

**IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI**

DENNY HOSKINS, MISSOURI SECRETARY OF
STATE, in his official capacity,

Petitioner,

v.

No. _____

EMILY GERBER, PEOPLE NOT
POLITICIANS

Defendants.

PETITION FOR DECLARATORY JUDGMENT

Plaintiff, Secretary of State Denny Hoskins, for his Petition for declaratory judgment respectfully alleges as follows:

INTRODUCTION

1. After proponents of a referendum petition on House Bill 1 submitted it to the Secretary of State for processing, Ms. Gerber and current litigant *People Not Politicians* have requested records under the Missouri Sunshine Law for “verification reports or progress reports on reviewing signatures for the signature pages that were not sent to the local election authorities.” Petitioner’s Exhibit I, p. 6.

2. Secretary Hoskins initially denied the request under the litigation exception, Mo. Rev. Stat. § 610.021(1), because the validity of these signatures is currently subject to ongoing litigation, *see People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct.).

3. Secretary Hoskins thus brings this declaratory judgment action to determine his disclosure obligations for requested records under the Sunshine Act.

4. Bringing this suit demonstrates his good-faith intent to comply with the Act and avoid any noncompliance with his statutory obligations. *See City of Byrnes Mill v. Limesand*, 599 S.W.3d 466, 472 (Mo. App. E.D. 2020) (“courts have held that pursuing one of the options under Section 610.027.6 to determine what information may be protected lawfully from disclosure may demonstrate a public governmental body’s good-faith intent to comply with a Sunshine Law request.”).

THE PARTIES

I. Petitioner

5. Denny Hoskins is the Secretary of State of the State of Missouri.

6. The Secretary of State’s Office is a public governmental body and subject to the Sunshine Act. Mo. Rev. Stat. § 610.010(4).

7. Secretary Hoskins’s principal office is in Cole County, Missouri.

II. Defendant

8. Defendant Emily Gerber is the Deputy Director of People Not Politicians, an organization registered in Missouri and with mailing address of 555 Washington Ave., Suite 520, Saint Louis, Missouri.

9. After making an initial March 17, 2026, Sunshine Act request of the Secretary of State’s office, on or about April 3, 2026, Ms. Gerber “supersede[d]” her previous request and submitted the operative request at issue here. Pet’r’s Ex. I, p.

6.

JURISDICTION AND VENUE

10. This Court has jurisdiction under Mo. Rev. Stat. § 527.010.

11. Venue is proper in this Court under the Sunshine Act safe harbor provision which allows the governmental body to bring a declaratory judgment action “in the circuit court of the county of the public governmental body’s principal place of business.” Mo. Rev. Stat. § 610.027.6; *see City of Byrnes Mill*, 599 S.W.3d at 472 quoting *Wyrick v. Henry*, 592 S.W.3d 47, 63 (Mo. App. W.D. 2019) (“section 610.027.6 provides a public governmental body with a safe harbor...”).

12. Because venue exists under the specialized venue provision of the Sunshine Act, the Secretary of State need not satisfy the general venue provision for declaratory judgments of Section 508.010. In any event, that statute is satisfied as well because the plaintiff “resides” in Cole County. *Id.* § 508.010.2(1).

FACTUAL ALLEGATIONS

I. The litigation.

A. The initial litigation.

13. On September 12, 2025, the Missouri General Assembly truly agreed to and finally passed House Bill 1, titled “An Act To repeal sections 128.345, 128.346, and 128.348, RSMo, and to enact in lieu thereof twelve new sections relating to the composition of congressional districts.” Pet’r’s Appendix, Ex.B.

14. Also on September 12,¹ Richard von Glahn submitted two referendum petition sample sheets on HB 1 to the Secretary of State. Pet'r's App., Ex. A Part 3 and Ex. A Part 4.

15. On September 15, Mr. von Glahn submitted a third referendum petition sample sheet on HB 1 to the Secretary of State. Pet'r's App., Ex. A Part 1.

16. The Secretary of State referred all three petition sample sheets to the Attorney General for legal sufficiency review, *see* Mo. Rev. Stat. § 116.332, and informed Mr. von Glahn of the same. Pet'r's App., Ex. E; Ex. D.

17. On September 18, Mr. von Glahn and People Not Politicians filed a suit against the Secretary of State seeking declaratory and injunctive relief to prevent the Secretary from rejecting the submitted sample sheets as to form. *See* Pet. at 10 (prayer for relief d–f), *People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct. Sept. 18, 2025).

18. The Secretary denied Mr. von Glahn's referendum petitions as to form on September 26. Pet'r's App., Ex. G.

19. Missouri's Governor Kehoe signed HB 1 into law on September 28.

20. Mr. von Glahn submitted a fourth referendum petition sample sheet to the Secretary of State on September 29. Pet'r's App., Ex. 12.

21. Also on September 29, Mr. von Glahn and People Not Politicians filed an amended petition. *See generally* First. Am. Pet., *People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct. Sept. 28, 2025). The operative petition in that

¹ Unless otherwise referenced all dates in this section are from 2025.

suit seeks declaratory and injunctive relief that the organization may collect signatures on the submitted sample sheets prior to the Secretary of State's approval as to form. *See id.* at 12 (prayer for relief c–f).

22. The Secretary of State approved the fourth referendum sample sheet on October 14 and declared that no signatures collected prior to this approval date would be valid. Pet'r's App., Ex. 12.

23. On December 8, the circuit court held a bench trial in that matter.

24. The next day, Mr. von Glahn and People Not Politicians submitted their referendum petition to the Secretary of State, and the circuit court decided to hold the matter in abeyance to allow signature verification to unfold. Order, *People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct. Dec. 12, 2025).

B. Post-submission signature verification.

25. The Secretary of State is currently undertaking signature verification as directed by statute. *See* Mo. Rev. Stat. §§ 116.120–.140.

26. The Secretary of State separated pre-approval as to form signatures (dated between September 12 and October 13, 2025) from the signatures collected on valid dates.

27. The signatures with valid dates have been sent to local election authorities for verification. Mo. Rev. Stat. § 116.130. Local election authorities have returned preliminary signature counts with the signature verification process ongoing. *See* 15 C.S.R. § 30-15.020.

28. Once the local election authorities return all the signatures to the Secretary of State, the Secretary must still review for any potentially “forged or fraudulent signatures.” Mo. Rev. Stat. § 116.140.

29. The Secretary has not made any final determination as to the sufficiency of signatures. See Mo. Rev. Stat. § 116.150.3 (setting statutory deadline for certification decision, which is August 4, 2026 for the current election cycle).

C. Post-abeyance litigation.

30. Seemingly unsatisfied with the pace of signature verification, Mr. von Glahn and People Not Politicians moved the court to end holding the case in abeyance, see Mot., *People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct. Mar. 6, 2026), and filed a writ of prohibition seeking an order to end the abeyance, see Pet., *State ex rel. People Not Politicians v. Limbaugh*, WD88821 (Mo. App. W.D. Apr. 1, 2026).

31. Both were denied. Order, *People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct. May 4, 2026); Order, *State ex rel. People Not Politicians v. Limbaugh*, WD88821 (Mo. App. W.D. Apr. 7, 2026).

32. The case remains held in abeyance. See Order, *People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct. May 4, 2026). The circuit court has made no determination as to the validity of pre-approval as to form signatures, and they remain subject to this litigation.²

² The only order by the court over these signatures was directing the Secretary of State to “preserve all signatures filed with his office, whether those signatures are accepted or rejected, until further order by this court.” Order at 1, *People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct. Dec. 12, 2025).

II. The Sunshine Act request.

33. While the litigation over the validity of pre-approval signatures was ongoing, Ms. Gerber, the Deputy Director of People Not Politicians, submitted the Sunshine Act request at issue in this case to the Secretary of State's Office on April 3, 2026. In her request, she stated that this April 3 request, "can supersede my previous request" and "request[ed] verification reports or progress reports on reviewing signatures for the signature pages that were not sent to the local election authorities to review" in connection with the referendum on HB 1. Pet'r's Ex. I, pp. 5-6.

34. On April 8, the Secretary of State's Office responded to Ms. Gerber's request indicating it would need more time to research, retrieve, and review the records requested. The Secretary of State's Office's response anticipated providing a "substantive response" by April 14, 2026. Pet'r's Ex. I, p. 2.

35. On April 14, the Secretary of State's Office notified Ms. Gerber that "[a]t this time, no documents are ready for distribution; however, work on this request is ongoing." The correspondence from the Secretary of State's Office stated it would provide an update no later than April 24, 2026. Pet'r's Ex. I, p. 3.

36. On April 23, the Secretary responded to Ms. Gerber informing her that the requested reports were closed records under the litigation exception (section 610.021(1), RSMo) of the Sunshine Act. Pet'r's Ex. I, p. 4.

37. After review and consultation with the Attorney General's Office, the Secretary of State informed Ms. Gerber on April 23 that the requested records were

“closed at this time” pursuant to Section 610.021(1) because they “relate directly to pending litigation, including *People Not Politicians v. Hoskins*.” *Id.*

38. The Secretary’s determination that the records were closed at the time of Ms. Gerber’s request was based on the nature of the records as being related directly to pending litigation, not on the identity of the requester. *Id.*

39. In response on the next day, Ms. Gerber and People Not Politicians demanded the Secretary of State reconsider the denial and produce the requested records. Pet’r’s Ex. II, p. 1.

40. They contended that the requested records were “created in the ordinary course of the Secretary’s official duties in processing referendum petitions” so “[t]hey do not concern or arise from any litigation.” *Id.* at 2.

41. According to Ms. Gerber and People Not Politicians, “The existence of pending litigation does not alter the inherent nature of documents that the Secretary would have created and maintained regardless of whether any lawsuit had been filed.” *Id.*

42. Lastly, Ms. Gerber and People Not Politicians stated that the Secretary is obligated to produce the records to Ms. Gerber and People Not Politicians “[i]f [he] would be obligated to produce these verification reports to any other member of the public.” *Id.* He is not.

CLAIM FOR RELIEF

Count I – Declaration under Sections 527.010 and 610.027.6 that the litigation exception, Section 610.021(1), of the Sunshine Act applies to the requested records

43. The Secretary incorporates all of the allegations contained in the preceding paragraphs above as if set forth herein.

44. The Sunshine Act has a “safe harbor” provision, *City of Byrnes Mill*, 599 S.W.3d at 472, which allows a governmental body to bring a declaratory judgment action “to ascertain the propriety” of closing a record. Mo. Rev. Stat. § 610.027.6.

45. Bringing a declaratory judgment action allows the public governmental body to demonstrate “good-faith intent to comply with a Sunshine Law request.” *City of Byrnes Mill*, 599 S.W.3d at 472.

46. Section 610.021 allows a governmental body “to close . . . records” that “relate to . . . legal actions, causes of action or litigation involving a public governmental body.” Mo. Rev. Stat. § 610.021(1).

47. This litigation exception turns on the “inherent nature of the record” and not “who . . . request[ed] the record.” *Wyrick*, 592 S.W.3d at 56.

48. The Secretary of State did not deny Ms. Gerber’s Sunshine request based on her identity or her connection with People Not Politicians.

49. Rather, the Secretary of State denied her request because the legality of pre-approval as to form signatures is subject to pending litigation in *People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct.).

50. Because this suit is pending and not merely potential litigation, the Secretary of State has a lesser burden to meet the litigation exception. *See Tuft v.*

City of St. Louis, 936 S.W.2d 113, 118 (Mo. App. E.D. 1996). The signature verification and progress reports have a “clear nexus” to the pending litigation. *Id.*

51. A “clear nexus” between requested public records and pending litigation “exists only in those narrow instances where the record by its inherent nature ‘relates to’ pending or threatened litigation” and is not determined by the mere possibility that the record “could be relevant (that is, discoverable or admissible)[.]” *Wyrick*, 592 S.W.3d at 57. For an exemption to apply under section 610.021, there must be a finding of a “clear nexus or direct relationship” between the exemption and requested record. *Weeks v. St. Louis County*, 696 S.W.3d 333, 342 (Mo. 2024).

52. The circuit court denied discovery into these and related records, see Docket Entry, *People Not Politicians v. Hoskins*, 25AC-CC07128 (Cole Cnty. Cir. Ct. Apr. 7, 2026), so these litigation records were not “merely . . . discoverable or admissible in litigation.” *Wyrick*, 592 S.W.3d at 57. These records thus qualify for the “narrow instance[] where the record[s] by [their] inherent nature ‘relate[] to’ pending . . . litigation.” *Id.*

53. Ms. Gerber argues that section 610.021(1)’s litigation exception does not apply to these records because they were created “in the ordinary course of the Secretary’s official duties” Pet’r’s Ex. II, p. 2, and therefore those records somehow do not “relate to . . . litigation” (610.021-(1)).

54. Not so. The view that a document “can only be closed . . . if there exists a ‘substantial likelihood’ of litigation when the document is created and the document is ‘created in whole or in part *because* of actual or[] potential litigation[]” is

immaterial and the relevant estimation is when the document request is received, not when the document is created. *Gross v. Schmitt*, 709 S.W.3d at 361.

55. The litigation exception to the Sunshine Act therefore renders the requested records closed. See Mo. Rev. Stat. § 610.021(1).

PRAYER FOR RELIEF AND DEMAND FOR JUDGMENT

WHEREFORE, Petitioner prays this Court:

a. Declare that these requested records closed as they qualify for closure under the Sunshine Act's litigation exception, Mo. Rev. Stat. § 610.021(1).

b. Award all other relief this Court deems equitable and just.

Dated: June 22, 2026

Respectfully submitted,

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