

IN THE SUPREME COURT OF MISSOURI

No. SC101801

PEOPLE NOT POLITICIANS, *et al.*,

Appellants,

v.

SECRETARY OF STATE DENNY HOSKINS, *et al.*,

Respondents.

Appeal from the Circuit Court of Cole County
The Honorable Christopher K. Limbaugh

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INTRODUCTION

This case concerns the Secretary of State's authority to approve referendum petitions as to form. Plaintiffs are the proponent of a referendum petition and the campaign committee supporting that petition. Immediately after the Missouri General Assembly enacted House Bill 1 in their recent "extraordinary session," Richard von Glahn undertook to propose a referendum on the measure. As required by Section 116.332, RSMo, von Glahn submitted a referendum petition sample sheet to the Secretary of State. That sample sheet complied with *all* requirements of Section 116.030, RSMo. Despite this, the Secretary of State, after a fifteen-day delay, rejected the form of the referendum petition sample sheet for a reason unrelated to its form. He said von Glahn could not receive approval as to form because the Governor had not signed House Bill 1. But nothing in Section 116.030 requires the Governor's signature, and the Secretary's review under Section 116.030 is limited to the form issues in the statute. Therefore, that decision was illegal at best and capricious at worst. § 536.150, RSMo. To be safe, von Glahn submitted the exact same sample sheet after the Governor's signature. The Secretary took every day allowed to approve that sheet as to form, but now refuses to count any signatures gathered before his final approval.

There can be little doubt that the Secretary's rejection as to form interfered with and limited the amount of time Plaintiffs have to gather signatures in support

of the referendum petition—the constitution sets a deadline of 90 days from adjournment of the session in which the bill was passed. Mo. Const. art. III § 52(a). But the Secretary’s job is purely ministerial, and he had a clear duty to approve the forms, which complied with the statutes in all respects. *See Vowell v. Kander*, 451 S.W.3d 267, 274 (Mo. App. 2014)(cleaned up)(“[T]he Missouri Supreme Court has recognized that the vast majority of the duties assumed by the Secretary of State are ministerial.”). If the Secretary does not like the substance of the referendum, he is free to campaign against it. He is not free, however, to use his office to subvert the people’s right to petition their government by shortening the 90-day window mandated by the Missouri Constitution for referenda asking to approve or reject an act of the General Assembly.

As set forth in detail below, the judgment of the Circuit Court in this case should be reversed for four reasons. First, the Secretary does not have authority under Section 116.030 to reject a referendum petition as to form because the act of the general assembly has not yet been signed by the Governor. The Governor’s signature (or not) is constitutionally and statutorily irrelevant to the referendum process under the plain language of the statute and the relevant provisions of the Missouri Constitution.

Second, the Secretary does not have authority to refuse to submit 100,000 signatures collected on a statutorily compliant form for verification simply because

they were collected after the forms were submitted, but before he issued his approval as to form. Section 116.334 requires only submission of the form to the Secretary – not approval – before circulation. The Circuit Court conclusion to the contrary was erroneous.

Third, the Circuit Court’s *sua sponte* decision to hold the case in abeyance post-trial for over eight months prior to issuing a decision was erroneous. In expedited election cases that abut inflexible statutory timeframes, Missouri Circuit Courts are not authorized to inject delay arising from an abeyance. This abusive practice should be corrected so that it never recurs. Fourth and finally, the Circuit Court erred in permitting the political committee Put Missouri First to Intervene on the eve of trial. This kind of oppressive partisan intervention injects needless delay and is not warranted.

To the extent that the Court is concerned the issues in this case are moot because the Secretary has already determined the sufficiency of the petition, they are not. Form challenges that are brought at the outset of the referendum process must be resolved as quickly as possible. The issue is certainly not moot to the approximately 100,000 Missourians whose signatures were not even processed. They should have had that done long ago and this is their only way to now make their voice heard.

Furthermore, the Secretary’s decision to refuse to verify signatures collected on the referendum – and the Circuit Court decision to hold the case in abeyance until the statutory timelines for verification had run out – are the prototypical example of the exception to the mootness doctrine for issues that are capable of repetition yet will evade review. *See No Bans on Choice v. Ashcroft*, 638 S.W. 3d 484, 490 n.9 (Mo. banc 2022) (“the time-sensitive nature of the referendum process would place the claim squarely within the mootness exception of “capable of repetition, yet evading review.”). This Court needs to command the Secretary and the Circuit Courts to perform their roles in the referendum process lawfully and in a timely way, so that these extraordinarily expedited appeals can be avoided in the future.

JURISDICTIONAL STATEMENT

Appellants timely filed a notice of appeal from a judgment entered in the Circuit Court of Cole County on August 17, 2026. On August 18, 2026, this Court transferred the case on its own motion because it presents an issue of general interest and importance.

STATEMENT OF FACTS

A. House Bill 1

The Missouri General Assembly truly agreed and finally passed House Bill 1 on September 12, 2025 and adjourned its special session. D65 ¶ 6. With this legislation the General Assembly redrew Missouri's congressional districts. D67. Under the Missouri Constitution, the people of Missouri have "ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded" to collect and deliver to the Secretary of State the requisite number of signatures to place the referendum question on the ballot. See Mo. Const. art. III, §52(a).

B. Referendum Petitions on House Bill 1 Submitted and Rejected by the Secretary of State

On the same day House Bill 1 was passed, Richard von Glahn submitted two referendum petition sample sheets to the Secretary. D65 ¶ 9, D69 (R001), D70 (R002).¹ These referendums propose to refer the approval or rejection of House Bill 1 to the voters at the November 2026 general election pursuant to Article III, Sections 49 and 52(a) of the Missouri Constitution.

¹ The R001, R002, etc., designations are assigned by the Secretary of State, not the submitter of the forms.

On September 12, the day R001 and R002 were submitted to the Secretary of State, the Secretary of State's Office sent a letter to Richard von Glahn regarding said sample sheets stating:

Under Article III, § 49 of the Missouri Constitution, the people reserve the power to "approve or reject by referendum any act of the general assembly." Article III, § 31 provides that a bill passed by the General Assembly becomes law only when (1) the Governor signs it, (2) the Governor takes no action within the constitutionally prescribed time and it becomes law without signature, or (3) the Governor's veto is overridden by both chambers. House Bill No. 1 has been truly agreed to and finally passed by the General Assembly, but it has not yet been signed by the Governor or otherwise taken effect as law. Because it is not yet a "law" or "act of the general assembly" within the meaning of Article III, §§ 49 and 52(a), it is not currently subject to referendum.

D71. Two days later, the Secretary sent another letter purporting to supersede the September 12 letter, indicating that the Secretary's September 12 rejection as to form would follow the process outlined in Section 116.332, RSMo. D65:P3, ¶ 15, Ex. 7. The Secretary wrote:

Pursuant to § 116.332, RSMo, when a referendum petition sample sheet is submitted to the Secretary of State, the Secretary is required to refer a copy to the Attorney General for review of legal sufficiency as to form and to the State Auditor for preparation of a fiscal note and fiscal note summary. Only after the Attorney General has rendered an opinion on legal sufficiency and the Secretary of State has reviewed those comments can this office make a final determination regarding the approval or rejection of the form of the petition.

Because that statutory review process is still pending, the Secretary of State has not yet made a final determination whether your referendum petition may be accepted for processing or circulation. Your submission has been formally transmitted to the Attorney General in accordance with § 116.332, and the statutory timeline for review is now running. Upon receipt of the Attorney General's opinion and completion of the

required review, this office will issue a written decision either approving the form of the petition for circulation or rejecting it with stated reasons.

For clarity, this letter is the operative response from the Secretary of State regarding your submission, and any prior correspondence should be regarded as superseded. D72.

On Monday, September 15, 2025, von Glahn submitted a third referendum sample sheet, which the Secretary designated R003, to the Secretary of State's office to correct a possible clerical error in the September 12 filings. D65 ¶ 16, D73 (R003). Following that submission the Secretary of State sent a letter to von Glahn, emphasizing again the statutory process and review by the Attorney General for approval as to form. D74.

Also on September 15, counsel for von Glahn and the Appellants here, Mr. Hatfield, delivered a three page letter to the Secretary of State and the Attorney General. D75. The letter advised three things: (1) administrative delays may not be used to hinder the people's right to a referendum pursuant to *American Civil Liberties Union of Missouri v. Ashcroft*, 577 S.W.3d 881, 890 (Mo. App. 2019); (2) Review and approval of a referendum petition as to form is a limited, ministerial function; and (3) the people of Missouri have a right to referendum prior to the Governor's signature on any legislation under the plain language of Article III, Section 49 and Article III, Section 52(a). D75.

On September 26, 2025, the Secretary of State rejected von Glahn's referendum petition sample sheets (2026-R001, 2026-R002, and 2026-R003) as to form. D65 ¶ 22, D76. The Secretary's letter enclosed an opinion from the Attorney General that "recommended rejection as to form" because the Governor had not signed H.B.1 and it was therefore not a "law passed by the General Assembly." D76. Two days later, on September 28, 2025, Governor Mike Kehoe signed House Bill 1. D65, ¶ 24.

Given the strict 90-day timeline to collect and deliver signatures on a referendum set in the Missouri Constitution, Plaintiffs began to collect signatures in support of the Referendum after it was submitted to the Secretary on September 15. Between September 15 and September 28, Plaintiffs collected approximately 32,600 signatures in support of the Referendum. D14 ¶ 29.

C. Referendum Petition Submitted and Approved by the Secretary of State

On September 29, 2025, in an attempt to cover all his bases, von Glahn submitted the same referendum petition sample sheet to the Secretary that he had submitted on September 15. Although the Secretary designated that sample sheet R004, it was identical to the sample sheet previously designated R003. D65 ¶ 25, D77 (R004). Tr. at 75:21-76:7.² On October 14, 2025, the Secretary of State

² There are two transcripts in the legal file. Appellants' brief citations to "Tr." refer to the trial transcript. Citations to "Transcript of Nov. 13, 2025 hearing" refer to the transcript of that hearing.

approved the referendum sample sheet (R003/R004) as to form. D65 ¶ 27, D78 (approval letter).

Between September 29 and October 14, 2025, Plaintiffs collected approximately 70,200 signatures in support of the referendum petition. D14, ¶ 32. In between submitting the sheets that should have been approved on September 12, 2025, and the final approval on October 14, 2025, the Plaintiffs gathered a total of more than 100,000 signatures. D14, ¶ 29, 32. While the signature gathering campaign was still underway, partisan opponents of the referendum began flooding Missouri with text messages stating that “Missouri Secretary of State Denny Hoskins has declared TENS OF THOUSANDS of petition signatures IMPROPERLY COLLECTED.” D46 at 5, D48.

D. The Lawsuit

Plaintiffs originally filed suit on September 18, 2025, after the initial refusals to approve the forms. D124. They sought declaratory relief concerning the Secretary’s rejection of Plaintiffs’ referendum petitions for circulation due to the lack of the Governor’s signature.³ Plaintiffs amended their petition on September 29 (after the Governor’s signature). D2. Count I challenged the Secretary’s refusal to approve Plaintiffs’ referendum petition on the basis that the Governor had not

³ The petition as originally filed also had a separate sunshine law claim against the Secretary that was not pursued after the petition was amended.

yet signed HB1. D2. Count II sought a declaration that the Secretary is not authorized to reject signatures solely because they were gathered before the referendum had been approved as to form. D2.

On October 14, the Secretary answered. D13. On October 15, the Hon. Daniel Green set the case for trial on October 28. D1 at 12. On October 28, the parties filed joint stipulations and appeared for trial. D1 at 13. Intervenor Put Missouri First did not exist on October 28, 2026. Because Judge Green was ill, the trial was continued, first to November 3 and then to November 13. D1 at 13, 14. On October 30, Plaintiffs filed their trial brief. D30. On October 31, the Secretary filed his trial brief. D31.

E. Intervenor is created and is permitted to intervene, causing significant delays

On October 30, 2025, six weeks after Plaintiffs filed the lawsuit, Intervenor Put Missouri First filed a Statement of Committee Organization with the Missouri Ethics Commission. D84 at 3. On the afternoon of November 12, Put Missouri First filed a verified Motion to Intervene asserting a generalized political and campaign finance interest in opposing the measure and in the timing and outcome of certification. D32. The motion to intervene admits that Put Missouri's First's interests are "operational, political, and mission-specific: preventing the referendum from appearing on the ballot." D32 at ¶ 29.

In case that was not clear, Intervenor went further: its “sole purpose is to prevent the measure from appearing on or being approved through the ballot.” D32 at ¶ 43. Intervenor emphasized it would gain or lose by the judgment because certification would trigger campaign activity and expenditures and claimed the State might not fully align with Intervenor’s single-minded opposition to the measure. Intervenor represented in its motion that its intervention would “not delay or impede adjudication of this case.” D32 at ¶ 50.

On November 13, Put Missouri First brought its motion to intervene to the attention of the trial court. Having no opportunity to develop briefing in opposition to the motion given the necessary preparations for trial, Plaintiffs orally opposed the motion to intervene, which was not properly noticed for hearing. Plaintiffs argued that the Motion to Intervene did not comply with the requirements of Rule 52.12 and the Court had no authority to grant it. The trial court granted the motion over Plaintiffs’ objections. D36.

Judge Green attempted to proceed to try the case on November 13. Plaintiffs and the Defendant Secretary of State announced on the record that they were ready to proceed with trial. See Transcript of Nov. 13, 2025 Hearing at 5:19-24.

Intervenor immediately sought to postpone the trial so that it could conduct discovery. See Transcript of Nov. 13, 2025 Hearing at 5:25-6:12. When the Court denied that request, Intervenor immediately made an oral motion for continuance

(not permitted by Missouri's rules, which require a verified motion for continuance, see Rule 65.03), and presented a motion for change of judge, thereby postponing the trial of the case. D37. Judge Green granted the change of judge at that time. Plaintiffs filed a motion to reconsider intervention the same day. D38.

The case was reassigned to the Honorable S. Cotton Walker, who set a trial date for November 21. D1 at 16. On November 14, Defendant then filed a motion for change of judge, further postponing the trial. D40. Judge Walker granted the change of Judge and the case was assigned to the Hon. Christopher Limbaugh. D41.

Plaintiffs filed a motion for trial setting, seeking to maintain the trial date of November 21 as Cole County Local Rules suggest. D44. On November 18, Judge Limbaugh set the case for a pretrial conference on December 4 and for a bench trial on December 8 at 1:30 PM. D1:P18. The statutory deadline for submission of signatures in support of the Referendum to the Secretary of State was December 11.

F. Intervenor Pursues Extensive Discovery

On November 13, Intervenor served interrogatories and requests for production of documents on Plaintiffs. The interrogatories and requests for production sought, among other things, all signed referendum petition pages gathered prior to October 14, 2025, copies of signatures totaling almost 100,000,

signature counts for specific referendum petition numbers, vendor contracts concerning signature gathering, and any “validity” reports in Relators’ possession. D47. On November 18, only 5 days after it had been served, the trial court ordered Plaintiffs to respond to the written discovery by Friday, November 21. D1:P18. Plaintiffs complied with that order and responded to the discovery, providing answers and objections to interrogatories, and responses and objections to the requests for production of documents, but Plaintiffs did not produce the documents requested. D1:P18.

The same day as the written responses, Plaintiffs filed a motion for protective order under Rule 56.01(c). D46. Plaintiffs argued that the discovery should not be permitted because it was (i) irrelevant to the narrow legal issues in this case; (ii) disproportionate, unduly burdensome, and obtainable from other sources; and (iii) seeks material protected by the First Amendment right to free speech and association, including core political petitioning activity. D46.

On November 26, Intervenor filed a motion to compel responses to its invasive, overbroad, and irrelevant discovery and requested the Court to impose sanctions on Plaintiffs. D60. Plaintiffs opposed this motion to compel, incorporating the arguments from their motion for protective order. The trial court granted Intervenor’s Motion to Compel and denied Plaintiffs’ Motion for Protective Order on December 4. D1:P21. Plaintiffs advised the Court and

Intervenors at the December 4 hearing that it could not comply with the discovery order before trial on December 8, 2025. Tr. at 13:5-22.

Meanwhile, Plaintiffs filed a writ of prohibition with the Court of Appeals, Western District on December 8 challenging the trial court's decision to permit intervention and the trial court's decision to compel discovery. See Petition for Writ of Prohibition, *State ex rel. People Not Politicians v. Limbaugh*, Case No. WD88522 (Mo. App. Dec. 8, 2025).⁴

On November 24, Defendant Secretary of State moved to dismiss the action, contending that Count I is moot because he approved R004, the last submitted sample sheet (which is identical to R003) and because Count II is unripe because no signatures have been submitted or rejected. D55; D56. The Secretary contends only an enacted law signed by the Governor can be the subject of a referendum, and signatures cannot be counted if gathered before a petition sample sheet receives approval as to form. *Id.* On November 25, Intervenor filed a motion to dismiss, raising the same defenses that the Secretary presented in his motion to dismiss. D58.

⁴ The day before this brief was filed the Court of Appeals denied Appellants' writ as moot because they "have an adequate remedy by appeal." See Order, *State ex rel. People Not Politicians v. Limbaugh*, Case No. WD88522 (Mo. App. Aug. 20, 2026).

G. December 8 Trial.

The case was tried before the Hon. Christopher Limbaugh on December 8.

In advance of trial, Intervenor made an oral motion for sanctions against Plaintiffs for failure to comply with discovery and requested the trial court to strike their pleadings in the case. Tr. at 8-9. The trial court took the motion for sanctions with the case. Tr. at 17:12-24.

At trial, Plaintiffs offered into evidence the December 3 Amended Joint Stipulation among all parties (Appellants, the Secretary, and Intervenor), D65, its exhibits 1-15, D66-D80, and the October 28 Joint Stipulation between the Secretary and Plaintiffs, D14, which was admitted over Intervenor's objection. Tr. at 18:19-23:16. Defendant Secretary of State offered no evidence.

Intervenor called one witness, Chrissy Peters, the Director of Elections for the Missouri Secretary of State. Ms. Peters testified that she met with the Intervenor's counsel to prepare for her trial testimony. Tr. at 53:21-54:15. Ms. Peters testified that when a signed referendum petition is received by the Secretary of State's office, the practice is to scan the signature pages by county and provide them to the local election authorities for verification if the signers are registered voters. Tr. at 29:13-30:25. There are 116 local election authorities in the state of Missouri. Tr. at 32:22-23.

Ms. Peters also testified that “there was no difference in the form” of Referendum Petition R-003, D73, and Referendum Petition R-004, D77. Tr. at 75:21-76:7. Ms. Peters testified that the Secretary of State’s position was that any signatures collected prior to the Secretary’s October 14, 2025 approval of Referendum Petition R-004 are invalid and would not be counted. Tr. at 78:22-79:22. Signature pages with signatures collected prior to October 15th “based on our office’s position that they’re not valid, would be separated and not scanned in with the group that will be sent to local election authorities for verification.” Tr. at 81:22-82:3. The evidence closed, the parties provided closing arguments, and the Court took the matter under advisement. Tr. at 136:3-4.

H. Plaintiffs submit Referendum Petition and Trial Judge Holds Case in Abeyance

On December 9, 2025, Plaintiffs submitted a referendum petition containing over 300,000 signatures to the Secretary. On December 12, 2025, the trial court entered an order *sua sponte* holding that “conceivably, this could be enough signatures to place the referendum on the ballot thereby mootng the issues in the case at bar. Therefore, the court will hold this case in abeyance 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.”

D132.

On January 5, 2026, Plaintiffs provided a status update to the Court regarding the processing of signatures. D92. Each Referendum signature page contains up to a maximum of 10 signatures. D77: P10 (R004); D73:P10 (R003). The Secretary sent 33,068 signature pages to local election authorities for verification. D92. The Secretary refused to send 16,695 pages to local election authorities for verification because of his determination that they had an “invalid date.” D92.

On January 12, Plaintiffs filed a supplemental brief in support of issuing a final judgment. D96. Plaintiffs urged that the “Secretary has now decided that a third of the signature pages submitted are categorically invalid and will not be counted by the local election authorities.” D96. The Secretary filed a status update admitting that he had “rejected signatures collected prior to his approval as to form,” but urged that the case should be held in abeyance or dismissed as unripe because “the legal effects of this decision are not concrete as they do not pose an immediate hardship on Plaintiffs.” D97. The Court did not modify the abeyance.

On February 17, the parties appeared for a status conference and the Plaintiffs again urged the court to enter final judgment and resolve the issues in the case. D98. The Court elected to continue to hold the case in abeyance.

On March 6, 2026, Plaintiffs filed a written motion asking the trial court to end the abeyance. D98. Plaintiffs argued “withholding relief now creates

substantial risk of this case running into Missouri's statutory deadline for altering ballots, as well as risks that Defendants will argue it is too late to make such changes even if statutorily permitted." D98. Intervenor and Defendants both opposed the motion. D103; D104. On May 4, 2026, the trial court denied the motion and continued to hold the case in abeyance.

Meanwhile, on April 1, 2026, Plaintiffs sought a writ from the Court of Appeals, Western District asking the Court to order the Circuit Court to end the abeyance. Petition for Writ of Prohibition, *State ex rel. People not Politicians v. Limbaugh*, WD88821 (Mo. App. Apr. 1, 2026). Plaintiffs argued that the Court's abeyance permits "the Secretary of State to hold those 100,000 signatures in limbo until it is too late for them to be verified and validated in support of the referendum." *Id.* at 2. After requesting and receiving suggestions in opposition, the Court of Appeals denied the petition on April 7, 2026. Order, *State ex rel. People not Politicians v. Limbaugh*, WD88821 (Mo. App. Apr. 7, 2026)

On August 4, the Secretary issued a certificate of insufficiency relating to the Referendum Petition without addressing the number of valid signatures submitted. On August 17, eight months and nine days after the case was tried and submitted, the trial court entered judgment in favor of Defendants.

The trial court held that the Secretary of State was correct to reject Referendum Petitions R001, R002, and R003 as to form because "House Bill 1 was

not yet a law. Until Governor Kehoe signed House Bill 1 on September 28, 2025, it was merely a bill, not a law.” D116. The trial court concluded that Section 116.030 limits the referendum to “any law passed by the General Assembly,” and this therefore required the Governor’s signature before a referendum could be approved as to form. The trial court found that Article III, Section 49 of the Constitution that reserves the people’s right to “approve or reject by referendum any act of the general assembly” does not permit a referendum against “uncodified bills” not yet signed by the Missouri Governor. D116:P16.

The trial court also concluded that “any signatures collected on those petitions are likewise invalid.” D116. The trial court concluded that the Constitution’s time limit for submission of referendum petitions is not unduly interfered with by administrative delays – either in approval of the petition as to form or signing the act by the Governor.

This appeal followed.

POINTS RELIED ON

I. The Circuit Court Erred In Holding The Secretary of State Had Authority To Reject Referendum Petition R-003 as to form before the Governor signed H.B. 1 because the Governor's decision whether to sign or veto an act of the legislature is not relevant to the form of the Referendum Petition in that the referendum form did substantially comply with Section 116.030 as it contained all the information required by the statute.

- *American Civil Liberties Union of Missouri v. Ashcroft*, 577 S.W.3d 881 (Mo. App. 2019).
- § 116.332, RSMo
- § 116.030, RSMo
- Mo. Const. art. III, § 49

II. The Circuit Court erred in concluding that the Secretary of State was not required to verify signatures of registered voters on Referendum Petition that were collected before the Secretary approved the petition as to form because collection of signatures prior to approval as to form does not invalidate the signatures of voters on the form ultimately approved in that Referendum Petition R-003, which the Secretary

rejected, and Referendum Petition R-004, which the Secretary approved, are identical to one another.

- *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484 (Mo. banc 2022)
- *Coleman v. Ashcroft*, 696 S.W.3d 347 (Mo. banc 2024)
- Mo. Const. art. III § 49

III. The Circuit Court erred in holding this case in abeyance after trial for over nine months because election review cases are required by statute to be placed at the top of the docket and unnecessary delays are prejudicial to the rights of the citizens to seek a referendum in that the delays in this case prevented verification of 100,000 collected signatures in frustration of the right to referendum.

- *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484 (Mo. banc 2022)
- *Coleman v. Ashcroft*, 696 S.W.3d 347 (Mo. banc 2024)

IV. The Circuit Court erred in permitting political action committee Put Missouri First to intervene as a matter of right in this case because Put Missouri First did not meet the standards for Intervention under Missouri Rule 52.12 in that its interests were adequately represented by existing parties and its entire purpose of intervening was to create delay

and frustrate the rights of Missouri citizens to seek a referendum on

H.B. 1.

- *Committee for Educational Equality v. State*, 294 S.W.3d 477 (Mo. banc 2009)

- *Toder v. Hoskins*, 730 S.W.3d 129 (Mo. App. 2026)

- *Corson v. Corson*, 640 S.W.3d 785, 789 (Mo. App. 2022)

V. The Circuit Court abused its discretion in allowing Put Missouri First to intervene permissively in this case because Put Missouri First did not meet the standards for Intervention under Missouri Rule 52.12 in that its claims and defenses have no questions of law or fact in common with this litigation and its sole purpose of intervening was to create delay and frustrate the rights of Missouri citizens to seek a referendum on H.B. 1.

- *Committee for Educational Equality v. State*, 294 S.W.3d 477 (Mo. banc 2009)

- *Toder v. Hoskins*, 730 S.W.3d 129 (Mo. App. 2026)

- *Corson v. Corson*, 640 S.W.3d 785, 789 (Mo. App. 2022)

ARGUMENT

I. The Circuit Court erred in holding the Secretary of State had authority to reject Referendum Petition R-003 as to form before the Governor signed H.B. 1 because the Governor's decision whether to sign or veto an act of the legislature is not relevant to the form of the Referendum Petition in that the referendum form did substantially comply with Section 116.030 as it contained all the information required by the statute.

Standard of Review. The Court's interpretation and proper application of the provisions of Chapter 116 are questions of law interpreted de novo. *Dodson v. Ferrara*, 491 S.W.3d 542, 551 (Mo. 2016), as modified (May 24, 2016) ("The interpretation of a statute is a question of law and is reviewed de novo.").

Preservation. Appellants raised argument on this issue in their pre-trial brief. D30 at 1–8. Argument on this issue was additionally raised in their Supplemental Brief in Support of Issuing Final Judgment. D96: P2. Counsel for Appellants additionally raised these same arguments at trial. Tr. 100–112.

A. Trial Court Incorrectly Ruled that Referendum Sample Sheet R003 Could be Rejected as to Form under Section 116.030

The Secretary of State purported to reject Plaintiffs' referendum sample sheets because the Governor had not signed House Bill 1 when Plaintiffs submitted

the referendum sample sheets. But nothing in the statute governing the form of the sample sheets even references a gubernatorial signature. Section 116.030 states, “The following shall be substantially the form of each page of referendum petitions on any law passed by the general assembly of the state of Missouri” and it goes on to provide a form for referendum petitions. The relevant statute concludes that if the technical form requirements are “followed substantially and the requirements of section 116.050 and section 116.080 are met, it shall be sufficient, disregarding clerical and merely technical errors.” § 116.030, RSMo.

Missouri’s courts have already clearly defined what Section 116.030 authorizes – and what it does not. Section 116.030 “provides an exemplar form that uses a prescribed and set order of words, with blank spaces for insertion of required or requested information; and that directs that a submitted sample sheet shall be sufficient if its form is substantially in compliance with the exemplar.” *ACLU*, 577 S.W.3d at 891 (cleaned up).

The Secretary’s review as to form of a referendum petition sample sheet does not extend “to matters of substance, including, constitutional compliance.” *ACLU*, 577 S.W.3d at 891. “Neither section 116.030 nor the dictionary definition of ‘form’ permits the conclusion that review of a sample sheet for ‘sufficiency as to form’ pursuant to section 116.332 extends to matters of substance, including constitutional compliance.” *Id.* The presence (or absence) of the governor’s

signature is not a “matter of form.” That is a matter of substance, not the form of Plaintiffs’ paperwork.

Plaintiffs’ referendum petition sample sheets comply with the form as outlined in Section 116.030. The form submitted on September 15 to conduct a referendum on House Bill 1 – which was rejected – was indistinguishable from the form submitted on September 29, 2025. It is literally the same exact document turned in to the Secretary on two different days. Yet the Secretary approved the latter “as to form” but rejected the former “as to form.” “As to form,” the two are identical. There was never a form issue with the September 12 or September 15 referendum petition sample sheets, and the Secretary impermissibly and unlawfully rejected those sample sheets as to form.

The trial court’s reliance on the legislature’s use of the word “law” to import the Governor’s signature requirement as a matter of form in Section 116.030 proves too much. The “form” requirements are detailed directly in the statute – and the Governor’s signature on the act of the Missouri General Assembly is not among them. Indeed, one of the language requirements in the form that the legislature requires in Section 116.030 is that “referendum petitions describe the matter to be referred to the people as a bill “passed by the general assembly.””

Stickler v. Ashcroft, 539 S.W.3d 702, 719 (Mo. App. 2017). As the Court of Appeals explained in *Stickler*, “the phrase “passed by” may actually be *more*

accurate than using the word “enacted”...[because] assuming the referendum petition receives sufficient signatures...it will not take effect as a law unless and until it is approved by a majority of voters.” 539 S.W. 3d at 717.

This Court recently affirmed the core holding in *Stickler* in the *Maggard* case. “If...the December 9 referendum petition filing is ultimately determined to be sufficient, article III, section 52(b) applies [and]...HB 1 was referred to the people as of December 9, and HB 1 shall take effect when approved by a majority of the votes cast thereon, and not otherwise.” Mo. Const. art. III, sec. 52(b). *Maggard v State*, 733 S.W.3d 411, 419-20 (Mo. banc 2026). Under *Maggard*, *Stickler*, and an unbroken line of precedent interpreting Missouri’s constitutional right to referendum, the submission of a “legal, sufficient, and timely” referendum petition suspends the effectiveness of any act passed by the General Assembly. See *State ex rel. Barrett v. Dallmeyer*, 245 S.W. 1066, 1068 (Mo. banc 1922) (legislative act suspended by filing of referendum petition); *State ex rel. Drain v. Becker*, 240 S.W. 229 (Mo. banc 1922) (same). The referred act – whether signed by the Governor or not – only becomes a “law” if it is approved by a majority of Missouri voters.

To the extent the legislature’s use of the word “law” in place of the word “act” in Section 116.030 does require an act of the General Assembly to be signed by the Governor before it is subject to referendum, as discussed below, the statute

would impose a new restriction on the right to referendum not found in the Missouri Constitution. “This court avoids interpreting a statute in a way that would call into question its constitutional validity.” *State ex rel. Parson v. Walker*, 690 S.W.3d 477, 485 (Mo. banc 2024)(cleaned up). And that is easy to do here.

If the Court cannot avoid it, “laws enacted to implement the referendum process must be invalidated when they “interfere with or impede a right conferred by the constitution[.]” *Rekart v. Kirkpatrick*, 639 S.W.2d 606, 608 (Mo. banc 1982). In other words, “[m]inor details may be left for the legislature without impairing the self-executing nature of constitutional provisions ... but all such legislation must be subordinate to the constitutional provision and in furtherance of its purposes, and must not ... attempt to narrow or embarrass it.” *Musser v. Coonrod*, 496 S.W.2d 8, 11 (Mo. banc 1973).

B. Requiring the Governor’s Signature before a Referendum Petition Can be Approved as to Form is Inconsistent with Constitutional Requirements and Frustrates the Right to Referendum.

The people of the state of Missouri reserved to themselves the “power to approve or reject by referendum any act of the general assembly.” Mo. Const. Art. III, § 49. House Bill 1 is a self-described “Act of the General Assembly,” D67: P2. Nowhere in the Constitution is the Governor’s signature required on the “act of the General Assembly” to permit the citizens to commence the exercise of their

referendum rights. As this Court has emphasized twice recently, it “does not utilize canons of construction when the language of a constitutional provision is plain and unambiguous.” *Luther v. Hoskins*, 730 S.W.3d 567, 570–71 (Mo. banc 2026) (quoting *Robust Mo. Dispensary 3, LLC v. St. Louis Cnty.*, 721 S.W.3d 135, 139 (Mo. banc 2025)). Under the plain language of the Constitution and House Bill 1, the act is subject to the power of referendum regardless of the Governor’s signature. Because House Bill 1 is an act, it is subject to the referendum

Should this Court need to look past the plain, unambiguous language, interpreting the provisions *in pari materia* also compels the same result. The referendum provision in the constitution’s application to “any act of the General Assembly” stands in contrast to the people’s power to “propose and enact or reject laws and amendments to the constitution by initiative, independent of the general assembly[.]” *Id.* (emphasis added). The initiative power proposes to enact laws; the referendum power is reserved to reject “acts of the general assembly.” Since the Constitution uses different words to describe what voters consider with initiatives and referendums, the framers of the Constitution must have “intended the terms to have different meaning and effect.” *ACLU*, 577 S.W.3d at 892.

Article III, Section 52(a), which provides a ninety day time limit from the “final adjournment of the session of the general assembly which passed **the bill** on which the referendum is demanded” (emphasis added), also supports the

interpretation that the referendum power is directed at the General Assembly without regard to the Governor. The use of the word “bill,” which is another word for “act of the general assembly” is in harmony with the use of the referendum to apply to acts of the general assembly. See Mo. Const. art. III, § 52(a) (“Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded.”).

The Constitution authorizes and allows the people to begin to exercise their referendum rights when the general assembly passes an act. The Constitution does not impose a restriction on the Governor’s role with regard to measures referred to the people: the Governor loses his “veto power.” Mo. Const. art. III, § 52(b). In a world different than one we inhabit today where the Governor and General Assembly were not politically aligned, Missouri’s constitution would permit use of the referendum power to interfere with the Governor’s veto.

But the Constitution does *not* authorize the Governor’s signature to interfere with the people’s referendum power. That power belongs to the people and cannot be usurped, infringed, or diminished. See *No Bans on Choice*, 638 S.W.3d 484.

The trial court’s contrary conclusion is antithetical to the Constitution.

“Constitutional provisions are read in harmony with all related provisions.”

Committee for Educational Equality v. State, 294 S.W. 3d 477, 488 (Mo. banc 2009)(cleaned up).

The time limits also prove the point. Article III, Section 52(a) sets a deadline of 90 days from final adjournment of the legislative session where the bill was passed for a referendum proponent to deliver signatures to the Secretary of State. Article III, Section 31, depending on the circumstance, gives the governor either forty-five or fifteen days to sign or veto legislation. Where the bill was passed the same day as the adjournment (as here), the Governor of Missouri could wait to sign the bill until the 45th day after adjournment pursuant to Article III, Section 31.

In that circumstance, a citizen who wanted to exercise the right to referendum *could not* submit a valid form until *after* that 45th day. And under the trial court's conclusion, the signatures could not be gathered until *after* the Secretary approves the petition as to form, which could be as many as fifteen days after submission (and was in this case). This would deprive citizens seeking to exercise the referendum of 60 days in which they could be collecting signatures. And in this case, where the delays from submission of R003 to signature by the Governor was only 13 days, the trial court's conclusion has the effect of invalidating 32,600 signatures collected in the interim.

The trial court's constitutional and statutory interpretation is a material impediment to the right of the referendum. Four years ago, this Court concluded

that a law that delays referendum rights for “more than one-third to more than one-half of the 90 days allotted for petition circulation” violated the referendum right. *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 491 (2022). As this Court held, “the legislature inherently has the power to reduce the time to circulate a referendum petition on any particular piece of legislation by delaying the passage of that legislation until the end of the legislative session.” *Id.* And that is what the legislature did with House Bill 1. But the Court concluded that statutes that “significantly reduc[e] the allotted circulation period even further...interfere with or impede the right of the referendum.” *Id.*

Surely the legislature’s stray use of the word “law” in Section 116.030 does not mandate that result. And if, as a matter of statutory interpretation, it does, the statute imposes an unconstitutional impediment to the referendum right. “The legislature must not be permitted to use procedural formalities to interfere with or impede this constitutional right that is so integral to Missouri’s democratic system of government.” *No Bans on Choice*, 638 S.W. 3d at 492.

To conclude otherwise, as the trial court did, undermines the constitutional right to referendum.

II. The Circuit Court erred in concluding that the Secretary of State was not required to verify signatures of registered voters on Referendum Petition that were collected before the Secretary approved the petition as to form because collection of signatures prior to approval as to form does not invalidate the signatures of voters on the form ultimately approved in that Referendum Petition R-003, which the Secretary rejected, and Referendum Petition R-004, which the Secretary approved, are identical to one another.

Standard of Review. The Court's interpretation and proper application of the provisions of Chapter 116 are questions of law interpreted de novo. *Dodson*, 491 S.W.3d 542, 551 ("The interpretation of a statute is a question of law and is reviewed de novo.").

Preservation. Appellants raised argument on this issue in their pre-trial brief. D30 at 1–6, 8–12. Argument on this issue was additionally raised in their Supplemental Brief in Support of Issuing Final Judgment. D96: P2–3. Counsel for Appellants additionally raised these same arguments at trial. Tr. 100–112.

In addition to the more than 30,000 at issue in the "does the Governor have to sign" analysis, another approximately 70,000 signatures were not even reviewed because they were gathered after form submission but before the Secretary issued his formal approval of the form. But citizens do not require the approval of the

Secretary of State to exercise their referendum right. Nothing in the Constitution nor statute requires a proponent to wait for approval as to form to gather signatures and there is nothing that deems any signature collected prior to approval as to form invalid. See *United Labor Committee of Missouri v. Kirkpatrick*, 572 S.W.2d 449, 456 (Mo. banc 1978)(cleaned up)(“Genuine signatures of legal voters constitute the vitalizing element of a petition, and all else is mere form and evidence.”). Instead, the statutes lay out the form and “if this form is followed substantially and the requirements of section 116.050 [mandating a page size and that the measure be attached] and section 116.080 [related to a circulator oath] are met, it shall be sufficient, disregarding clerical and merely technical errors.” § 116.030, RSMo.

In this case, Appellants collected over 100,000 signatures from Missouri voters between September 15, the day R003 was submitted, and October 14, the day R003/R004 was approved. R003 and R004 are indistinguishable from one another. Under Missouri law, the Secretary had a non-discretionary duty to submit these signatures to local election authorities for verification and the Circuit Court was wrong to conclude otherwise.

A. Statute only requires submission, not approval, in advance of circulation.

Of course, the Constitution says nothing about forms or approvals. That is in the statutes, so we start the analysis again at the plain language. Section 116.332,

RSMo requires only that “[b]efore a...referendum petition may be circulated for signatures, a sample sheet must be submitted to the secretary of state in the form in which it will be circulated.” Plaintiff did just that, completing the constitutional and statutory requirements to begin signature collection. There is no concomitant direction to wait to gather signatures until the Secretary issues his approval as to form of the sample sheet. From that point forward, any signatures collected on a form that was ultimately approved by the Secretary of State should be verified as valid.

Concluding otherwise permits the Secretary of State and Attorney General to deduct fifteen or more days from the time available to collect signatures on the referendum while reviewing it for form compliance pursuant to Section 116.332. The opportunity for partisan gamesmanship is obvious in the record of this case. The Secretary of State initially rejected the petitions as form on September 12, the same day that they were submitted. On September 14, the Secretary rescinded the rejections, only to reject the petitions for the same reason offered on September 12 two weeks later on September 26. The legislature has not commanded that signatures collected on a form later found to be valid should not be counted; that is a requirement that the Secretary has invented in this case to thwart the exercise of the referendum right.

A proponent of a referendum who commences collection of signatures before the Secretary has approved the form collects signatures at their peril, as the statutes require the later-submitted signatures to be on a form the Secretary approved. Here, *all signatures* submitted were on a form the Secretary approved, but the Circuit Court concluded the Secretary lawfully rejected those that were signed after the form was submitted (as required by Section 116.332), but before it was *approved*. And the number of signatures from Missouri citizens that the Secretary refused to validate is significant.

Over 100,000 Missouri citizens signed this petition on the exact form that was later approved between September 15 and October 14. And the Secretary – an avowed opponent of the referendum – simply refused to send them to the LEAs to be verified. This Court should reverse the decision of the trial court and hold conclusively that signatures collected on a referendum form later approved by the Secretary are valid so long as they are collected *after* the form was submitted to the Secretary (as all were here). This is all the statutes require, and to permit a contrary conclusion invites interference with the referendum.

This is the exact issue that this Court decided in 2022. Because the Constitution sets a time limit of ninety days after the adjournment of the legislative session to deliver signatures, this time cannot be shortened by statute. If a statute does so, it is unconstitutional. *See No Bans on Choice v. Ashcroft*, 638 S.W.3d 484,

492 (Mo. banc 2022)(“Sections 116.180 and 116.334.2's prohibition on collecting...signatures prior to...certification of the official ballot title interferes with and impedes the constitutional right of referendum reserved to the people by unreasonably shortening the timeframe for petition circulation.”). To the extent that 116.332 is ambiguous (it is not), the Court should interpret 116.332 to permit signatures collected on an approved form after submission but before the date of approval to be validated in support of the referendum. This would be consistent with the plain language of the statute and would avoid a constitutional problem. *See State ex rel. Parson*, 690 S.W.3d 477, 485 (cleaned up)(“This court avoids interpreting a statute in a way that would call into question its constitutional validity.”).

III. The Circuit Court erred in holding this case in abeyance after trial for over nine months because election review cases are required by statute to be placed at the top of the docket and unnecessary delays are prejudicial to the rights of the citizens to seek a referendum in that the delays in this case effectively prevented the verification of 100,000 collected signatures in frustration of the right to referendum.

Standard of Review. Although there are very few decisions addressing abeyance in Missouri state court, it is akin to a circuit court’s decision to stay a case, which would ordinarily be reviewed for an abuse of discretion. *State ex rel.*

Great Am. Ins. Co. v. Jones, 396 S.W.2d 601, 605 (Mo. 1965) (“Stay of proceedings is not a matter of right but involves the exercise of some discretion by the trial court as to granting and as to duration; but it would be an abuse of discretion to refuse a stay properly required by the circumstances.”). Here, the Court should not apply this deferential standard of review.

The circuit court did not decide to enter a stay after briefing from the parties or careful consideration. Rather, the circuit court affirmatively disregarded the mandates of the several statutes commanding circuit courts to prioritize election cases and adjudicate **without delay**. See §§ 115.535, 115.551, and 116.190, RSMo. That is due to the short deadlines and great importance of such cases. See *id.*; see also § 116.200, RSMo. These statutes created a legislative directive for handling such cases that the court simply failed to follow.

Further, the threshold question for any abuse of discretion review is determining whether the court actually deliberated and exercised discretion. “The authority to choose, after careful deliberation, between two reasonable alternatives, both of which are supported by the evidence, is the essence of discretion.” *O’Brien v. Dep’t of Pub. Safety*, 589 S.W.3d 560, 566 (Mo. banc 2019). Where a court holds a fully litigated matter in abeyance, post-trial, on its own motion, without hearing argument, without any pending parallel case, and without any actual consideration of the merits of the abeyance, no genuine deliberation occurred.

Indeed, it is not clear what, if any purpose the abeyance served, as the Final Judgment contains no discussion of any facts outside the events of trial on December 28. D116 at 1–7. Such decision deserves no deference on appeal.

Because the circuit court’s *sua sponte* decision was tantamount to a straightforward failure to consider and follow the law, this decision should be reviewed *de novo*.

Preservation. Appellants raised this issue in their Supplemental Brief in Support of Issuing Final Judgment. D96. Appellants raised this in their motion to End Abeyance and Render Judgment. D98: P1–5, P10–21. Appellants additionally raised this issue in their April 27, 2026 Status Report. D108, ¶¶ 38, 48–49.

Appellants further filed a writ of prohibition on this issue with the court of appeals. *See State ex rel. People Not Politicians v. Limbaugh*, WD88821 (April 1, 2026).

Respondent’s *sua sponte* decision to hold the case in abeyance runs counter to decades of Missouri jurisprudence requiring election cases to be resolved without delay. “There are compelling reasons for [courts] to promptly hear and rule on cases having effect on elections in view of the short timetables involved.” *State ex rel. Teichman v. Carnahan*, 357 S.W.3d 601, 603 (Mo. banc 2012). Missouri Courts regularly expedite election cases. *See, e.g., Order, Coleman v. Ashcroft*, No. SC100742 (Mo. banc Sept. 10, 2024) (resolving election challenge two business

days after trial court ruling and on eve of deadline to modify ballots); Order, *Toder v. Uccello*, No. WD88582 (Mo. App. Jan. 1, 2026) (setting briefing and oral argument to be completed less than one month after appeal in ballot title challenge); Order, *People Not Politicians v. Hoskins*, No. WD88795 (Mo. App. Mar. 27, 2026) (same).

The statutory schemes related to elections also provide strict deadlines, requiring cases to be placed at the top of the docket and decided without delay. §§ 115.535 and 115.551, RSMo. Ballot title cases must be filed within ten days and placed at the top of the docket. § 116.190, RSMo. Cases concerning the validity of the Secretary's sufficiency determinations on referenda must also be filed within ten days of the Secretary's decision. § 116.200, RSMo.

But for the trial court's *sua sponte* abeyance order, this case would not have required extraordinary expedition in its appeal. Appellants here sought repeatedly to avoid the very problem the Supreme Court identified by bringing this challenge to a form determination in the first instance because there is "no [] justification for delaying to the very end of the process claims regarding the form of the petition." *Id.* Appellants strained to avoid the chaos that sometimes ensues when election cases bump into statutory deadlines, requiring extremely expedited schedules which stretch "the limits of thorough advocacy and judicial stamina." *Coleman v.*

Ashcroft, 696 S.W.3d 347, 353 (Mo. banc 2024). *Coleman* makes clear that delay is not the proper course in these types of cases.

A. No Missouri Authority to Hold a Case in Abeyance After Trial

The Missouri Constitution requires courts to be open and to resolve disputes “without delay.” Mo. Const. art. I, § 14. There is no Supreme Court Rule authorizing trial courts to hold a case in abeyance post-trial. Nor is there any case law approving this practice. In extreme cases, a trial court’s unwillingness to resolve cases can amount to judicial misconduct. *See In re McGaugh*, 705 S.W.3d 535, 543 (Mo. banc 2025) (suspending judge for one year because “parties could not obtain finality in critically important, time-sensitive cases”).

What little authority there is in Missouri for courts holding a case in abeyance provides no support for the trial court’s action here. “When a matter is held in abeyance it is in a condition of being undetermined. It is not finally settled.” *Savannah Place, Ltd. v. Heidelberg*, 164 S.W.3d 64, 66 n.4 (Mo. App. 2005) (quotations omitted). This case was fully tried and submitted waiting only a decision on the merits. While the related question of whether the referendum is sufficient is still pending, the process questions in this case are fully developed. This is not a case with a limited-purpose remand. *See, e.g. State v. Thomas*, 801 S.W.2d 504 (Mo. App. 1991) (holding appeal in abeyance during such remand); *State v. Wakefield*, 689 S.W.2d 809 (Mo. App. 1985) (same); *G & S Masonry, Inc.*

v. MJC Constructors, Inc., 164 S.W.3d 530, 533 (Mo. App. 2005) (same); *State v. Anderson*, 580 S.W.2d 553, 554 (Mo. App. 1979) (same). Nor is it a case holding a verdict in abeyance while liability is determined. See *Brickner v. Normandy Osteopathic Hosp., Inc.*, 687 S.W.2d 910, 913-14 (Mo. App. 1985).

The two cases Intervenor cited below to support an abeyance are irrelevant and distinguishable. Ex. 35 at 965-966. In *Knapp v. Missouri Local Government Employees Retirement System*, 738 S.W.2d 903 (Mo. App. 1987), a plaintiff prematurely filed an action for judicial review of an agency decision and the parties *stipulated* to holding the case in abeyance. *Id.* at 907. *Knapp* is simply irrelevant. In *Logan v. Sho-Me Power Elec. Co-op.*, 122 S.W.3d 670 (Mo. App. 2003), the case involved parallel wrongful death proceedings in the trial court and the Labor and Industrial Relations Commission. The Court of Appeals concluded the trial court should have held the wrongful death case in abeyance during the pendency of the workers' compensation review to avoid the risk of prejudice to the wrongful death Plaintiff from the running of the statute of limitations. While in *Logan*, the abeyance protected the Plaintiffs' right to sue, in this case, the trial court's unreasonable decision to forbear issuing judgment threatens the very rights that Plaintiffs sued to protect.

The trial court's order holding the case in abeyance steered this case directly into the statutory deadlines governing challenges to the Secretary's certification

decision on the Referendum and the statutory deadline for making changes to the ballot. § 115.125.3, RSMo (“No court shall have the authority to order an individual or issue be placed on the ballot less than eight weeks before the date of the election.”). This is the exact scenario this Court warned against in 2024. Litigants “who fear getting trapped between the Scylla and Charybdis of sections 116.200.1 and 115.125.3, or who wish to challenge the constitutional validity of either statute, should give thought to at least attempting to assert their form-related claims at the beginning of the process.” *Coleman v. Ashcroft*, 696 S.W.3d 347, 354.

Relators took this admonition to heart and asserted their form-related claims at the very “beginning of the process,” before signature gathering was complete and the case was tried before the Referendum was submitted. Yet, Respondent’s unreasonable abeyance order places them directly into this Court’s well-described trap. As this Court expressly held two years ago, there is “no . . . justification for delaying to the very end of the process claims regarding the form of the petition.” *Id.*

The specific action involved in this case is the verification of roughly 100,000 signatures to determine whether the signers are registered voters in Missouri. The trial court’s abeyance order served to enable the Secretary’s course of action without challenge – and the Secretary has now withheld roughly 100,000

signatures from the verification process. That process is over and there is no mechanism to now have those signatures reviewed.

As Appellants feared when they filed suit eleven months ago, the Secretary refused to deliver roughly 100,000 signatures to local election authorities for validation. The trial court's abeyance order authorized the Secretary's inaction to continue without judicial review until August 2026, with a September statutory deadline for changes to the ballot looming. This unreasonable decision functionally deprives the parties of a meaningful opportunity to obtain appellate review.

B. Case is not moot

The mootness concept that animated Respondent's abeyance order is whether the case would become moot if the Secretary concluded there are sufficient signatures without the 100,000 the Secretary refused to verify. To the surprise of all, the Secretary's sufficiency determination *made no finding whatsoever* regarding the number of signatures submitted. The rights of Missouri voters to have their signatures in support of a referendum counted are too important to let them be squandered and evade all judicial review, as the abeyance order would permit.

This Court addressed a remarkably similar issue a few years ago in *No Bans on Choice*. The underlying issue there – as here – involved the Secretary of State using procedural processes related to a referendum to shorten the available time to

collect signatures. Even when no signatures were submitted to the Secretary, this Court concluded “the time-sensitive nature of the referendum process would place the claim squarely within the mootness exception of “capable of repetition, yet evading review.” See *State ex rel. Reser v. Rush*, 562 S.W.2d 365, 367 (Mo. banc 1978)” *No Bans on Choice*, 638 SW.3d at 490 n.9 (internal citation omitted). The same is true here. The Circuit Court’s decision to hold the case in abeyance should be reversed as an abuse of discretion so that all courts in Missouri take seriously their constitutional obligations to resolve disputes “without delay.”

IV. The Circuit Court erred in permitting political action committee Put Missouri First to intervene as a matter of right in this case because Put Missouri First did not meet the standards for Intervention under Missouri Rule 52.12 in that its interests were adequately represented by existing parties and its entire purpose of intervening was to create delay and frustrate the rights of Missouri citizens to seek a referendum on H.B. 1.

Standard of Review. Generally, a circuit court’s decision on intervention as a matter of right will be reversed if “there is no substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law.”

Johnson v. State, 366 S.W.3d 11, 20 (Mo. banc 2012); see also *Robinson v.*

Missouri Dep’t of Health & Senior Services, 672 S.W.3d 224, 231 (Mo. banc

2023). The timeliness of an intervention is reviewed for an abuse of discretion.

Robinson, 672 S.W.3d at 231. Where no dispute of fact exists and at issue is whether circuit court properly applied law to the facts, the Court's review is *de novo*. *Id.* (citation omitted).

Preservation. Appellants preserved this issue by orally opposing Respondent-Intervenor's Motion to Intervene at the hearing at which it was presented. Appellants further preserved this issue in their Motion to Reconsider Intervention and their Suggestions in Support of its Motion to Reconsider Intervention where they contested the Court's grant of Intervenor's motion for intervention as a matter of right. D38; D84.

Appellants also contested the Court's grant of intervention by filing a Petition for a Writ of Prohibition with the Western District Court of Appeals and Suggestions in Support. *See* Pet., Suggs. In Supp., *State of Missouri ex rel. People Not Politicians, et al., v. Limbaugh*, WD88522 (Dec. 08, 2025), In that writ proceeding, Appellant raised many of the same arguments raised below. *Id.*

A. The Court Erred in Granting Put Missouri First Intervention As a Matter of Right.

Intervenor Put Missouri First sought intervention as a matter of right, and, in the alternative, sought permissive intervention. D32, ¶¶ 8–20. The circuit court sustained Intervenor's Motion for Intervention, implicitly finding it timely, and

finding the prerequisites of 52.12(a) were met. Appellants challenge the circuit court's decision on the basis that Intervenor's Motion for Intervention was not timely and that the circuit court improperly applied undisputed facts to the law of intervention. The circuit court abused its discretion in finding intervention timely, and the circuit court erred as a matter of law in finding intervention warranted under Rule 52.12(a). *See Robinson*, 672 S.W.3d at 231 (citation omitted).

Under Rule 52.12(a), a party may intervene as a matter of right “[u]pon timely application” if the applicant claims an interest relating to the property or transaction that is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties. *See also Robinson*, 672 S.W.3d at 231–32 (“An intervenor must file a timely motion and must demonstrate the following criteria are met: “(1) an interest relating to the property or transaction which is the subject of the action; (2) that the applicant's ability to protect the interest is impaired or impeded; and (3) that the existing parties are inadequately representing the applicant's interest.”).

i. *Put Missouri First Has No Legitimate Interest in this Lawsuit That Could Be Impeded.*

Put Missouri First is a new continuing committee (“PAC”) that was formed on October 30, 2025, six weeks after this lawsuit commenced, for the sole and express purpose of opposing Appellant’s referendum efforts.⁵ On the afternoon of November 12, Put Missouri First filed a verified Motion to Intervene asserting a generalized political and campaign finance interest in opposing the measure and in the timing and outcome of certification. See D32. The Motion to Intervene admits that Put Missouri’s First’s interests are “operational, political, and mission-specific: preventing the referendum from appearing on the ballot.” D32, ¶ 29. Put simply, “Intervenor is an opponent to the proposed referendum.” D32, ¶ 3. “Intervenor’s sole purpose is to prevent the measure from appearing on or being approved through the ballot.” D32, ¶ 43.

The dispute between Appellants and the Secretary relates to the Secretary’s legal duties to approve the form of a referendum petition and the validity of signatures collected on an approved form before the date of the Secretary’s

⁵ Intervenor purported to attach as Exhibit A to its Motion to Intervene its Statement of Organization with the Missouri Ethics Committee. See D32 ¶ 1. That Statement of Organization does not actually appear as an attachment but can be found on the website of the Missouri Ethics Committee. See D84 at 3; see also Put Missouri First, Committee Summary, MECID: C253723, https://mec.mo.gov/mec/Campaign_Finance/CommInfo.aspx?MECID=C253723#gsctab=0 (last visted Aug. 19, 2026).

approval. The resolution of both issues cannot cause the measure to appear on or be approved through the ballot. Intervenor's "sole purpose" is not a "direct and immediate claim to...the demand made ...by one of the parties in the original action." *BMO Harris Bank v. Hawes Tr. Invs. LLC*, 492 S.W.3d 607, 618 (Mo. App. 2016).

Intervenor lacks a real, direct, legally protectable interest in this case. "An interest sufficient for Rule 52.12(a)(2) must be "a direct claim upon the subject matter such that intervenor will either gain or lose by direct operation of the judgment, not a consequential, remote or conjectural campaign interest." *Allred v. Carnahan*, 372 S.W.3d 477, 484-84 (Mo. App. 2012). Intervenor's asserted interests (timing of campaign expenditures, political opposition, and messaging) are not legal interests pertinent to whether the Secretary exceeded his statutory authority regarding the disapproval "as to form" of the referendum petition sample sheet or whether Article III, Section 52(a) permits pre-approval signature gathering. That is not to say these are inconsequential issues. They are just not consequential for Intervenor.

"An interest necessary for intervention as a matter of right does not include a mere, consequential, remote or conjectural possibility of being affected as a result of the action, but must be a direct claim upon the subject matter such that the intervenor will either gain or lose by direct operation of judgment." *State ex rel*

Nixon v. American Tobacco Co., Inc., 34 S.W.3d 122, 128 (Mo. banc 2000)(cleaned up). Intervenor’s interest is consequential, remote, and conjectural, and the outcome of this litigation will not change anything for Intervenor. Intervenor says that its interest is “preventing the referendum from appearing on the ballot[.]” D32 ¶ 29. But the outcome of this case will not place or prevent the referendum from appearing on the ballot — this lawsuit is only about approval as to form of referendum petition sample sheets and the start date for signature collection. No matter how this Court rules regarding the Secretary’s obligations to approve a sample referendum petition sample sheet as to form (and the validity of signatures collected on an admittedly valid form prior to receipt of the Secretary’s blessing), this will not prevent the referendum from appearing on the ballot or guarantee that it appears on the ballot. Rather, the lawsuit is about intermediate steps— the form of the referendum petition and timing of signature collection. Intervenor will still have to prepare for a campaign, no matter the outcome here.

A court’s role “is not to act as a political arbiter between opposing viewpoints in the initiative process.” *Missourians Against Human Cloning v. Carnahan*, 190 S.W.3d 451, 456 (Mo. App. 2006).

The people, from whom all constitutional authority is derived, have reserved the ‘power to propose and enact or reject laws and amendments to the Constitution.’ Mo. Const. art. III, § 49. When courts are called upon to intervene in the initiative process, they must act with restraint, trepidation and a healthy suspicion of the partisan who would use the judiciary to prevent the initiative process from taking its course.

Missourians to Protect the Initiative Process v. Blunt, 799 S.W.2d 824, 827 (Mo. banc 1990). Yet this is precisely what Intervenor has sought – to “prevent the [referendum] process from taking its course.” Intervenor asked the circuit court to intervene on its side of a political dispute and prevent it from being required to campaign against a referendum process plainly authorized by the Missouri Constitution. This is an illegitimate interest that could not have sustained a right to intervene under Missouri law. The circuit court erred in permitting intervention. Intervenor seems to admit as much. Intervenor’s own motion describes political and operational interests—timing of expenditures, messaging, and opposition strategy. D32, ¶ 29. These do not create a real interest in the resolution of Plaintiffs’ claims. Rather, they demonstrate an interest in short-circuiting the normal campaign process by using the courts to do Intervenor’s political work. Intervenor conspicuously claims no interest in whether a referendum sample sheet should be approved or not, because it has no legal interest other than simply seeking to thwart the referendum itself.

ii. *Put Missouri First’s Conduct Demonstrates its Only Purpose is the Illegitimate Obstruction of Appellant’s Right to Referendum.*

Indeed, at every turn, Intervenor has pursued its real mission through improper delay and obstruction and by engaging in vexatious, invasive, and unduly

burdensome discovery. For insight into Intervenor's true purpose in involving itself in this litigation, this Court should look no further than its conduct in repeatedly frustrating the orderly procession of this matter to trial, including by serving Appellants with irrelevant, unduly burdensome, vexatious discovery that would have had the effect of contravening the First Amendment's protection of political association and chilling participation in the petitioning process.

After the case had been set for trial and less than 24 hours before the reset trial, Respondent-Intervenor filed a motion to intervene.⁶ On the day the case was reset for trial, the trial court granted intervention over Appellant's objections. Both the Plaintiffs and the State announced they were ready to proceed. Transcript of Nov. 13, 2025 hearing at 5:19-24. But Respondent-Intervenor was not ready and immediately sought to postpone the trial so that it could conduct discovery. *See* Transcript of Nov. 13, 2025 Hearing at 5:25-6:12. When Judge Green denied that request, Respondent-Intervenor immediately made an oral motion for continuance (not permitted by Missouri's rules, which require a verified motion for continuance, *see* Rule 65.03), and presented a motion for change of judge, thereby postponing the trial of the case. Transcript of Nov. 13, 2025 Hearing at 6:13-7:9.

⁶ In apparent acknowledgement that the Motion was not timely presented, Intervenor also filed a Motion to Shorten time for the hearing on the Motion to Intervene. D34. Judge Green did not specifically take up or rule on this Motion but proceeded to consider and rule on the Motion to Intervene. *See* D1:P16.

Put Missouri First should not have been there to delay the trial. This case features a legal challenge to the Secretary's authority and timing under Article III, Section 52(a) and Chapter 116. Put Missouri First's defenses—and the Secretary's defenses—were limited to justiciability and questions of law (mootness, ripeness, the meaning of “law” and approval “as to form”), not the granular identity or volume of unfiled signatures or the mechanics of signature collection. Despite that such requests were wholly, indisputably irrelevant to any claims and defenses, Respondent Intervenor sought discovery to “substantiate (or contradict)” estimates of signatures gathered before and after certain dates. *See* D60:P17. Specifically, Respondent-Intervenor sought: (i) all signed pages gathered before October 14, with signers' names and addresses; (ii) “counts” broken out by petition number; (iii) contracts with vendors for signature gathering; and (iv) internal “validity” reports. Respondent-Intervenor asserted this information was needed to test Relators' allegations and stipulations. *See* D60–D64.

Such discovery had no apparent purpose, other than (i) to give Intervenor a basis for engaging in a nakedly political fishing expedition wherein it could collect sensitive material to use against an avowed political opponent and (ii) to use as an improper justification for causing needless and prejudicial delay to Appellants and their pursuit of their constitutional right to referendum.

iii. *Put Missouri First's Purported Interests are Identical To and Have Been Adequately Represented by the Secretary.*

Against substantial evidence to the contrary, Put Missouri First illogically claims that its interests are distinct from and not adequately represented by the Secretary. At issue in this case is simply whether the Secretary could reject sample sheets “as to form” at the initial stage of the signature gathering process and whether signatures may be gathered prior to approval of that sample sheet. To the extent Put Missouri First has any actual, legitimate interest in answering these questions in this particular case—and Appellants assert that it does not—the Secretary shares those same interests. Tellingly, Put Missouri First asserts the same defenses as the Secretary of State: failure to state a claim, no standing, ripeness, and justiciability. *Compare* D91:P17 and D33:P17, with D13:P29. Both have claimed this case is moot because the Secretary later approved a petition as to form; both claim this case is unripe because the signatures have not yet been submitted; both claim that the act of the General Assembly is not subject to referendum under the Missouri Constitution. *Compare* D91:P17 and D33:P17, with D13:P29. Despite this, Intervenor claims that its interests have not been adequately represented by the Secretary.

Aside from asserting the same defenses, Intervenor does not have different motives than the Secretary of State. The Secretary revealed himself to be an

opponent of this initiative, willing to take extraordinary—indeed unprecedented—steps to prevent the measure from being referred to the voters. The Secretary has gone so far as to sue Appellants in federal court seeking to enjoin collection and submission of signatures on a state-authorized referendum. *See Missouri General Assembly v. People not Politicians*, Case No. 4:25-cv-015350ZMB (E.D. Mo. 2025). If Intervenor is taken at its word that its “sole purpose” is to keep Plaintiffs’ referendum from making it to the ballot, the Secretary (based on his actions) has that same interest and is doggedly, zealously pursuing it.

The issues in this case are narrow: whether the Secretary has authority to reject a referendum because the Governor has yet to sign a bill; and whether the Secretary has authority to invalidate signatures on a submitted (and later approved) form because the referendum form was signed before the Secretary granted approval. As to these narrow issues, there is no daylight between the defenses of the Secretary and the defenses interposed by the Intervenor. As the Supreme Court declared in 2009, intervention is not proper when the Intervenor “merely reasserted the State’s defenses.” *Committee for Educational Equality*, 294 S.W.3d 477, 487. Rule 52.12(a) does not permit intervention under these circumstances. *Id.* It was erroneous to permit intervention as a matter of right when the interests of intervenor are adequately represented by the existing parties.

The decision to approve the petitions as to form, and whether signatures are sufficient to place the measure on the ballot, are solely within the purview of the Secretary of State. After the latter decision, “any citizen” may challenge the Secretary’s decision by suit in Cole County Circuit Court. *See* § 116.200, RSMo. Nothing that occurred in this case has impaired or impeded Put Missouri First’s ability to protect its alleged interest, and that interest is has been adequately protected by the Secretary.

Put Missouri First has no legitimate, distinct basis to participate in this litigation, and its improper participation has directly and extensively prejudiced Appellants.

iv. *The Circuit Court Abused its Discretion in Finding Missouri First’s Motion for Intervention Timely.*

The circuit court’s determination as to timeliness is reviewed for an abuse of discretion. *Corson v. Corson*, 640 S.W.3d 785, 789 (Mo. App. 2022). “Because there are relatively few reported Missouri opinions on this issue, our courts have looked to federal court interpretations of Federal Rule of Civil Procedure 24, which is substantially similar to Missouri’s Rule 52.12.” *Id.*; *see also Robinson*, 672 S.W.3d 224, 233 (Noting Rule 52.12(a) is “essentially the same as” federal rule 24(a)). *Corson*, analyzing case law applicable to the federal rules considered four factors in assessing the timeliness of a motion to intervene: 1) the length of time

the proposed intervenor knew, or should have known, of the interest in the litigation before making the motion; 2) prejudice to the existing parties resulting from the proposed intervenor's delay, 3) prejudice to the proposed intervenor that would result if the motion is denied; and 4) the presence of unusual circumstances that militate either for or against a finding of timeliness. 640 S.W.3d at 790.

All four factors weigh against finding timeliness here. First, the length of time Put Missouri First knew of its interest before filing its motion demonstrates untimeliness. Put Missouri First was organized on October 30, 2025, for the sole and express purpose of opposing Appellants' referendum efforts. By its own admission, its "sole purpose" is to prevent the referendum from appearing on the ballot. D32, ¶ 43. Put Missouri First therefore knew of its purported interest in this litigation from the moment of its formation — yet it waited nearly two weeks, until the afternoon of November 12, 2025, to file its Motion to Intervene. By that time, the case had been pending for approximately six weeks, the parties had completed their preparation for trial, and trial was set for the very next day. The delay is particularly egregious given that Put Missouri First was formed specifically to involve itself in litigation opposing the referendum, yet it inexplicably waited until the eve of trial to seek intervention.

Second, the prejudice to the existing parties resulting from Put Missouri First's delay has been extraordinary. Put Missouri First filed its Motion to

Intervene less than 24 hours before this case was set for trial. On the day of trial, both Appellants and the Secretary announced they were ready to proceed. Transcript of Nov. 13, 2025 Hearing at 5:19-24. Intervenor immediately sought to postpone trial and, when that was denied, presented a motion for change of judge — thereby postponing the trial. *Id.* at 6:13-7:9. This delay resulted in severe prejudice. This election review case — which by statute must be placed at the top of the docket — was stalled because Put Missouri First pursued vexatious, irrelevant discovery designed to harass Appellants and chill their exercise of their constitutional right to petition. The prejudice to Appellants from this delay cannot be overstated: the right to referendum is time-sensitive by its very nature, and every day of delay caused by Respondent-Intervenor’s belated intervention has directly impaired Appellants’ ability to exercise their constitutional rights.

Third, Put Missouri First would suffer no cognizable prejudice if its motion to intervene were denied. As discussed above, Put Missouri First has no legitimate, legally protectable interest in this litigation. Its asserted interests are political and operational; such interests have nothing to do with the discrete legal issues arising in this case. Its interests, to the extent they exist, are adequately represented by the Secretary, who has vigorously opposed Appellants’ claims at every turn. Put Missouri First could have participated as *amicus curiae* without the delays and burdens that party status has inflicted on this case. Denial of intervention would

not have impaired any legal right of Put Missouri First, it would have simply prevented Put Missouri First from abusing the process, to the detriment of Appellants.

Fourth, unusual circumstances militate strongly against a finding of timeliness. This is an election review case implicating the constitutional right to referendum — a right that is inherently time-sensitive. Missouri law requires that election cases be placed at the top of the docket precisely because delay is uniquely prejudicial in this context. Put Missouri First’s own simultaneous filing of a Motion to Shorten Time for the hearing on the Motion to Intervene is itself a tacit acknowledgement that its Motion was not timely. See D34. The circuit court’s implicit finding of timeliness—in the face of a motion filed the afternoon before trial in a case demanding expedited resolution—was a clear abuse of discretion.

The nine months of abeyance that indirectly resulted—in a case that was ready for trial on November 13, 2025—confirms the profound prejudice of permitting this untimely intervention.

v. *The Court of Appeals has Foreclosed the Intervention of Nakedly Partisan Groups in Similar Circumstances.*

In *Toder v. Hoskins*, 730 S.W.3d 129, 133 (Mo. App. 2026), Spencer Toder submitted a proposed initiative petition intended to make education a fundamental right to the Secretary, who certified and drafted language for the official ballot title

that Toder later challenged. Rebecca Uccello intervened, on the grounds that she worked for an organization that advocated for children with disabilities and had a school aged-child that purportedly would be impacted by the petition. *Id.* at 132. “Uccello alleged that her grounds for intervention were so she could defend the language of the summary statement and weigh in on any revisions; Uccello sought to have the Secretary’s summary certified as it stood.” *Id.* at 132–33 (cleaned up). The Western District reversed the circuit court’s grant of permissive intervention and found Uccello had no basis for intervention as a matter of right. *Id.*⁷ Crucially, the Western District found that “[o]pening intervention of right to citizens solely because they have a differing political view as to the ballot initiative would open the floodgates to oppressive intervention, and no public policy would be served.” *Id.* at 137 (quoting *Prentzler v. Carnahan*, 366 S.W.3d 557, 564 (Mo. App. W.D. 2012)).

⁷ The Western District noted: because it found that Uccello's allegation that her daughter would lose her scholarship if the proposed initiative were to pass was speculative, we conclude that the trial court could not have found that Uccello would “either gain or lose by direct operation of the judgment” in the ballot summary challenge but rather that her interest included “a mere, consequential, remote or conjectural possibility of being affected as a result of the action,” defeating intervention as a matter of right. *Toder*, 730 S.W.3d at 137.

That is exactly what Intervenor Put Missouri First attempts here. Put Missouri First's conduct throughout this litigation serves as a cautionary tale of the harms of permitting intervention to a party with no goals other than to frustrate a citizens' constitutional right to pursue a referendum. The issue of last-minute, partisan intervention in election cases is a significant one. This case illustrates how excessively liberal grants of intervention can lead to mischief under these tight timelines. Regardless of the outcome on the merits, this Court should issue guidance to discourage allowing intervention except in the most compelling circumstances, of which this is not one.

V. The Circuit Court abused its discretion in allowing Put Missouri First to intervene permissively in this case because Put Missouri First did not meet the standards for Intervention under Missouri Rule 52.12 in that its claims and defenses have no questions of law or fact in common with this litigation and its sole purpose of intervening was to create delay and frustrate the rights of Missouri citizens to seek a referendum on H.B. 1.

Standard of Review. This Court reviews permissive intervention for abuse of discretion. *Johnson v. State*, 366 S.W.3d at 20.

Preservation. Appellant preserved this issue by orally opposing Respondent-Intervenor's Motion to Intervene at the hearing at which it was presented. Appellant further preserved this issue in its Motion to Reconsider Intervention

where it contested the Court's grant of Intervenor-Respondent's motion for intervention, and its Suggestions in Support of its Motion to Reconsider Intervention. D38; D84.

Appellant also contested the Court's grant of intervention by filing a Petition for a Writ of Prohibition with the Western District Court of Appeals and Suggestions in Support. See Petition for Writ of Prohibition, *State of Missouri ex rel. People Not Politicians, et al., v. Limbaugh*, WD88522 (Mo. App. Dec. 08, 2025). In that writ proceeding, Appellant raised many of the same arguments raised below. See *id.*

A. The Court Abused its Discretion in Granting Put Missouri First Permissive Intervention.

Intervenor Put Missouri First sought intervention as a matter of right, and, in the alternative, sought permissive intervention. D32, ¶¶ 8–20. The circuit court sustained Intervenor's Motion for Intervention, implicitly finding it timely, and finding the prerequisites of 52.12(b) were met. Appellants assert that the circuit court abused its discretion in finding intervention timely and that the circuit court improperly found intervention was warranted under Rule 52.12(b).

Under Rule 52.12(b), a party may intervene as a matter of right “[u]pon timely application” if “an applicant's claim or defense and the main action have a

question of law or fact in common.” This is the basis Put Missouri First raised as to permissive intervention in its Motion. D32, ¶ 47.

i. *Permissive Intervention was Untimely.*

As a threshold matter, permissive intervention under Rule 52.12(b), like intervention as a matter of right, requires a “timely application.” For the reasons set forth in Section IV above, Put Missouri First’s Motion to Intervene was not timely. The same *Corson* factors that demonstrate untimeliness for purposes of intervention as a matter of right apply with equal force here. Put Missouri First was formed for the express purpose of opposing the referendum, knew of this litigation from its inception, and yet waited until the afternoon before trial to file its Motion. The resulting delay — including postponement of a trial at which both existing parties were ready to proceed, nine months of abeyance, and vexatious discovery — has been profoundly prejudicial to Appellants’ time-sensitive constitutional right to referendum. Here, the combination of extreme untimeliness and severe prejudice to Appellants independently forecloses permissive intervention regardless of whether any common question of law or fact exists. The circuit court abused its discretion in implicitly finding the motion timely for purposes of permissive intervention.

ii. *Put Missouri First Merely Echoes the Secretary's Positions*

*Rather than Asserting Any Unique Interests, Foreclosing Itself
from Permissive Intervention.*

This Court has unequivocally stated: “The provision allowing intervention when an applicant’s claim or defense and the main action have a question of law or fact in common **is inapplicable** to Defendant-Intervenor[s] because [it] merely reasserted the State’s defenses.” *Committee for Educational Equality*, 294 S.W.3d at 487. The issue here is simply whether the Secretary could reject sample sheets “as to form” at the initial stage of the signature gathering process and whether signatures may be gathered prior to approval of that sample sheet. The Secretary’s interest in that issue is identical to Put Missouri First’s. Put Missouri First asserts the same defenses as the Secretary of State – failure to state a claim, no standing, ripeness, and justiciability. As in *Committee for Educational Equality*, “Defendant-Intervenor[] asserted no claim, defense, or interest unique to [itself].” *Id.* Thus, Rule 52.12(b) “provided no mechanism by which [Put Missouri First] could join the State’s defense [.]” *Id.*; see also *Toder*, 730 S.W.3d at 136 (reversing the circuit court’s grant of permissive intervention because intervenor’s “claim is essentially that she has an interest in the proposed amendment itself, not in the fairness and sufficiency of the Secretary’s title summary, which is the issue in this case. . . .

When [intervenor] sought to intervene, she expressed the same interest or defense—defending the Secretary’s Summary Statement, as the Secretary.”).

The circuit court abused its discretion in granting Intervenor permissive intervention.

CONCLUSION

This Court should reverse the judgment of the Circuit Court and enter judgment in Appellants’ favor on all Points.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

A copy of this document and the appendix were served on counsel of record through the Court's electronic notice system on August 21, 2026.

This brief complies with the limitations contained in Supreme Court Rule 84.06. Relying on the word count of the Microsoft Word program, the undersigned certifies that the total number of words contained in this brief is 14,524 excluding the cover, table of contents, table of authorities, signature block, appendix, and this certificate. The font is Times New Roman 14-point type. The electronic copies of this brief were scanned for viruses and found to be virus free. Pursuant to Rule 55.03, the undersigned further certifies the original of this brief has been signed by the undersigned.

/s/ Charles W. Hatfield

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