

**RELATORS
PEOPLE NOT
POLITICIANS, Et Al
. PETITION FOR
PROHIBITION
EXHIBIT 15**

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

PEOPLE NOT POLITICIANS, *et al.*,)
)
 Plaintiffs,)
)
 v.) Case No. 25AC-CC07128
)
 MISSOURI SECRETARY OF STATE,)
)
 Defendant,)
)
 and)
)
 PUT MISSOURI FIRST,)
)
 Intervenor.)

**PUT MISSOURI FIRST'S MOTION TO DISMISS FIRST AMENDED
 PETITION AND SUGGESTIONS IN SUPPORT**

COMES NOW Intervenor Put Missouri First ("Intervenor"), by and through undersigned counsel, and respectfully moves this Court to dismiss Plaintiffs' First Amended Petition pursuant to Rule 55.27 for failure to state a claim upon which relief can be granted as the claims made are not ripe for adjudication and thus there is no justiciable controversy. In support thereof, Intervenor states as follows:

SUGGESTIONS IN SUPPORT

I. INTRODUCTION

Plaintiffs seek declaratory and injunctive relief based on allegations that Secretary of State Denny Hoskins (the "Secretary") violated Missouri's Sunshine Law and constitutional referendum rights by rejecting referendum petition sample sheets "as to form" because the Governor had not yet signed House Bill 1. However, Plaintiffs' claims are premature and nonjusticiable

because: (1) no final agency action has occurred; (2) Plaintiffs have not submitted signatures and the Defendant has not completed the statutory process for signature verification under Chapter 116, RSMo; and (3) Missouri law provides an express statutory remedy for judicial review only after the Secretary makes a final determination on signature sufficiency under Section 116.200, RSMo. This Court should dismiss the petition because Plaintiffs' claims are not ripe for adjudication.

II. FACTUAL BACKGROUND

According to Plaintiffs' own Petition:

1. On September 12, 2025, Plaintiff von Glahn submitted referendum petition sample sheets to the Secretary for review. (Pet. ¶ 32)¹.

2. The Secretary sent letters on September 12, 14, and 15, 2025, stating variously that the petitions "cannot be accepted for processing" and that "the Secretary of State has not yet made a final determination whether your referendum petition may be accepted for processing or circulation." (Pet. ¶¶ 34-35, 39, 45; Exs. C-E).

3. The Secretary's September 14, 2025 letter stated that "the statutory review process is still pending" and that Plaintiff von Glahn's "submission has been formally transmitted to the Attorney General in accordance with § 116.332, and the statutory timeline for review is now running." (Pet. ¶ 40; Ex. D).

4. On September 26, 2025, the Secretary rejected the referendum sample sheets "as to form" because House Bill 1 had not yet been signed by the Governor. (Pet. ¶¶ 51-54; Ex. G).

5. Plaintiffs claim they have gathered more than 20,000 signatures

¹ Plaintiffs filed a First Amended Petition on September 29, 2025, all citations refer to that First Amended Petition.

(Pet. ¶ 57), but Plaintiffs have not alleged that any of those signatures have been filed with the Secretary for verification pursuant to the statutory process in Chapter 116.

6. Plaintiffs have not claimed that there has been a determination of signature sufficiency under Section 116.150, RSMo, which requires the Secretary to "make a determination on the sufficiency of the petition" and "issue a certificate setting forth that the petition contains a sufficient number of valid signatures." (Pet. ¶ 13).

III. LEGAL STANDARD

A motion to dismiss under Rule 55.27(g) tests the legal sufficiency of the petition. *Nazeri v. Mo. Valley Coll.*, 860 S.W.2d 303, 307 (Mo. banc 1993). The court must accept as true the facts alleged in the petition and view them in the light most favorable to the plaintiff. "A justiciable controversy exists where [1] the plaintiff has a legally protectable interest at stake, [2] a substantial controversy exists between parties with genuinely adverse interests, and [3] that controversy is ripe for judicial determination." *Mo. Health Care Ass'n v. Attorney Gen. of Mo.*, 953 S.W.2d 617, 620 (Mo. banc 1997); *Schweich v. Nixon*, 408 S.W.3d 769, 773-4 (Mo. banc 2013).

Even when a plaintiff is able to show standing, the merits will not be reached unless the case is ripe. Ripeness is determined by whether "the parties' dispute is developed sufficiently to allow the court to make an accurate determination of the facts, to resolve a conflict that is presently existing, and to grant specific relief of a conclusive character." *Mo. Health Care Ass'n*, 953 S.W.2d at 621. "A court cannot render a declaratory judgment unless the petition presents a controversy ripe for judicial determination." *Mo. Soybean Ass'n v. Mo. Clean Water Comm'n*, 102 S.W.3d 10, 26 (Mo. banc 2003), quoting *Mo. Health Care Ass'n*, *Id.* at 621.

Schweich, 408 S.W.3d at 774; *Geier v. Missouri Ethics Comm'n*, 474 S.W.3d

560, 569 (Mo. banc 2015).

"A claim is not ripe for adjudication if 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. "Ripeness is a 'tool' of the court, which is used to determine whether a controversy is 'ripe' or ready for judicial review, or whether by conducting the review, we would simply be rendering an advisory opinion on some future set of circumstances, which we are not permitted to do." *Reeves v. Kander*, 462 S.W.3d 853, 857 (Mo. App. W.D. 2015).

Courts lack jurisdiction to issue advisory opinions on hypothetical future disputes. *Scobee v. Norris*, 620 S.W.3d 262, 267 (Mo. App. E.D. 2021).

IV. ARGUMENT

A. Plaintiffs' Claims Are Not Ripe Because No Final Agency Action Has Occurred

Plaintiffs' Petition suffers from a fundamental jurisdictional defect: it seeks judicial review of a preliminary opinion, not a final agency action. The Secretary has stated only that he *would* reject signatures gathered before the Governor signed House Bill 1. (Pet. ¶ 56). The Secretary has not actually rejected any signatures because Plaintiffs have not filed their signature pages with the Secretary for verification. Plaintiffs ask this court for an advisory opinion: that *if* they turn in signatures gathered before the Governor signed House Bill 1, that the Secretary must count the signatures. See Section IV(D), *infra*.

Chapter 116, RSMo, establishes a clear, multi-step process for referendum petitions:

1. Sample Sheet Submission and Form Review (§116.332)

Before circulating petitions, proponents must submit a sample sheet to the Secretary, who reviews it for "sufficiency as to form" within 15 days. § 116.332.1, .4, RSMo.

2. Signature Gathering and Submission

After form approval, proponents circulate petitions and gather signatures, which must be submitted "not more than ninety days after the final adjournment of the session of the general assembly which passed the bill." Mo. Const. art. III, § 52(a); Pet. ¶ 18.

3. Procedure for Filing of Petition (§116.100)

The petition must be filed "with signature pages,...in order and numbered sequentially by county." Section 116.100.

4. Signature Verification and Sufficiency Determination (§116.150)

Upon submission of signed petitions, the Secretary "shall make a determination on the sufficiency of the petition" by verifying signatures against voter registration records. § 116.150, RSMo; Pet. ¶ 13. Only after completing this verification does the Secretary "issue a certificate setting forth that the petition contains a sufficient number of valid signatures to comply with the Missouri Constitution." *Id.*

5. Judicial Review (§116.200)

"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, RSMo (emphasis added). "The action must be brought within ten days after the certification is made." *Id.*

Here, Plaintiffs have skipped steps 2, 3 and 4 entirely. They filed this lawsuit *before* submitting their signatures for verification and *before* the Secretary made any final determination under Section 116.150, RSMo. The Secretary's September 26, 2025, letters rejecting the sample sheets "as to form" do not constitute a "certification of] a petition as sufficient or insufficient" under Section 116.200.1. That certification can only occur *after* signature verification under Section 116.150.

In *Prentzler v. Carnahan*, the court determined petition signers had no right to intervene because of all of the contingencies involved with the petition process – holding their interest was "too remote and attenuated." 366 S.W.3d 557, 563 (Mo. App. 2012). The court explained:

Nothing prevents the proponents or petitioners of an initiative petition from withdrawing the initiative petition before the submission deadline. Likewise, if the petitioner of an initiative petition fails to meet the submission deadline or fails to file the signed petitions in accordance with the procedures set out in § 116.100, the Secretary of State has the right to reject the petition as insufficient.

Id. Here, Plaintiffs are free to withdraw the initiative petition before the submission deadline or cease signature collection at any time. Plaintiffs could fail to meet the submission deadline or fail to follow the procedures set out in Section 116.100, RSMo. Any one of these future contingencies would mean that the Secretary has no duty at all to count or verify a single signature. That duty only arises upon submission by the deadline that complies with all of the detailed requirements in Section 116.100, RSMo.

If any one of the future contingent events occurs as described above, it renders this case moot. Courts have routinely dismissed pending ballot title challenges as moot when a proponents fail to turn in signatures. *Hummel v. Ashcroft*, 647 S.W.3d 577, 581 (Mo. Ct. App. 2022) (“No signatures were submitted by that deadline, and thus this measure will not appear on the November 2022 ballot. Because the measure will not appear on the ballot, ‘there is no live controversy for this court to resolve.’” (quoting *Asher*, 268 S.W.3d at 429); *Asher v. Carnahan*, 268 S.W.3d 427, 429-30 (Mo. App. W.D. 2008); *Busch v. Carnahan*, 320 S.W.3d 757, 759-60 (Mo. App. W.D. 2010).

Similarly, the Missouri Supreme Court has held that claims are not ripe for adjudication when they rest “upon contingent future events that may not occur as anticipated, or indeed may not occur at all.” *Geier*, 474 S.W.3d at 569. In *Geier*, the Court found a facial challenge to reporting statutes unripe where the plaintiff “sought relief on behalf of others not before the court and in future circumstances not certain to occur.” *Id.* Likewise, the Eastern District held that claims regarding potential bad-faith insurance issues were not ripe because

they "rested upon contingent future events that may not occur." *Scobee v. Norris*, 620 S.W.3d 262, 267 (Mo. App. E.D. 2021).

Here, Plaintiffs' claims rest on multiple layers of contingency:

- Plaintiffs have not filed their signature pages, so there is no petition before the Secretary to verify;
- The Secretary has made no determination regarding signature sufficiency under Section 116.150.
- The Secretary's statements about future rejection are hypothetical—he has expressed an opinion about what he *would* do, not what he *has* done with respect to filed signatures.
- Plaintiffs may ultimately gather insufficient valid signatures or otherwise fail to meet the statutory requirements for reasons unrelated to the timing issue, rendering this entire dispute moot.

"Because '[w]e cannot and do not render advisory opinions,' it would be improper for us to rule upon" claims that depend on future, uncertain events." *Scobee*, 620 S.W.3d at 267 (quoting *Matter of Estate of Van Cleave*, 574 S.W.2d 375, 376 (Mo. banc 1978)). As the Western District stated in *Reeves*:

Any controversy as to whether the prerequisites of [A]rticle 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 issue to the voters," which he has not yet done in this case.

Reeves, 462 S.W.3d at 857. Just as in *Reeves*, this Court should not decide abstract questions about the validity of signatures that have not been submitted or verified.

B. Plaintiffs Have an Adequate Statutory Remedy That They Have Not Yet Invoked

Dismissal is particularly appropriate because Missouri law provides Plaintiffs with an express, adequate remedy—one they simply have not yet pursued. Section 116.200, RSMo, establishes a clear procedure for challenging

the Secretary's certification decisions:

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. The action must be brought within ten days after the certification is made. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. § 116.200.1, RSMo (emphasis added).

This statute provides Plaintiffs with expedited judicial review of the Secretary's *final* determination regarding their petition's sufficiency. But that review is available only *after* the Secretary makes that final determination—which he cannot do until Plaintiffs file their signed petitions and he completes the verification process.

Plaintiffs' attempt to bypass this statutory framework by seeking premature declaratory relief undermines the orderly administrative process established by Chapter 116. The statute contemplates that disputes over signature validity will be resolved *after* verification, when the factual record is complete and the issues are concrete rather than hypothetical.

The Missouri Supreme Court determined that a letter from a state agency that might (or might not) lead to other consequences does not create a ripe controversy. *Graves v. Mo. Dep't of Corrections*, 630 S.W.3d 769, 773-4 (Mo. banc 2021). “Graves’ case could be ripe if the Division made a concrete, binding, immediate decision to classify him with violation status should his nonpayment continue or the Division took other definitive action to collect the fee. The Division remained free to take or avoid such action in future.” *Id.* (emphasis supplied). Just as in *Graves*, here the Secretary made an initial statement, but still has the expressly vested authority to make a final decision after verification. Only when that decision is made is a claim ripe to be

adjudicated.

The question of whether specific signatures are valid must be decided through the statutory verification and certification process, followed—if necessary—by judicial review under Section 116.200. When that process is complete, then and only then would these claims be ripe for adjudication.

The Missouri Supreme Court has repeatedly emphasized that courts should not interfere with ongoing administrative processes before final agency action. See, e.g., *Mo. Soybean Ass'n v. Mo. Clean Water Com'n*, 102 S.W.3d 10 (Mo. banc 2003) and Mo. Const., art. V, §18. The existence of Section 116.200's express remedy for post-certification judicial review demonstrates the General Assembly's intent that courts review the Secretary's final determinations only after completion of the statutory process, not in piecemeal fashion based on preliminary statements.

C. The Petition Fails to Allege Facts Showing a Present, Concrete Injury

Even accepting Plaintiffs' allegations as true, the petition fails to identify any present injury:

- Plaintiffs have not been prevented from gathering signatures as they expressly claimed to have gathered over 20,000 signatures. (Pet. ¶ 57).
- Plaintiffs have not filed their signatures, so none have been rejected. The Secretary cannot reject what has not been submitted.
- The Secretary has not issued a final certification under Section 116.150, so there is no final agency action to review.
- Plaintiffs' alleged injury—that signatures "may" be deemed invalid—is speculative and depends on future contingencies: whether Plaintiffs file their signatures, whether those signatures are otherwise valid, and whether the Secretary's preliminary opinion regarding timing remains unchanged.

Plaintiffs' concern that "rejection of the sample sheets also threatens to

cast doubt on the validity of any signatures gathered on those forms" (Pet. ¶ 55) is precisely the type of speculative future harm that does not support ripeness. *See Geier*, 474 S.W.3d at 569 (claim not ripe where it "rests upon contingent future events that may not occur as anticipated").

Moreover, Plaintiffs' assertion that the Secretary "intends to declare any signatures gathered before the governor signed House Bill 1 invalid" (Pet. ¶ 56) is an allegation about future intent, not present action. Courts do not issue declaratory judgments to prevent hypothetical future harm; they resolve actual disputes over completed conduct. *See Scobee*, 620 S.W.3d at 267.

D. Premature Adjudication Would Result in an Improper Advisory Opinion

If this Court were to rule on Plaintiffs' claims now, it would effectively issue an advisory opinion on abstract legal questions divorced from concrete facts:

- The Court does not know how many signatures Plaintiffs will ultimately file, or whether they will meet the constitutional threshold regardless of the timing issue.
- The Court does not know whether the Secretary will actually reject signatures when they are submitted—his preliminary statements may not reflect his final determination after reviewing the complete petition.
- The Court does not know what specific signatures might be challenged or on what grounds, making it impossible to assess whether any alleged form defect materially prejudiced the petition's validity.
- The Court does not have the factual record developed through the verification process, including evidence of which signatures were gathered when, whether circulators complied with statutory requirements, and whether signers were registered voters.

As the Eastern District observed: "Because '[w]e cannot and do not render advisory opinions,' it would be improper for us to rule upon a[n] ... claim

that has yet to be filed." *Scobee*, 620 S.W.3d at 267. This principle applies with equal force here.

The ripeness doctrine exists precisely to prevent courts from "rendering an advisory opinion on some future set of circumstances." *Id.* Plaintiffs ask this Court to decide in the abstract whether signatures gathered before the Governor signed House Bill 1 are valid—but that question cannot be meaningfully answered without knowing the specific circumstances of the signature-gathering effort, the content of the final submitted petition, and the Secretary's application of the law to that concrete factual record.

E. Public Policy Supports Requiring Completion of the Statutory Process

Public policy strongly favors requiring parties to exhaust administrative processes before seeking judicial review, particularly where—as here—the legislature has provided an express, expedited remedy.

Chapter 116 establishes a carefully structured process designed to ensure orderly review of initiative and referendum petitions. That process includes:

- Time limits for sample sheet review (15 days, §116.332.4);
- Time limits for signature gathering (90 days after adjournment, Mo. Const. art. III, §52(a));
- Time limits for signature verification;
- Time limits for judicial review (10 days after certification, §116.200.1); and
- Expedited procedures for any litigation ("advanced on the court docket and heard and decided ... as quickly as possible," §116.200.1).

These deadlines serve important interests in finality and public certainty about what will appear on the ballot. Allowing premature litigation before completion of the administrative process disrupts this framework and

invites parties to seek judicial intervention at every preliminary stage, rather than resolving disputes efficiently through the procedures the legislature established.

Moreover, permitting this lawsuit to proceed would establish a troubling precedent. If proponents can challenge preliminary form determinations before filing signatures, then opponents could likewise challenge sample sheets on any conceivable ground, leading to multiple rounds of litigation over hypothetical disputes that may never materialize in the actual petition.

The statutory scheme wisely confines judicial review to the final certification stage, when all relevant facts are known and the actual petition—not a preliminary sample—is before the Secretary. This Court should enforce that framework by dismissing Plaintiffs' premature claims.

V. CONCLUSION

Plaintiffs' claims are not ripe because they rest on contingent future events: the filing of signatures that have not been filed, the Secretary's verification of signatures he has not verified, and the Secretary's certification of a petition he has not certified. The Secretary has taken no final agency action reviewable under Section 116.200, and Plaintiffs have not exhausted the administrative process that statute contemplates.

"A claim is not ripe for adjudication if 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. That is precisely the case here. Plaintiffs ask this Court to issue an advisory opinion on abstract legal questions before the factual predicate for those questions exists. Missouri courts lack jurisdiction to do so.

WHEREFORE, Intervenor Put Missouri First respectfully requests that this Court:

1. Dismiss Plaintiffs' First Amended Petition for failing to state

a justiciable controversy due to a lack of ripeness;

2. Award Intervenor its costs incurred in bringing this motion;
and

3. Grant such other and further relief as the Court deems just
and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served
via the Court's electronic filing system and by hand on November 25, 2025 on
counsel for all parties of record.

/s/ Marc H. Ellinger