

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

ELIZABETH HEALEY, et al.,

Plaintiffs,

v.

STATE OF MISSOURI, et al.,

Defendants.

Case No. 2516-CV31273

Division 11

NOTICE OF VOLUNTARY DISMISSAL OF COUNT I

Plaintiffs Elizabeth Healey, Giselle Anatol, Marques Bussey, Mary Sapp, Louie Wright, Sarah Beagle, Kyle Heard, Tom Self, Janet Sorrells, Margaret Wolf Freivogel, Sorin Nastasia, Morton Todd, Colleen Coble, Beverly Rollings, Lane Nichols-Elliott, and Randal McCallian (collectively, the “Healey Plaintiffs”), by and through undersigned counsel, pursuant to Rule 67.02, hereby voluntarily dismiss Count I of their petition, without prejudice, against all Defendants.

Rule 67.02(a) permits voluntary dismissals without an order of the court “prior to the introduction of evidence at the trial.” Such a dismissal is proper even if evidence has been introduced and judgment entered as to other counts in the same lawsuit. *See State ex rel. Wolfner v. Dalton*, 955 S.W.2d 928, 931 (Mo. banc 1997) (affirming voluntary dismissal of counts for which there was no “introduction of evidence or trial” after judgment had been entered under Rule 74.01(b) as to another count in the same suit). Here, no evidence regarding Count I has been introduced at trial—or at *any* proceeding—in this case, as all proceedings on Count I were stayed after pre-trial motions. *See Order, Healey v. Missouri*, Case No. 2516-CV31273 (Dec. 10, 2025); *see State ex rel. Fortner v. Rolf*, 183 S.W.3d 249, 255 (W.D. Mo. App. 2005) (noting that Rule 67.02 “does *not* refer to hearings on pretrial motions or the introduction of evidence with respect

to such motions”) (quoting *Garrison v. Jones*, 557 S.W.2d 247, 249 (Mo. banc 1977)); *State ex rel. Frets v. Moore*, 291 S.W.3d 805, 810 (S.D. Mo. App. 2009) (noting that a January 1, 2007 amendment to Rule 67.02 “len[t] credence to the Western District’s holding in *Fortner* . . . that a voluntary dismissal without prejudice can be accomplished without leave of court up until evidence is presented at the actual court trial on the merits”).

In light of this dismissal, Plaintiffs respectfully request that the Court issue the accompanying proposed judgment reflecting that final judgment has now been entered on all Counts.

Date: March 16, 2026

Respectfully submitted,

/s/ J. Andrew Hirth

J. Andrew Hirth, #57807

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Certificate of Service

I certify that, on March 16, 2026, the foregoing was filed on the Missouri CaseNet e-filing system, which will send notice to all counsel of record.

/s/J. Andrew Hirth