transmitted to local election authorities will only have legal significance if the referendum ultimately fails to obtain the requisite number of valid signatures; ironically an assertion Plaintiffs vehemently dispute.² If the petition receives sufficient signatures to qualify for the ballot even without the disputed sheets, then the alleged failure to transmit those pages will have had no effect on the referendum’s certification. In that circumstance, the controversy Plaintiffs assert would cease to exist because the referendum would be certified notwithstanding the challenged conduct.

Plaintiffs themselves frame the alleged harm as the hindrance of their “right to place a referendum before the voters.” Petition ¶ 43. But if the signature verification process ultimately confirms that the petition contains

² Plaintiff’s Motion affirmatively states that the referendum petition does have enough signatures without the signatures in question. *Plaintiffs’ Motion*, p. 6.

the statutorily required number of signatures, then that right will have been fully realized. At that point, Plaintiffs could not plausibly maintain that their right was hindered, because the referendum would appear on the ballot exactly as they seek.

Accordingly, the alleged injury identified by Plaintiffs is not presently concrete but instead depends entirely upon the yet-to-be-completed administrative determination of whether the petition contains sufficient valid signatures. If that determination confirms that the petition satisfies the statutory requirements, the claimed harm disappears entirely. The dispute therefore turns on a contingency that may imminently moot Plaintiffs' claim.

The *Knapp* case reinforces the abeyance due to mootness concerns. In *Knapp*, the initial suit was to challenge a disability denial. *Knapp*, 738 S.W.2d at 905. The City then offered the Plaintiff a hearing under its administrative procedure. *Id.* at 909. The case was held in abeyance by the trial court as completion of the hearing was required to exhaust remedies. *Id.* Conversely, it makes sense that the administrative hearing could have been resolved in the Plaintiff's favor, thereby mooting any claim.

Where there is a possibility of a claim being live or moot, under *Knapp*, abeyance is the proper status for a matter. This Court should maintain holding this case in abeyance pending the resolution of the process of signature verification and certification under Chapter 116, RSMO.

WHEREFORE Intervenor prays that this Court deny Plaintiffs' Motion and continue to hold the current matter in abeyance.

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 March 16, 2026 on all parties of record.

/s/ Marc H. Ellinger