

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

JAKE MAGGARD, et al.,)

Plaintiffs,)

v.)

Case No. 25AC-CC09120

STATE OF MISSOURI, et al.,)

Defendants.)

DEFENDANTS' SUGGESTIONS IN SUPPORT OF MOTION TO DISMISS

INTRODUCTION

Plaintiffs ask this Court to disagree with the State's legal determination that "the suspension of HB1 will not take effect unless and until [the Secretary of State's] office certifies the sufficiency of the signatures submitted in support of" a referendum petition challenging HB1. Pet. ¶¶ 28, 33–35, 41. But this Court cannot reach the merits of that question because Plaintiffs plead only a "mere difference of opinion or disagreement or argument on a legal question," which "affords inadequate ground for invoking the judicial power." *City of Joplin v. Jasper Cnty.*, 161 S.W.2d 411, 413 (Mo. Div. 2 1942) (citation omitted). Plaintiffs plead their injury in vague, hypothetical terms, claiming they "*would* be injured if HB1's new map is used in the 2026 congressional elections because it would deny [them their] constitutional right to approve or reject legislation through referendum." Pet. ¶¶ 6, 9 (emphasis added). There are two ways to interpret Plaintiffs' claimed injury, and under either reading, Plaintiffs' claim is not justiciable.

First, Plaintiffs could be understood to claim that the State is threatening their

“constitutional right to approve or reject legislation through referendum.” Pet. ¶¶ 6, 9. But that injury is not yet ripe. Missouri’s statutes permit any citizen—including Plaintiffs—to challenge the Secretary of State’s refusal to *certify* a referendum. § 116.200.1, RSMo. But the Secretary has not yet declined to certify the referendum. Before the Secretary can make his certification decision, he must ensure there are enough signatures in at least six of Missouri’s eight congressional districts. Mo. Const. art. III, § 52(a); §§ 116.120, 116.150. Right now, the State has no idea whether the proposed referendum has enough valid signatures. That is precisely *why* the signature-verification process exists. Once that process has occurred, the Secretary may very well certify the referendum. Or, he might reject it—at which point Plaintiffs’ alleged fear of not being allowed to vote on the referendum would become ripe. In the meantime, Plaintiffs’ “claim is not ripe for adjudication” because “it ‘rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all.’” *Geier v. Missouri Ethics Comm’n*, 474 S.W.3d 560, 569 (Mo. banc 2015) (quoting *Texas v. United States*, 523 U.S. 296, 300 (1998)).

Second, Plaintiffs could be understood to assert a generalized interest in the 2026 election not being conducted under HB1. To start, that injury is also not ripe because the Secretary might certify the referendum. In asserting that the Secretary might *not* certify the referendum, Plaintiffs allege only “a probability that an event will occur,” in which case “[r]ipeness does not exist.” *S.C. v. Juv. Officer*, 474 S.W.3d 160, 163 (Mo. banc 2015) (internal quotation omitted).

Ripeness aside, Plaintiffs’ alleged interest in seeing the law followed is the

archetypal example of a generalized grievance. *Missouri Coal. for Env't v. State*, 579 S.W.3d 924, 927 (Mo. banc 2019) (“[T]he generalized interest of all citizens in constitutional governance’ does not invoke standing.” (citation omitted)). After all, every Missourian has an interest in the lawful congressional map being used—no more and no less than Plaintiffs here. But no Missouri statute gives every citizen a freewheeling legal right to challenge the State’s legal determinations *before* the Secretary makes a certification decision. And Plaintiffs plead no individualized, *substantive* objection to HB1’s congressional map—such as that the district they might have to vote in is insufficiently compact. *Cf. Gill v. Whitford*, 585 U.S. 48, 64–67 (2018). Without such allegations, Plaintiffs plead only an abstract, generalized interest in the law being followed—which is not good enough for standing. *Id.*; *Missouri Coal. for Env't*, 579 S.W.3d at 926–27.

Despite there being no statutory right to sue over the pre-certification status of a referendum, the State acknowledges that it would at least be a closer question on standing if the actual organizers of the referendum—People Not Politicians and Richard Von Glahn—were plaintiffs in this case. But they are not. That is likely because they expressly conceded to a federal district court that HB1 would be frozen *only if* the Secretary certified the referendum (or was ordered by a court to do so). Ex. A, Tr. at 48:9–52:20. Having made that concession to obtain a favorable procedural ruling in federal court, People Not Politicians and Von Glahn would be estopped from bringing this lawsuit.¹ Indeed, the federal district court “expressly found” that “PNP

¹ To be clear, Maggard and Lombardi are also likely estopped themselves. The State believes that PNP, Von Glahn, or their agents recruited Maggard and Lombardi as proxies to bring

affirmatively waived these points, precluding any argument to the contrary in future litigation.” *Missouri Gen. Assembly v. Von Glahn*, 2025 WL 3514277, at *4 n.4 (E.D. Mo. Dec. 8, 2025). PNP’s and Von Glahn’s absence—even after they repeatedly made public promises to bring this lawsuit, *see infra* at 9–10—ensures this case does not feature a plaintiff with a concrete and particularized interest in the pre-certification status of the referendum.

Plaintiffs’ unripe claim also creates a remedial problem. To guarantee that “HB1’s new map” is not “used in the 2026 congressional elections,” Pet. ¶¶ 6, 9, Plaintiffs seek a declaratory judgment and an injunction prohibiting the State “from using HB1’s congressional map *until voters* approve or reject it through the constitutional referendum process,” *id.* at 9 (emphasis added); *see also id.* ¶¶ 1–2. But such an order would plainly violate §§ 116.120, 116.150, and 116.200, RSMo. Sections 116.120 and 116.150 explicitly require the Secretary of State to first decide whether to certify a referendum petition to the voters. It is only “[a]fter the secretary of state certifies a petition as sufficient or insufficient” that “any citizen may apply to the circuit court of Cole County to compel him to reverse his decision.” § 116.120.1;

this lawsuit. *See Grochocinski v. Mayer Brown Rowe & Maw, LLP*, 719 F.3d 785, 796–97 (7th Cir. 2013) (estopping a plaintiff because of non-party who was using the plaintiff as a proxy and was “involved in the genesis and the hoped-for end of th[e] suit”); *Toyo Tire & Rubber Co. v. Hong Kong Tri-Ace Tire Co.*, 281 F. Supp. 3d 967, 983 (C.D. Cal. 2017) (estopping a plaintiff where a non-party—who was using the plaintiff as a proxy—stood to “receive the lion’s share of the recovery”); *Deutsche Bank Nat’l Tr. Co. as Tr. for Am. Home Mortg. Inv. Tr. 2006-3 v. Luna*, 655 S.W.3d 820, 832 n.8 (Mo. App. W.D. 2022) (corporation estopped based on representations of shareholders in prior litigation). That is why the State will imminently serve discovery on Plaintiffs and third-party subpoenas on PNP, Von Glahn, and their agents. Because these matters are extremely fact dependent, and because Plaintiffs’ claims are not justiciable in any event, the State is reserving its estoppel argument for later if this case proceeds past the pleading stage.

Missourians to Protect the Initiative Process v. Blunt (“MPIP”), 799 S.W.2d 824, 828–29 (Mo. banc 1990) (This issue becomes “ripe for judicial determination when the Secretary of State makes a decision to submit, or refuse to submit, an initiative issue to the voters.”) (citing §§ 116.150 and 116.200). Plaintiffs’ claim for relief is thus unripe—and unlawful—at this stage.

At bottom, “no matter how beneficial or socially useful, or urgent,” a court cannot issue a “construction of the laws” in a non-justiciable case. *City of Joplin*, 161 S.W.2d at 412. Because Plaintiffs lack standing and ripeness, this Court must dismiss Plaintiffs’ Petition under Rule 55.27(a).

BACKGROUND²

I. **Missouri’s constitutional and statutory rules require the Secretary of State to verify that a referendum petition is legally sufficient before certifying referendum to voters.**

The Missouri Constitution allows citizens to pursue referenda against certain laws enacted by the General Assembly.³ Mo. Const. art. III, § 52(a). The Constitution also establishes that “[a]ny measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise.” *Id.* art. III, § 52(b). To obtain a referendum suspending legislation and referring it to the people, proponents must file a “[r]eferendum petition[] ... with the secretary of state” and the

² At the pleading stage, the Plaintiffs’ well-pleaded factual allegations—but not the Plaintiffs’ legal conclusions—are assumed true for purposes of analyzing the motion to dismiss. *Laske v. Krueger*, 660 S.W.3d 22, 25 (Mo. App. W.D. 2023). This motion therefore assumes the truth of the Petition’s well-pleaded factual allegations, but in doing so, the State does not concede the truth of any allegation in the Petition.

³ Whether congressional redistricting bills can be subject to referendum is being disputed in federal court. See Complaint, ECF Doc. 1, *Mo. Gen. Assembly v. Von Glahn, et al.*, No. 4:25-cv-1535-ZMB (E.D. Mo., filed Oct. 15, 2025). Nothing the State says in this brief should be understood as commenting on that issue.

petition must be “signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state.” *Id.* art. III, § 52(a).

Upon the filing of a referendum petition, Missouri law obliges the Secretary of State to review the petition for legal sufficiency before referring the matter to the voters. §§ 116.120–116.150, RSMo. Indeed, once a referendum proponent submits signatures to the Secretary of State, the Secretary and local election officials must follow a careful, exhaustive process to determine whether the proponent has “comple[d] with the Constitution of Missouri and with” Missouri law. § 116.120.1. Among other things, the Secretary and local election officials must check to ensure signatories are registered Missouri voters, they must guard against “forged or fraudulent signatures,” and they must enforce other procedural requirements. §§ 116.120–116.150; Mo. Const. art. III, § 52(a) (requiring the signatories to be “the legal voters ... in the state”).

When, as here, local election officials must “verify each signature,” the verification process “must be completed, certified and delivered to the secretary of state by 5:00 p.m. on the last Tuesday in July prior to the election.” § 116.130.2. The Secretary must also assess the legality of the proposed referendum, § 116.120, before issuing a certification decision, § 116.150. Then, “[a]fter” the Secretary issues a final certification decision, “any citizen” may challenge the Secretary’s determination. § 116.200.1 (emphasis added). No such statute allows citizens to pursue referendum-related claims before that time.

II. People Not Politicians—the proponents of a referendum petition challenging HB1—conceded in federal court that HB1 would not be suspended until the Secretary certified PNP’s petition as legally sufficient.

This case involves People Not Politicians’s (“PNP”) referendum petition challenging HB1—a September 2025 law redistricting Missouri’s federal congressional districts. Pet. ¶ 22. On December 9, 2025, PNP submitted its petition signatures for review by the Secretary and local election authorities. *Id.* ¶ 27.

The Secretary and local election officials are now reviewing PNP’s referendum petition to determine whether the petition has enough valid signatures to meet the constitutional threshold. See Mo. Const. art. III, § 52(a). There is substantial doubt on that point. PNP collected over 100,000 signatures *before* Governor Kehoe signed HB1. Yet referenda are not available to challenge bills awaiting final approval. See State’s Mot. to Dismiss, *People Not Politicians v. Hoskins*, No. 25AC-CC07128, at 22–29 (Cole Cnty., filed Nov. 24, 2025). The State also does not know what percentage of the remaining submitted signatures are otherwise valid. Indeed, as a historical matter, the Secretary and local election authorities have discovered a substantial number of invalid signatures on other referendum petitions.

In a transparent attempt to skip the constitutional- and statutorily-mandated process, PNP has waged an aggressive pressure campaign to argue that—at least for the 2026 primary and general election—the State must *assume* PNP has submitted enough signatures. See, e.g., Ex. D, Press Release, *People Not Politicians* (Dec. 9, 2025) (“Once signatures are submitted, HB1 must be paused *until* *Missourians* vote on it at the ballot box,” and “HB1 must remain paused pending certification.”

(emphasis added));⁴ *see also* Pet. ¶¶ 1–2, at 9 (demanding, in this litigation, that this Court declare HB1 “suspended until voters approve or reject the legislation” *without* considering whether PNP’s referendum petition has sufficient signatures). Concerned that PNP might try to prevent the implementation of HB1—a duly enacted law—the State sued PNP in federal court last October. Complaint, ECF Doc. 1, *Mo. Gen. Assembly v. Von Glahn, et al.*, No. 4:25-cv-1535-ZMB (E.D. Mo., filed Oct. 15, 2025). During a hearing on the State’s request for a preliminary injunction, Judge Zachary Bluestone raised the question of what would happen to HB1 once PNP submitted its signatures—“The map would be frozen post certification; is that right?” Ex. A, Tr. at 36:1–2. The State candidly acknowledged the existence of “some uncertainty” on the question, but argued that “it is only after final certification of the signatures that the map would be frozen.” *Id.* at 36:3–14.

Judge Bluestone then asked PNP for its position on the same question: “[T]he freeze wouldn’t occur on the new maps until after the certification. Is that right?” *Id.* at 44:25–45:1. At first, PNP repeatedly suggested that the mere submission of unverified signatures should freeze HB1, *id.* at 44:21–48:7—precisely the position Plaintiffs take here. But after Judge Bluestone repeatedly suggested that position might cost PNP its federal case, PNP’s counsel agreed with Judge Bluestone that “the law would go into effect” even after PNP’s submission of the referendum petition. *Id.* at 48:9–50:10. Counsel for the State and Judge Bluestone later confirmed exactly what PNP conceded:

⁴ <https://peoplenotpoliticiansmo.org/missouri-voters-mobilize-in-defense-of-core-democratic-rights-with-historic-referendum-submission-halting-missouris-super-gerrymander/>.

Mr. Capozzi: It's also still quite unclear to me what the status of the map will be when they submit their signatures. I think eventually, my friend conceded, that the map stays in effect unless and until they can win a state court challenge

The Court: That's where I think everybody wound up. And Mr. Hatfield is nodding his head yes. I do think that's very important. And I think, as we talked about earlier, that the arguments for dismissal will be very flat if that weren't the case. But I do think—I mean, it is **abundantly clear**, though, from the record that's been developed at this hearing, that that's **their** position, right or wrong.

Tr. 52:14–53:1 (emphasis added).

In his opinion granting PNP's motion to dismiss, Judge Bluestone noted PNP's concession that “the new [HB1] map would go into effect.” *Missouri Gen. Assembly v. Von Glahn*, 2025 WL 3514277, at *4 n.4 (E.D. Mo. Dec. 8, 2025). The district court also “expressly found that PNP affirmatively waived” any position “to the contrary in future litigation (to say nothing of the ethical ramifications of counsel breaching their duty of candor to this tribunal).” *Id.* Consistent with that concession, Judge Bluestone made clear he agreed with PNP and the State that HB1 could not be frozen until *after* the signature-verification process:

After the timely submission of a final petition, the Secretary of State must “examine the petition to determine whether it complies with the Constitution of Missouri and with [Chapter 116]” and verify whether there are enough valid signatures to trigger a statewide vote. *Id.* § 116.120. **If** the Secretary finds that the petition satisfies **both** requirements, *see id.* § 116.150, **the challenged law is displaced** and will only “take effect when approved by a majority of the votes cast thereon,” Mo. Const. art. III, § 52(b).

Id. (emphasis added). PNP's concession—and the district court's opinion relying on that concession—could not be clearer.

III. In place of PNP, Plaintiffs Jake Maggard and Gregg Lombardi filed this action—alleging that HB1 was suspended as soon as PNP filed its referendum petition.

Despite PNP's concessions and the resulting federal court order, PNP immediately switched positions on December 9, 2025, once it submitted its referendum petition with the Secretary of State. PNP claimed publicly that the mere submission of PNP's petition signatures was enough to suspend the HB1 maps. PNP also threatened suit in state court if the Secretary did not immediately suspend the HB1 maps. PNP's own website contains many copies of press releases and articles where PNP and its attorney took this position despite their representations to Judge Bluestone. *See, e.g.,* Ex. D, Press Release, *People Not Politicians* (Dec. 9, 2025) ("If the Secretary of State refuses to certify the referendum or attempts to put HB1 into effect prematurely, People Not Politicians is prepared to take immediate action in state court.");⁵ Ex. E, Jason Rosenbaum, *Missouri redistricting foes may have dealt a big blow to Trump-backed congressional map*, St. Louis Public Radio (Dec. 9, 2025) ("Hatfield agreed that if a court finds that Hoskins and Hanaway are wrong that the map wasn't frozen as soon as People Not Politicians turned in their signatures, then there's no way for the map to go into effect during the 2026 election cycle. 'If it turns out that they're going to make us go to court on every single step of this process, I guess that's what we'll do,' he said.").⁶

Because PNP's transparent about-face suggested it had intentionally misled

⁵ <https://peoplenotpoliticiansmo.org/missouri-voters-mobilize-in-defense-of-core-democratic-rights-with-historic-referendum-submission-halting-missouris-super-gerrymander/>.

⁶ <https://peoplenotpoliticiansmo.org/missouri-redistricting-foes-may-have-dealt-big-blow-to-trump-backed-congressional-map/>.

the federal court, the State moved for sanctions on December 12, 2025. *See* Ex. B, State’s Sanctions Motion; Ex. C, State’s Reply Supporting Sanctions Motion. But despite a pending sanctions motion, Richard Von Glahn—PNP’s executive director—told the media that a forthcoming state court lawsuit was imminent. *See* Ex. F, Jason Rosenbaum, *Missouri’s stack of redistricting lawsuits expected to grow over whether new map is in effect*, St. Louis Public Radio (Dec. 16, 2025) (“[Von Glahn] said if state officials ‘actually take steps to try to implement this law illegally – yeah, *there will be a lawsuit.*’ ‘The point here is that the secretary of state must act,’ von Glahn said. ‘He has to issue a certificate of sufficiency or insufficiency, and until that point, the law is suspended.’” (emphasis added)).⁷

Surprisingly (or perhaps unsurprisingly), PNP has not sued in its own name to challenge the Secretary’s position. Instead, two individual Plaintiffs, Jake Maggard and Gregg Lombardi, have emerged and filed this case—the lawsuit promised by PNP, its executive director, and its lawyer. Despite PNP’s concession in federal court, Plaintiffs Maggard and Lombardi allege that HB1 must be frozen *before* the Secretary decides to certify PNP’s referendum petition. *See* Pet. ¶¶ 15–46. Plaintiffs here thus advance the position that Judge Bluestone “expressly found” that “PNP affirmatively waived” in any “future litigation.” *Von Glahn*, 2025 WL 3514277, at *4 n.4.

Plaintiffs allege only one injury. They claim that they “would be injured if HB1’s new map is used in the 2026 congressional elections because it would deny

⁷ <https://www.stlpr.org/government-politics-issues/2025-12-16/missouris-redistricting-lawsuits-whether-new-map-effect>.

[them their] constitutional right to approve or reject legislation through referendum.” Pet. ¶¶ 6, 9. To remedy this injury, Plaintiffs request an unprecedented declaratory judgment and injunction. Plaintiffs seek a declaratory judgment providing that HB1 is “suspended **until voters** approve or reject it through the constitutional referendum process.” *Id.* at 9 (emphasis added); *see also id.* ¶ 1. Second, Plaintiffs seek an injunction prohibiting “Defendants ... from using HB1’s congressional map **until voters** approve or reject it through the constitutional referendum process.” *Id.* at 9 (emphasis added); *see also id.* ¶ 2. Significantly, Plaintiffs request these remedies *even though* the Secretary has not completed his review of PNP’s referendum petition for legal sufficiency and has not determined whether to certify PNP’s referendum petition. *See* §§ 116.120–116.150, 116.200.

ARGUMENT

Plaintiffs’ Petition should be dismissed because it is not justiciable. Plaintiffs’ claim for relief—a declaratory judgment and an injunction ensuring the suspension of HB1 until the 2026 elections—is plainly unripe because the Secretary has not yet made his certification decision. Further, to the extent that Plaintiffs allege an interest in the law being followed before certification, Plaintiffs’ alleged injury is a textbook generalized grievance. And the “generalized interest of all citizens in constitutional governance” does not invoke standing.” *Missouri Coal. for Env’t*, 579 S.W.3d at 927 (citation omitted).

I. Plaintiffs' alleged injury is not ripe.

A. Plaintiffs' injury hinges on future events that may not come to pass.

Plaintiffs allege only one injury. They claim that they “would be injured if HB1’s new map is used in the 2026 congressional elections because it would deny [them their] constitutional right to approve or reject legislation through referendum.” Pet. ¶¶ 6, 9. But Plaintiffs’ Petition also makes three important concessions showing that Plaintiffs’ alleged injury is wholly contingent on future events. *First*, Plaintiffs note that the State Defendants *agree* that HB1 will be suspended if the Secretary ultimately determines that “the referendum petition is constitutional and contains sufficient signatures.” *Id.* ¶¶ 33–35 (internal quotation omitted). *Second*, Plaintiffs allege that the Secretary has not yet determined whether PNP’s referendum petition is legally sufficient. *Id.* ¶ 28. *Third*, Plaintiffs allege that “Secretary Hoskins has until July 2026 to ‘issue a certificate setting forth that the petition contains a sufficient number of valid signatures.’” *Id.* ¶ 41 (quoting § 116.150, RSMo).⁸ At the very least, this makes it highly likely that the Secretary will determine the legal sufficiency of PNP’s referendum petition before Missouri’s August 4 primary and November 4 general election in 2026. *See* § 115.121 (setting election dates).

Taking Plaintiffs’ three central admissions together, it is clear that the Secretary’s interim determination about HB1’s current effect does not control

⁸ Plaintiffs slightly misread the deadline imposed by § 116.150. Section 116.150.3 provides that “[t]he secretary of state shall issue a certificate pursuant to this section not later than 5:00 p.m. on the *thirteenth Tuesday prior to the general election* or two weeks after the date the election authority certifies the results of a petition verification pursuant to subsection 2 of section 116.130, whichever is later.” (emphasis added). For the November 2026 election, the date prescribed by the italicized language is August 4, 2026.

whether “HB1’s new map” will ultimately be “used in the 2026 congressional elections” before voters “approve or reject [the] legislation through referendum.” *Id.* ¶¶ 6, 9. Rather, by Plaintiffs’ own admission, all parties agree that the voters *will* consider HB1 before it is used in an election *if* the Secretary certifies PNP’s referendum petition as legally sufficient. *Id.* ¶¶ 33–35. Yet because the Secretary is actively reviewing the referendum petition with help from local election authorities, the Secretary’s final certification decision is presently unknown.

In light of the Secretary’s forthcoming certification decision, Plaintiffs’ claim is unripe because it “rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all.” *Geier*, 474 S.W.3d at 569 (quoting *Texas*, 523 U.S. at 300); *S.C.*, 474 S.W.3d at 163 (“Ripeness does not exist when the question rests solely on a probability that an event will occur.” (internal quotation omitted)). At this point, Plaintiffs can only allege that the HB1 maps “*would*” govern “the 2026 congressional elections” if the Secretary declines to certify PNP’s referendum petition. Pet. ¶¶ 6, 9. But “[p]rior to” the Secretary’s “decision,” Plaintiffs’ claim “remains hypothetical and premature.” *Farm Bureau Town & Country Ins. of Missouri v. Angoff*, 909 S.W.2d 348, 353 (Mo. banc 1995).

Controlling precedent has uniformly rejected analogous attempts to brush aside the ripeness doctrine. For example, *Calzone v. Ashcroft* held that a private plaintiff’s constitutional challenge to a referendum proposition was unripe “because H.B. 1460”—the subject of the referendum—“may never be enacted by voters.” 559 S.W.3d 32, 38 (Mo. App. W.D. 2018). Likewise, in *Progress Missouri, Inc. v. Missouri*

Senate, the Western District held that “an expression by the Senate that it ‘may’ take measures at some future point in time does not present a ripe controversy.” 494 S.W.3d 1, 5 (Mo. App. W.D. 2016).

Schweich v. Nixon, 408 S.W.3d 769 (Mo. banc 2013), is also instructive. In that case, the Missouri Governor had “announced that ... he was going to withhold, in FY 2012, ... \$300,000 from the [State] Auditor’s FY 2012 office budget.” *Id.* at 772. Just before the start of FY 2012, the State Auditor sued the Governor, challenging the Governor’s authority to withhold this appropriation. *Id.* But the Missouri Supreme Court dismissed the State Auditor’s claim as unripe. *Id.* at 777–79.

The Court acknowledged that the State Auditor would eventually have “standing to contest the withholding of \$300,000 from his own office budget,” but it held that the State Auditor’s claim was unripe “[u]ntil FY 2012 *ended* without payment of the \$300,000 at issue.” *Id.* at 779 (emphasis added). The Court explained that Article IV, Section 27 of the Missouri Constitution “expressly allows the Governor to ‘control the rate at which any appropriation is expended during the period of the appropriation by allotment or other means.’” *Id.* And “[u]ntil FY 2012 ended without payment of the \$300,000 at issue, it could not be known whether the Governor merely was exercising his constitutional authority to control the rate of appropriation of these funds or whether they were being withheld or spent beyond their appropriation entirely.” *Id.* The Court explained that it could not grant relief on the State Auditor’s claims because “the Governor’s authority is dependent on factors that could not be known and that could not be a part of the record until after

the trial court issued its judgment, and as until the fiscal year ended it could not be known what withholds, if any, might be permanent.” *Id.* The Court thus concluded that “[t]he Auditor’s claims that sums could not be withheld from his office were not ripe and the claims did not present a justiciable controversy.” *Id.*

If the State Auditor’s alleged injury in *Schweich* was unripe, then Plaintiffs claims here are also unripe. *Schweich* was a much closer question than this case. In *Schweich*, the Governor said that he would withhold \$300,000 from the State Auditor’s office during FY 2012. *Id.* at 772. Here, the Secretary has made no such forecast about his certification decision. Plaintiffs’ Petition also admits that the Secretary has acknowledged that the suspension of HB1’s maps will “take effect” if the Secretary ultimately “certifies the sufficiency of the signatures submitted in support of the referendum.” Pet. ¶ 33. Thus, like the reductions in the rate of appropriations in *Schweich*, the mere fact that HB1 is in effect now does not control whether HB1 will ultimately be suspended through the Secretary’s certification decision before the 2026 election. *Schweich*, 408 S.W.3d at 777–79. The Secretary still retains authority—under §§ 116.120 and 116.150—to ultimately suspend HB1 through a later certification of PNP’s referendum petition. Until that final certification decision is made, Plaintiffs claims are “not ripe” and do “not present a justiciable controversy.” 408 S.W.3d at 779.

Realizing that the Secretary’s forthcoming certification vitiates the ripeness of their injury, Plaintiffs allege that the State is attempting “to force the use of HB1’s new congressional map by delaying certification of the referendum’s signatures ...

until it is too late to change the congressional map for the 2026 midterms.” Pet. ¶ 36. But even assuming the truth of their conclusory allegation of delay, Plaintiffs never explain why delay would affect their ability to vote on a referendum of HB1 before the HB1 maps govern a congressional election. Plaintiffs also cite no authority allowing the Secretary to refuse to certify a referendum petition just because of delay. Of course, the *Purcell* principle⁹ requires courts to favor the status quo in a legal dispute during the lead-up to an election—but the *Purcell* principle is not a get-out-of-jail-free card on its own. *Purcell* would come into play only when there is an underlying legal dispute—such as a dispute over a finding of insufficiency by the Secretary. But a *potential* finding of insufficiency does not matter at this stage, especially because the Secretary’s certification decision is reviewable only “[a]fter the secretary of state certifies a petition as sufficient or insufficient.” § 116.200.1 (emphasis added). More fundamentally, the Secretary has not come to a final determination yet, and there is no way of knowing the Secretary’s final determination until the Secretary has completed the review required by §§ 116.120 and 116.150. Until the Secretary makes his certification decision, Plaintiffs’ alleged injury is “contingent” on “future events that may not occur as anticipated, or indeed may not occur at all.” *Geier*, 474 S.W.3d at 569 (quoting *Texas*, 523 U.S. at 300).

B. Plaintiffs’ Petition ignores the sequence for judicial review prescribed by Missouri law.

Plaintiffs’ claims are also unripe for another, independently-sufficient reason: Missouri law bars Plaintiffs’ claim for relief at this stage. Although the Secretary has

⁹ *Purcell v. Gonzalez*, 549 U.S. 1 (2006).

not made his certification determination yet, Pet. ¶ 28, Plaintiffs seek a declaratory judgment establishing that HB1 is “suspended *until voters* approve or reject it through the constitutional referendum process,” *id.* at 9 (emphasis added); *see also id.* ¶ 1. Never mind the Secretary’s role in reviewing signatures and determining whether to certify PNP’s referendum petition. *See* §§ 116.120–116.150, 116.200. Plaintiffs also seek an injunction prohibiting the State “from using HB1’s congressional map *until voters* approve or reject it through the constitutional referendum process.” *Id.* at 9 (emphasis added). Again, never mind the Secretary’s role in reviewing referendum petitions for sufficiency.

Missouri law establishes that Plaintiffs’ claim is unripe at this stage. “When an initiative or referendum petition is submitted to the secretary of state, he or she shall examine the petition to determine whether it complies with the Constitution of Missouri and with” Missouri law. § 116.120.1. “After the secretary of state makes a determination on the sufficiency of the petition and if the secretary of state finds it sufficient, the secretary of state shall issue a certificate setting forth that the petition ... compl[ies] with the Constitution of Missouri and with” Missouri law. § 116.150.1. Alternatively, “[i]f the secretary of state finds the petition insufficient, the secretary of state shall issue a certificate stating the reason for the insufficiency.” § 116.150.2. No secretary of state may refer a referendum to voters if the referendum petition is legally insufficient. *See State ex rel. Moore v. Toberman*, 250 S.W.2d 701 (Mo. banc 1952); *cf.* § 116.200.2 (“If the court decides the petition is insufficient, the court shall enjoin the secretary of state from certifying the measure and all other

officers from printing the measure on the ballot.”).

Critically, Missouri law opens the door to judicial review of this process only after the Secretary has determined whether to certify. Section 116.200.1 provides, “After the secretary of state certifies a petition as sufficient or insufficient, any citizen may apply to the circuit court of Cole County to compel him to reverse his decision.” § 116.200.1 (emphasis added). The Missouri Supreme Court and the Western District Court of Appeals have confirmed this understanding of § 116.200.1. *See MPIP*, 799 S.W.2d at 828–29 (The matter “is ripe for judicial determination when the Secretary of State makes a decision to submit, or refuse to submit, an initiative issue to the voters. At that point, a judicial opinion as to whether the constitutional requirements have been met is no longer hypothetical or advisory.”) (citing §§ 116.150.1 and 116.200); *Calzone*, 559 S.W.3d at 36 (“[A]fter the Secretary certifies a petition as sufficient or insufficient, any citizen may apply to the circuit court to compel the Secretary to reverse the decision. Thus, under the constitution and statutes relating to the initiative process, any controversy as to whether the prerequisites of article III, section 50 have been met is ripe for judicial determination when the Secretary of State makes a decision to submit or refuse to submit an initiative to the voters.”) (citing §§ 116.120.1 and 116.200).¹⁰

Plaintiffs’ unripe Petition seeks to bypass this process completely. Without any citation to authority, Plaintiffs demand a rushed declaratory judgment and

¹⁰ The fact that these statements concern ballot initiative petitions gathered under Article III, Section 50 of the Constitution is immaterial. Sections 116.120, 116.150, and 116.200 apply to both “initiative” and “referendum petitions,” § 116.120.1, and the Missouri Supreme Court’s interpretation of these statutes is equally controlling in both contexts.

injunction prohibiting the State “from using HB1’s congressional map *until voters* approve or reject it through the constitutional referendum process.” Pet. at 9 (emphasis added). Yet that kind of order would bypass the Secretary’s review process altogether, and it would defy the sequence for judicial review required by § 116.200.1. Such an order would also ensure that PNP’s referendum petition suspends a duly enacted statute *even if* the Secretary later finds that the referendum petition is legally insufficient. The relief that Plaintiffs demand would suspend HB1 “until voters approve[d] or reject[ed] it,” Pet. at 9; *id.* ¶¶ 1–2, *even if* the Secretary determined that PNP failed to obtain an adequate number of signatures in a requisite congressional district, *see* Mo. Const. art. III, § 52(a). Such an order would require the Secretary to refer PNP’s referendum to voters even though Missouri law forbids the Secretary from certifying a legally insufficient referendum petition. *See* Mo. Const. art. III, §§ 52(a), 52(b); §§ 116.120, 116.150. It also raises the possibility of conflicting judgments because any court that “decides” a referendum “petition is insufficient” “*shall* enjoin the secretary of state from certifying the measure and all other officers from printing the measure on the ballot.” § 116.200.2 (emphasis added).

Plaintiffs’ demand for judicial intervention is thus unripe at this stage. Because the Secretary still must make his certification determination, Plaintiffs can obtain no order remedying their hypothetical future injury. *See* Pet. ¶¶ 6, 9. At present, this Court cannot issue an order guaranteeing that “HB1’s new map” will not be “used in the 2026 congressional elections.” *Contra id.* ¶¶ 1–2, 6, 9. Until the Secretary makes his certification decision, this Court cannot enjoin the State “from

using HB1's congressional map *until voters* approve or reject it through the constitutional referendum process.” Pet. at 9 (emphasis added); *id.* ¶¶ 1–2. This Court must therefore dismiss Plaintiffs’ Petition as unripe.

II. Plaintiffs’ alleged interest in the law being followed is a generalized grievance.

Plaintiffs try to maneuver around the above ripeness problems through creative pleading with vague references to generalized injuries. At various points in their petition, Plaintiffs seemingly assert a generalized interest in HB1 not governing *anyone*, at any time, “*until voters* approve or reject the legislation through the constitutional referendum process.” See Pet. ¶ 1 (emphasis added). For example, even though Plaintiffs never allege that they intend to run for congress in 2026, Plaintiffs object to HB1 governing “the filing period for congressional candidates,” which “begins on February 24, 2026.” *Id.* ¶ 36 (citing § 115.349.2). This too fails.

First, citing generalized grievances does not cure any ripeness problem. Missouri law categorically bars Plaintiffs from seeking a declaratory judgment and injunction at this stage. Section 116.200.1 provides that court lacks jurisdiction to require the Secretary to submit a referendum to the voters until “[a]fter the secretary of state certifies a petition as sufficient or insufficient.” § 116.200.1 (emphasis added). So this Court is powerless to issue an order prohibiting the use of HB1 “*until voters* approve or reject the legislation through the constitutional referendum process.” See Pet. ¶¶ 1–2, at 9 (emphasis added). The Secretary must make his certification decision first. See §§ 116.120–116.150, 116.200.

In any event, Plaintiffs lack any individualized injury caused by HB1. The

Missouri Supreme Court has emphasized that the standing doctrine “requires a petitioner to demonstrate a personal stake in the outcome of the litigation, meaning ‘a pecuniary or personal interest directly at issue and subject to immediate or prospective consequential relief.’” *Missouri Coal. for Env’t*, 579 S.W.3d at 926 (quoting *Schweich*, 408 S.W. at 775)). The Court has also emphasized that the “generalized interest of all citizens in constitutional governance’ does not invoke standing.” *Id.* at 927 (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 160 (1990)). Applying that principle here, Plaintiffs lack standing to complain about HB1’s application to the candidate filing period. Neither Plaintiff alleges that they are candidates, so at best, Plaintiffs can merely allege a generalized injury about the application of HB1.

To be sure, § 116.200.1 allows “any citizen [to] apply to the circuit court of Cole County to compel [the Secretary of State] to reverse his [certification] decision.” § 116.120.1. But § 116.200.1 creates this exception only “[a]fter the secretary of state certifies a petition as sufficient or insufficient.” *Id.*; *MPIP*, 799 S.W.2d at 828–29 (recognizing that § 116.200 creates an exception to the usual standing rules, but that § 116.200 opens this door only “[a]fter the petition is certified”). All parties agree that the Secretary has not made that determination yet. *See* Pet. ¶ 28.

Also, Plaintiffs’ passing references to the fact that they are “taxpayer[s]” and residents “of the [old] Fifth Congressional District” do not redeem their generalized grievances. *Id.* ¶¶ 3–4, 7–8. To the extent that Plaintiffs are trying to lay groundwork for taxpayer standing, one’s status as a taxpayer has never been

sufficient—on its own—to demonstrate taxpayer standing. *See Manzara v. State*, 343 S.W.3d 656, 659 (Mo. banc 2011); *Moynihan v. Gunn*, 204 S.W.3d 230, 233 (Mo. App. E.D. 2006) (“Merely being a taxpayer is not enough to confer standing...”). And Plaintiffs never even try to allege the requisite elements for taxpayer standing. *See Manzara*, 343 S.W.3d at 659. Plaintiffs’ status as residents of the old Fifth Congressional District is also immaterial. This is not a case where Plaintiffs have alleged an individualized, substantive objection to the HB1 map. *See Gill*, 585 U.S. at 64–67. Rather, Plaintiffs just have a generalized, procedural objection. Further, even if Plaintiffs had alleged a substantive objection (such as a “racial gerrymandering” claim), the limitation on generalized grievances would prohibit Plaintiffs from suing “to invalidate the whole State’s legislative districting map; such complaints must proceed ‘district by district.’” *Id.* (quotation omitted)). In any event, Plaintiffs have made no such claim here, and this Court lacks jurisdiction to pass on “the generalized interest of all citizens in constitutional governance.” *Missouri Coal. for Env’t*, 579 S.W.3d at 927 (cleaned up). Indeed, the limitation on “generalized grievances” itself “ensures that courts exercise power that is judicial in nature” instead of power reserved for the people’s elected representatives. *Gill*, 585 U.S. at 64–65.

Finally, it bears note that some absent parties have a more defensible claim to a particularized injury. People Not Politicians—the proponent of the referendum petition challenging HB1—and Richard Von Glahn—PNP’s executive director—might be able to assert a concrete and particularized (albeit still unripe) interest.

Indeed, the Western District Court of Appeals has acknowledged that “a proponent”—like PNP and Von Glahn—“has a greater interest in the initiative petition than someone” who is merely “as a political supporter and signer of the initiative petitions.” *Allred v. Carnahan*, 372 S.W.3d 477, 484 (Mo. App. W.D. 2012). “This is because a proponent or sponsor will likely have been responsible for drafting the initiative petition, causing it to be filed with the Secretary of State, expending time and money in support of it and the like.” *Id.* Moreover, the signatories of a referendum petition “are not ensured the right to have their signatures counted” and “[n]othing prevents the proponents or petitioners of an initiative petition from withdrawing the initiative petition before the submission deadline.” *Prentzler v. Carnahan*, 366 S.W.3d 557, 563 (Mo. App. W.D. 2012). Consequently, no Missouri court has ever held that political supporters and signatories to a referendum have pre-certification standing to advance a generalized grievance of the kind that Plaintiffs assert here. Comparatively, assuming away Plaintiffs’ ripeness problem, PNP and Von Glahn might be able to assert a particularized injury. After all, the petition is *theirs* and they “caus[ed] it to be filed with the Secretary of State.” See *Allred*, 372 S.W.3d at 484.

But PNP and Von Glahn are not here. And it is no wonder why. If PNP and Von Glahn filed this action, they would be estopped because of their prior position in *Missouri General Assembly v. Von Glahn*, 2025 WL 3514277. There, PNP and Von Glahn prevailed by agreeing that HB1 “the law would go into effect” even after PNP submitted its referendum petition. Ex. A, Tr. at 48:9–50:10. The federal district court

accepted this position, and it cited that concession as at least part of the reason it dismissed the case. *See Von Glahn*, 2025 WL 3514277, *1, *3–5, & n.4. If PNP and Von Glahn filed Plaintiffs’ lawsuit, they would run headlong into the doctrine of judicial estoppel. *See Vacca v. Missouri Dep’t of Lab. & Indus. Rels.*, 575 S.W.3d 223, 225 (Mo. banc 2019) (“Other than finding a party took inconsistent positions, no consideration is a fixed prerequisite” for “[j]udicial estoppel.”). Indeed, the federal district court in *Von Glahn* recognized this: “[T]he Court has expressly found that PNP affirmatively waived these points precluding any argument to the contrary in future litigation (to say nothing of the ethical ramifications of counsel breaching their duty of candor to this tribunal).” *Von Glahn*, 2025 WL 3514277, at *4 n.4.

Now, Plaintiffs Maggard and Lombardi have appeared—pressing the very claims that PNP and Von Glahn cannot make themselves.¹¹ Even still, the mere fact that PNP and Von Glahn would be estopped does not mean that this Court should create an exception to standing rules for Plaintiffs Maggard and Lombardi. Both Plaintiffs assert nothing more than generalized grievances and unripe claims. The law forbids both. *Missouri Coal. for Env’t*, 579 S.W.3d at 927; *Geier*, 474 S.W.3d at 569. Thus, this Court must dismiss this action.

CONCLUSION

The bottom line is that any particularized injury to the Plaintiffs rests on contingent, future events that may not occur. *Geier*, 474 S.W.3d at 569 (quoting *Texas*, 523 U.S. at 300). Further, until the Secretary issues a certification decision,

¹¹ Maggard and Lombardi are also likely estopped by PNP’s concessions because they are likely in privity with PNP. *See supra* n.1.

this Court cannot issue the relief that Plaintiffs seek. See § 116.200.1; §§ 116.120–116.150. Finally, Plaintiffs’ invocation of generalized grievances can never establish standing before the Secretary’s certification decision. *Missouri Coal. for Env’t*, 579 S.W.3d at 926–27; § 116.200.1. Because Plaintiffs fail to allege a justiciable claim, this Court should dismiss their Petition and spare all parties the burdens of a pointless trial.

Date: January 7, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2026, a true and accurate copy of the above was electronically filed by using the Court's electronic filing system to be served via operation of the Court's electronic filing system upon all counsel of record.

Louis J. Capozzi III