

IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT

State of Missouri ex rel. PEOPLE  
NOT POLITICIANS., et al.,

Relators,

v.

Case No. WD88522

HON. CHRISTOPHER K. LIMBAUGH,

Judge of the Circuit Court  
of Cole County, Missouri,

Respondent.

**SUGGESTIONS IN OPPOSITION TO PETITION FOR A WRIT OF  
PROHIBITION**

Respondent and for his Suggestions in Opposition to Petition for A Writ of Prohibition states as follows:

**I. Summary of Argument**

Relators' Petition for a Writ of Prohibition ("Relators' Petition") raises two separate and distinct questions: (i) intervention and (ii) scope of discovery – both fail to meet the standard for the issuance of a writ of prohibition.

A writ of prohibition is an extraordinary remedy to be used with great caution, forbearance, and only in cases of extreme necessity. *State ex rel. Lester E. Cox Med. Ctr. v. Wieland*, 985 S.W.2d 924, 926 (Mo. App. 1999) (citing *Scott County Reorg. R-6 School Dist. v. Missouri Comm'n on Human Rights*, 872 S.W.2d 892, 893 (Mo. App. 1994)). This Court has explained:

[T]he essential function of prohibition is to confine judicial activities within the limits of cognizable authority, preventing actions in want or excess of the court's jurisdiction. *State ex rel. Eggers v. Enright, supra*, 609 S.W.2d at 382. An act in excess of jurisdiction must be clearly

evident, *State ex rel. Tarrasch v. Crow*, 622 S.W.2d 928, 937 (Mo. banc 1981), and there is a presumption of right action in favor of the trial judge.

*State ex rel. Martin v. Peters*, 649 S.W.2d 561, 563 (Mo. App. 1983). In addition, Rule 84.22 provides: “No original remedial writ shall be issued by an appellate court in any case where adequate relief can be afforded by an appeal.”

#### **A. Order Granting Intervention was Proper**

The granting of intervention as a matter of right or permissively is a proper item for appeal, not for the issuance of a writ. A review of all cases Respondent can find in Missouri shows that there is not a single writ case involving the granting of a writ when intervention was granted by the trial court. The only writ cases related to intervention in which a writ was issued related to the denial of intervention. Since Relators have an adequate remedy in an appeal, a writ should be denied under Rule 84.22 (“No original remedial writ shall be issued by an appellate court in any case where adequate relief can be afforded by an appeal[.]”).

In Missouri, “[intervention] ‘should be liberally construed to permit broad intervention’ and that even the requirement of a pleading may be excused.” *Allred v. Carnahan*, 372 S.W.3d 477, 482 (Mo. App. W.D. 2012) (quoting *State ex rel. St. Joseph, Mo. Ass’n of Plumbing, Heating and Cooling Contractors, Inc. v. City of St. Joseph*, 579 S.W.2d 804, 806 (Mo. App. W.D. 1979)). Respondent<sup>1</sup> properly granted the Verified Motion to Intervene (“Verified Motion”) and denied the Motion to Reconsider Intervention. The Verified Motion established facts and law to demonstrate that the Intervenor

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<sup>1</sup> Respondent in this writ action is the Honorable Christopher Limbaugh. However, the initial order on the Verified Motion to Intervene was entered by the Honorable Dan Green who is not a Respondent in this writ action.

established the requirements to intervene as a matter of right under Rule 52.12(a) and also permissively under Rule 52.12(b).<sup>2</sup>

Under Rule 52.12(a), the Court properly found that the Verified Motion established that the intervenor had (i) an interest in the transaction that is the subject matter of the litigation, (ii) that a disposition of the action would as a practical matter impair or impede the ability to protect that interest, and (iii) that applicant's interest is not adequately represented by the existing parties. The Verified Motion stated facts that established that the intervenor is a political action committee formed for the purpose of opposing the referendum in question, that it had and continued to expend funds and have obligations in pursuit of its purpose and that the actions related to the certification or rejection of the petition directly affect the purpose of the intervenor. These facts were not controverted and no evidence to the contrary was presented by Relators. The Verified Motion also established that the intervenor would be required to raise additional funds, incur additional expenses if the Relators prevailed in the case. Finally, the Verified Motion demonstrated that the intervenor's interest was not adequately represented by the Secretary of State as the Secretary's interests are related to process and procedure and therefore made different decisions than intervenor (such as putting on no evidence; agreeing with Relator on facts that were unsupported; and seeking no discovery to review Relators' claims). Moreover, depending upon the status of the case, the Secretary may or may not choose to appeal. These uncontroverted facts demonstrate that Respondent was correct in granting intervention as a matter of right.

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<sup>2</sup> The Verified Motion sought intervention as a matter of right or alternatively permissively. The order granting intervention did not specify one or the other, so if intervention was proper either as a matter of right or permissively, the trial court's decision must be affirmed and the writ denied.

Even if a court were to determine that Intervenor was not entitled to intervention as of right under Rule 52.12(a), there is little question that it was proper to grant permissive intervention under Rule 52.12(b). The bar for permissive intervention is much lower than that as a matter of right. Permissive intervention is granted where intervenor's motion is timely filed and the claims and defenses have a question of law or fact in common with the existing litigation. Relators' only opposition to permissive intervention is that Intervenor's and Defendants' affirmative defenses are the same; but they are not. Relators' Amended Petition in the underlying case, sought injunctive relief and element of which is harm to the Relators. Only Intervenor raised as an affirmative defense that Relators had failed to demonstrate any harm and thus no injury. In fact, the only testimony at trial on harm was elicited by the Intervenor and established just that: no harm to Relators.

For all of these reasons, as more thoroughly addressed below, the Writ of Prohibition should not issue on the question of intervention.

### **B. Order to Compel was Proper**

The trial court has broad discretion over discovery matters, and courts only intervene when there's an abuse of discretion - meaning the order is clearly against logic, arbitrary, unreasonable, and shows lack of careful consideration. Missouri's discovery rules allow parties to obtain discovery regarding any non-privileged matter relevant to the subject matter of the pending action, with "relevant" broadly defined to include material reasonably calculated to lead to admissible evidence. The discovery rules are designed to preserve evidence, eliminate concealment and surprise, and provide litigants with access to proper information to develop their contentions. The requested discovery is within the scope of Rule 56.01(b) because it is directly relevant to the claims raised and relief requested by Relators, and the defenses raised by

Intervenors.

The cases cited by Relators where courts narrowed or disallowed discovery are distinguishable because they involved ballot title challenges with narrow statutory questions, whereas this case involves broader claims about signature validity that directly implicate the signatures, contracts, and validity reports requested in discovery. Relators' objections to the requests for production all fail. While Realtors claimed it would "impossible" to comply with the "burdensome discovery requests" in advance of the trial on Monday, December 8 at 1:30 p.m. (Supp. Suggs., p. 1), Relators also admit it was *not impossible* to deliver almost all of the requested documents at 8:00 a.m. the next morning to Defendant Secretary of State. *See* Supp. Suggs., p. 2. The documents requested are relevant, the requests are not overly broad or burdensome, or covered by any other privilege. The trial court properly granted Intervenor's Motion to Compel.

## II. Procedural History

Relators have laid out the timeline of the various pleadings and hearings in this case in its Petition for Writ of Prohibition.<sup>3</sup> However, Relators omitted key facts relevant to the Court's review of the Relators' Petition.

Relators' Petition was not filed until after the trial had already commenced. The trial commenced at 1:30 p.m. on December 8, 2025. Ex. 1, p. 2.<sup>4</sup> However, the file-stamped copy in this Court's records shows that it was filed at 01:32 PM on December 8, 2025. Service to Respondent and to counsel

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<sup>3</sup> As an Answer to Relators' Petition is not required at this time under Rule 84.24, Respondent only concedes the dates and the documents filed. The allegations, commentary, and conclusions in the procedural history are disputed and denied.

<sup>4</sup> All numeric exhibit references are to Relators' exhibits filed with Relators' Petition, with the bates stamped page number cited.



for intervenor was not made until 01:44 on December 8, 2025. Ex. A, Email service by Relators' counsel.<sup>5</sup> Service on Intervenor's lead counsel was not made until 01:45 PM on December 8, 2025. Ex. B, Email from Relators' counsel. In fact, the first notice of a writ any party, except the Relator, was delivered orally during the course of the trial. *See*, Ex. C, 15:3-6, Trial Transcript of December 8, 2025.

Relators did not seek to continue the trial when notifying Respondent and the parties of the filing of Relators' Petition. *Id.* At the trial, Relators offered no evidence except the Amended Joint Stipulation of Facts and Exhibits (Ex. 20) and the previous Joint Stipulation of Facts and Exhibits (Ex. 19), the latter of which Intervenor's counsel objected. Ex. C, 23:19-25:25, 96:22-97:18. Relators then rested their case in chief. Ex. C, 27:17-19. The Secretary offered no evidence. Ex. C, 27:22-23. Then Intervenor called Chrissy Peters as a witness for its case. Ex. C, 6:2-3. Intervenor also offered exhibits which were admitted without objection. Ex. C, 40:19:24 and 41:9:18.

### III. Argument

Relators raise prohibition on two separate issues: intervention and on the order issued by Respondent compelling discovery responses, and in particular certain documents requested by Intervenor. Relators fail to meet the burden for an extraordinary writ and fail to overcome the presumption that Respondent rightly granted intervention and compelled discovery.

#### **A. Prohibition is improper for the granting of Intervention, as Plaintiffs have adequate relief on appeal.**

Prohibition is governed by Rule 97 and Rules 84.22 through 84.24. In

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<sup>5</sup> Respondent's exhibits filed with these Suggestions are labeled using letters, to separate them from Relators' exhibits with the bates stamped page number referenced.

this case, Rule 84.22(a) mandates denial of Relators' Petition with respect to Respondent granting Intervenor's Motion to Intervene. Rule 84.22(a) states:

(a) No original remedial writ shall be issued by an appellate court in any case wherein adequate relief can be afforded by an appeal or by application for such writ to a lower court.

Prohibition does not lie when there is a remedy on appeal. *State ex rel. McCulloch v. Schiff*, 852 S.W.2d 392, 374 (Mo. App. E.D. 1993). "[P]rohibition cannot be substituted for a remedy by appeal." *State ex rel. Berbiglia, Inc. v. Randall*, 423 S.W.2d 765, 770 (Mo. 1968).

Similarly, the Supreme Court has more recently used this rule deny relief in mandamus.

Mandamus is inappropriate when there is remedy through appeal. Rule 84.22(a); *State ex rel. Kauble v. Hartenbach*, 216 S.W.3d 158, 159 (Mo. banc 2007).

*State ex rel. McCree v. Dalton*, 573 S.W.3d 44, 46 (Mo. 2019)

Relators have improvidently filed their Relators' Petition as the question of granting intervention, as opposed to denying intervention, is subject to appeal and not to Prohibition. Missouri courts have rarely entertained writs with respect to intervention and have never, to the best of Respondent's knowledge and research, where the granting of intervention was the subject of the writ.

There are a small number of cases where writs have been issued on the denial of intervention. See *State ex rel. Ideker, Inc. v. Grote*, 437 S.W.3d 279 (Mo. App. W.D. 2014) and *State ex rel. Webster County v. Hutcherson*, 199 S.W.3d 866 (Mo. App. S.D. 2006). In both cases, the appellate court noted that appeal was the correct remedy but in light of timing issues and briefing, they issued writs. See *e.g. Ideker*, 437 S.W.3d at 283.

Even Relators' own citation defeats its argument. In *State ex rel. County*

*Mut. Ins. Co. v. May*, 620 S.W.3d 96 (Mo. banc 2021), the Court did not issue a writ related to intervention. Only one judge in a solo concurrence even referenced the idea of reviewing the intervention. *Id.* at 101-102. There is no analysis or discussion just a statement that if presented Judge Wilson would have ruled on it. *Id.* the other six members of the Court did not join in his dicta.

There are good reasons why a writ should not issue where intervention is granted. The question of intervention is subject to appeal and thus a writ cannot issue. There are a number of cases where intervention has been a point on appeal and ruled on by the Court. In *Robinson v. Missouri Dep't of Health and Senior Svcs.*, 672 S.W.3d 224 (Mo. banc 2023), the Supreme Court addressed intervention after trial. This was not a writ action, but an appeal. The Supreme Court in *Breitenfeld v. Sch. Dist. of Clayton*, 399 S.W.3d 816, 836-7 (Mo. 2013) found that granting of intervention was proper in an appeal.

At the time of intervention, the intervenors' claims were in common with the main action as required for permissive intervention under Rule 52.12(b)(2). The trial court did not abuse its discretion in sustaining the motion to intervene.

*Id.* at 837. Similarly in *Johnson v. State*, 366 S.W.3d 11 (Mo. banc 2012), the Supreme Court addressed the grant of intervention in an appeal. *See also Allred v. Carnahan*, 372 S.W.3d 477 (Mo. App. W.D. 2012); *Prentzler v. Carnahan*, 366 S.W.3d 557 (Mo. App. W.D. 2012) (both petition related cases).

Furthermore, if Relators prevail at trial, as of this date no judgment has been issued, there would be no harm from the intervention. Which is the reason the granting of intervention is an appealable issue.

In sum, it is clear that Relators' Petition must be denied with respect to intervention under Rule 84.22(a) as they can address this issue on appeal.



**B. Respondent's granting of intervention was not in excess of the court's jurisdiction.**

The Verified Motion was sufficient to establish intervention and Respondent properly granted intervention. Intervention is governed by Rule 52.12 which in relevant part states<sup>6</sup>:

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of this state confers an unconditional right to intervene or (2) when 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.

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action: (1) when a statute of this state confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common; or (3) when the validity of a statute, regulation or constitutional provision of this state, or an ordinance or regulation of a governmental subdivision thereof, affecting the public interest, is drawn in question in any action to which the state or governmental subdivision or an officer, agency or employee thereof is not a party, the court may in its discretion notify the chief legal officer of the state or governmental subdivision thereof, and the state or governmental subdivision may in the discretion of the court be permitted to intervene, upon proper application.

The Verified Motion to intervene sought intervention under both parts of Rule 52.12. The order granting intervention states "Put Missouri First motion to intervene, sustained." Ex. 1, p. 5. Since this order did express whether intervention was granted as a matter of right or permissively, a review of such intervention must overcome both manners of intervention under Rule 52.12. Under either standard, the intervention was properly granted.

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<sup>6</sup> Relators raise no issue with the procedure laid out in Rule 52.12(c), so Respondent does not address this part of the rule.

This Court has addressed the standing of proponents and opponents of ballot measures previously. In doing so, this Court has found that standing and intervention are established. In *Allred v. Carnahan*, 372 S.W.3d 477 (Mo. App. W.D. 2012) this Court did a full analysis of intervention by a proponent of an initiative petition. This Court started by noting:

Indeed, it has been held that the Rule “should be liberally construed to permit broad intervention” and that even the requirement of a pleading may be excused. *State ex rel. St. Joseph, Mo. Ass’n of Plumbing, Heating and Cooling Contractors, Inc. v. City of St. Joseph*, 579 S.W.2d 804, 806 (Mo. App. W.D.1979).

*Id.* at 482. Taking this liberal construction, this Court continued to analyze the claims made by the proposed intervenor (Appellant):

But to the extent factual determinations are necessary in deciding whether to grant intervention as of right, “we view the evidence and all reasonable inferences drawn therefrom in the light most favorable to the prevailing party and must give due regard to the trial court’s credibility determinations.” *Williams v. Williams*, 99 S.W.3d 552, 556 (Mo. App. W.D.2003) (internal citation omitted).

*Id.* at 483. As conceded by Relators, the Intervenor filed a Verified Motion. Here, the verification stated:

I, Matt Belz, Treasurer of Put Missouri First, hereby appear under oath and verify that I have personal knowledge of the facts in the above Verified Motion to Intervene of Put Missouri First and that they are true and accurate.”

Ex. 8, p. 93. This verification serves the same as an affidavit and stands as uncontroverted evidence unless rebutted by other facts. *See, e.g.*, Rule 74.04(e).

With no evidence by Relators to contradict the facts stated therein, the facts of the Verified Motion must be accepted as true.

Given the court’s mandate to liberally construe and permit intervention and that the Intervenor submitted facts that were uncontroverted, the analysis

simply becomes one of applying the facts to the law, the traditional role of a trial court. *Allred*, 372 S.W.3d at 483. Here this Court should offer substantial deference to the Respondent's decision, and indeed in a writ proceeding his decision is presumptively correct. *Id.*

**1. Intervenor demonstrated it was entitled to Intervention as a Matter of Right.**

The Verified Motion contained a number of verified factual statements to show the interest of the intervenor, broken down into each of the three areas established under Rule 52.12(a): interest, impairment, and representation.

**a. Intervenor demonstrated an interest related to the subject of the action.**

The facts demonstrating the Intervenor's interest are as follows:

Intervenor is a registered political action committee with the purpose of opposing the proposed referendum at issue. Intervenor's formation, reporting obligations, and expenditures are governed by Missouri's campaign-finance statutes, which directly tie its activities to the life cycle of ballot measures certified for the ballot. Intervenor's fundraising, communications, and expenditure decisions are triggered by the Secretary of State's certification or rejection of a referendum petition. The legality of that determination directly affects when and how Intervenor may conduct its core operations. Further, the Secretary of State's determination that the petition is insufficient directly governs whether Intervenor must initiate statewide campaign operations, undertake additional reporting obligations, and deploy financial and organizational resources in opposition to the measure. Intervenor's interest is not abstract or ideological, but immediate and concrete. Further, Intervenor has already invested resources to educate voters, coordinate coalition opposition, and communicate the legal and policy defects of the proposal.

Ex. 8, pp. 58-59. These facts are not only similar to, but nearly identical to the facts that Missouri Jobs for Justice ("MJJ") alleged in *Allred*:

She [affiant] further indicated that MJJ had paid staff members to help in the process of gathering signatures, and that if Respondent Allred's challenge to the summary statements was successful, MJJ would be required to expend additional time and money.

*Allred*, 372 S.W.3d at 483.<sup>7</sup> The Court in *Allred* took note of the general interest of a proponent:

As a preliminary matter, we note that both parties acknowledge that a proponent of an initiative petition generally has a greater interest in the initiative petition than someone, for instance, in Ms. Gordon's posture as a political supporter and signer of the initiative petitions.

*Id.* Just as MJJ, the Intervenor here has raised and expended funds, complied with organizational and reporting requirements, and conducted activities in opposition to the collection of signatures and the qualification referendum that is the subject matter of the underlying case. Ex. 8, pp. 58-59. Moreover, if Relators are successful in the underlying action, Intervenor will incur more expenditures, reporting obligations and changes to campaign operations. *Id.*

Based on these same, if less robustly developed, facts this Court determined that MJJ had established an interest in the underlying action warranting intervention as of right:

Thus, MJJ has expended its time and financial resources in order to collect the requisite number of signatures to qualify the petitions for the November 2012 ballot. In fact, Greim's affidavit establishes that, as of December 13, 2011, the Missouri Ethics Commission had records of \$808.34 having been expended in salary, benefits, staff time, and mileage related to the minimum wage petition.

This is the factual and theoretical basis for MJJ's claimed interest in the underlying action. It establishes that MJJ has more than just a curious, academic or sentimental interest in the underlying action. MJJ was responsible for submitting the Minimum Wage Initiative Petitions, and it has expended its money, time and volunteer efforts in promoting their

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<sup>7</sup> Unlike here, the opponents of the initiative submitted a counter-affidavit. *Id.*



success. It thus has a quantifiable interest in the underlying action that was not merely consequential, remote or conjectural and, therefore, satisfied the first element for intervention of right.

*Allred*, 372 S.W.3d at 485. To paraphrase this Court, the Intervenor in this action has “expended its time and financial resources” to oppose the qualification of the referendum petitions. The Intervenor has established “more than just a curious, academic or sentimental interest in the underlying action.” The Intervenor here has “expended its money, time and...efforts” in opposing the referendum petitions. As a result, Intervenor established a “quantifiable interest in the underlying action that was not merely consequential, remote or conjectural and, therefore, satisfied the first element for intervention of right.” *Id.*

Relators attempt to negate the clear import of *Allred*, not with facts or law, but mere assertion. In *Allred*, the proponents were seeking to uphold a decision of the Secretary of State relating to a ballot title well before any signatures were turned in to the Secretary. The change in the ballot title would not affect the signature gathering but would have an impact on the election if sufficient signatures were verified. Just as is the case here, the decision of the Secretary could significantly affect whether the measure makes the ballot. This Court found that to be sufficient to show an interest in *Allred*.

On December 10, 2025<sup>8</sup>, this Court asked Respondent to address three cases in relation to whether Intervenor had an adequate interest to support intervention: *Committee for Educational Equality v. State*, 294 S.W.3d 477, 487 (Mo. banc 2009); *Prentzler v. Carnahan*, 366 S.W.3d 557, 564 (Mo. App. W.D. 2012); and *Myers v. City of Springfield*, 445 S.W.3d 608, 611 (Mo. App. S.D.

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<sup>8</sup> This Court’s order seeking a response by 4:00 p.m., December 12, 2025 was signed on December 8, 2025; however, it was not posted or served until 1:39 PM, December 10, 2025.

2014). All three of which were decided on appeal and not in a writ proceeding, *See* III, A, *supra*. The first case reversed permissive intervention, the second case affirmed denial of intervention as a matter of right, and the final case affirmed denial of both forms of intervention. Each of these cases is distinguishable from the current case.

First, in *Committee for Educational Equality*, the Supreme Court was reviewing the standing of school districts and representative organizations who were challenging school funding provisions. The Court found that the districts and organizations had standing to challenge the state school funding formula and the state's assessments to fund education but not to assert equal protection arguments on behalf of students. The Court then turned to the permissive intervention of three individual taxpayers. *Committee for Educational Equality*, 294 S.W.3d at 486.

The Court was only presented with permissive intervention which had been granted. *Id.* No claim of intervention as a matter of right was presented to the Court. There was no analysis of what claim or defense was being asserted by the intervenors, except to note that the intervenors merely restated the State's defenses. *Id.* ("Defendant–Intervenors asserted no claim, defense, or interest unique to themselves").

The Court found that taxpayer standing does not apply to defendants but instead only to plaintiffs. *Id.* at 487. This holding was based on the unique nature of taxpayer standing which only applies to restrain the state from improperly spending tax revenue...not to support the spending of tax revenue. *Id.* Because the court found no material harm to Plaintiffs as a result of permitting intervention, the Court determined reversal was not required. *Id.* at 487-8.

The court cautioned: "Applying taxpayer standing to Defendant–

Intervenors would open the floodgates to allow all Missouri taxpayers to seek intervention in the State's defense of constitutional and statutory challenges.” *Id.* at 487. Here there is no risk of opening the floodgates: Intervenor Put Missouri First is the only identified committee registered with the Missouri Ethics Commission to oppose the referendum petitions at issue in the underlying case.

*Committee for Educational Equality* does not address the interests of a proponent or opponent of a potential ballot measure, but only a taxpayer seeking to “defend the status quo funding formula. *Id.* There are two distinct differences between *Committee for Educational Equality* and the underlying case: (i) the Intervenor is not alleging taxpayer standing but instead actual harm based upon its private expenditures of time and resources in opposition to the referendum petition; and (ii) Intervenor raised different at least one different defense – lack of harm to Relators which is required for injunctive relief. *See* Ex. 25, p. 403 (“The Plaintiffs have shown no individual harm and are[sic] thus have no interest, aside from purely conjectural interest in the claims and therefore have no standing to bring the action.”). The Secretary did not raise lack of harm as a defense.

At trial, Intervenor was the only party to put evidence that Intervenors had not demonstrated harm sufficient to state a claim for relief.

In *Prentzler*, this Court addressed the issue of two initiative petition signers who sought to intervene in a ballot title case. *Prentzler*, 366 S.W.3d at 559. The signers sought to intervene as a matter of right and not permissively. *Id.* The trial court denied intervention and the signers appealed. *Id.* This Court addressed the interest of the signers and noted that they were “signatories and supporters” of an initiative petition and have a “personal interest in the validity of the petition, in seeing the initiative circulated and qualified for the

November 2012 ballot, and in having their signatures counted as valid.” *Id.* at 562.

This Court found that merely wanting their individual signatures counted on a petition was not a sufficient interest. The court found that their interests were “too remote and conjectural to justify intervention as of right” because the outcome of ballot title litigation would not directly affect whether their signatures would be counted—factors outside the litigation (like petition withdrawal, missed deadlines, or procedural failures) could independently prevent signature counting regardless of the ballot title’s validity. *Id.* at 562-3. Similarly, in *Allred* to the court found the individual signer (Gordon) should not be allowed intervention; yet the committee supporting the initiative was properly granted intervention. *Allred*, 372 S.W.3d at 488. Proponent and opponent committees face concrete financial and organizational consequences that flow directly from the judicial determinations made in ballot measure cases.

This is the key difference between *Prentzler* and *Allred* and the instant case. *Prentzler* and *Allred* stand for the proposition that individual signers lack a sufficient interest to intervene. Still, both cases make clear that an organized committee raising and expending funds supporting an initiative had a sufficient interest. The discussion in *Prentzler* of *Brown v. Wyrick* is instructive. 626 S.W.2d 674 (Mo. App. W.D.1981). In *Brown*, prison officials could intervene because inmates’ name changes would “cause the intervenors to incur expense” and create operational complications. Here, just as in *Brown*, the outcome of the underlying case will cause Intervenor’s additional expense and operational complications. Where the Intervenor has collected contributions and expended funds for its *raison d’être* (to oppose the referendum petitions), it has an interest to be protected and intervention is



proper as a matter of right.

Finally, this Court asks Respondent to address *Myers v. City of Springfield*, 445 S.W.3d 608, 611 (Mo. App. S.D. 2014). In *Myers*, the Southern District addressed whether two signers of a referendum petition could intervene in an action. *Id.* at 610. The trial court denied intervention and the signers appealed. *Id.* The Court reviewed what is a “direct” interest in the matter being litigated. *Id.* at 611. In reviewing *Prentzler*, the Court held that a mere signer on a petition had no direct interest the case. *Id.* The Court then turned to *In re Clarkson Kehrs Mill Transp. Development Dist.*, 308 S.W.3d 748 (Mo. App. E.D. 2010). There the Eastern District found that adjacent landowners of a proposed transportation development district had too “vague” of an interest to be allowed intervention. *Id.* at 753 (They “do not desire and have not requested such improvements and oppose all of them”).

The Southern District in *Myers*, then found that the signers presented nothing more than their claim to be signers of a petition and did not claim any “specific economic harm.” *Myers*, 445 S.W.3d at 614. For those reasons, the Southern District affirmed the trial court’s denial of intervention as a matter of right.

The Southern District also reviewed the denial of permissive intervention for abuse of discretion. *Id.* at 615. The Court determined that the signers did not “claim a question of fact or law in common with plaintiffs or defendants.” *Id.* The Court affirmed the denial of permissive intervention, finding the decision was not “so unreasonable” as to require it. *Id.*

*Myers* is not at all analogous to the underlying case here, where the Intervenor was formed to oppose the referendum petitions and raised and spent money and incurred reporting obligations to that end. Ex. 4, pp. 58-59. If Relators succeed in the underlying case, additional expense and obligations

will continue and increase. *Id.* This is a specific economic harm and a direct interest in the outcome of the underlying matter. If Relators succeed, it is much more likely that the referendum petitions will qualify for the ballot. This would directly harm Intervenor's interests.

Finally, it is important to note that permissive intervention is reviewed on an abuse of discretion standard. *Johnson v. State*, 366 S.W.3d 11, 20 (Mo. banc 2012). The granting of intervention would have to be "clearly against the logic of the circumstances then before the court and is so arbitrary and unreasonable to shock the sense of justice and indicate a lack of careful consideration." *Id.* Relators have not and cannot meet this burden because Intervenor's Verified Motion established an interest in the underlying subject matter of this litigation, the trial court correctly granted intervention.

**b. Intervenor's interest would be impaired or impeded if intervention was not granted**

Relators fail to meaningfully challenge the second element of Rule 52.12(a)(2)—whether disposition of this action may impair or impede Intervenor's ability to protect its interests. Intervenor's Verified Motion established multiple factual grounds demonstrating such impairment. *See Ex. 4*, pp. 59-60. Relators have not rebutted any of these factual showings.

Moreover, because Relators raised no objection to this element in their Petition for Writ of Prohibition, they have waived any challenge to it. For purposes of determining whether extraordinary writ relief is warranted, this Court should treat the impairment element as established.

**c. The existing parties do not adequately represent Intervenor's interest**

The final prong of the test under Rule 51.12(a) is the adequacy of representation by other parties. As this Court has explained:

Furthermore, “where the first two requisites for [intervention as of right] are met, the third element requires only the ‘minimal showing’ that the representation ‘may be’ inadequate.” *Toombs v. Riley*, 591 S.W.2d 235, 237 (Mo. App. W.D.1979). Thus, once a proposed intervenor establishes an interest in the underlying litigation and that such an interest may be impaired or impeded if intervention is not permitted, the third element is satisfied upon a “minimal showing” that there is a divergence of interest between the proposed intervenor and the party.

*Allred*, 372 S.W.3d at 487. This is a low bar...one which Intervenor cleared easily.

First, the Verified Motion specifically addressed the ways in which the interests of Intervenor differ from that of the Secretary. Ex.4, pp.60-63. These factual issues are not countered by any evidence or facts from Relators. As it was a Verified Motion, the facts stand uncontroverted. As an official of the State of Missouri, the Secretary has institutional interests in a quick resolution— as evidenced by the initial Joint Stipulation (Ex. 19), the lack of discovery (Ex. 1), and the failure to put on any evidence (Ex. C).

The Secretary did not even raise lack of harm, an essential element for injunctive relief. Exs. 3,12. Conversely, Intervenor expressly challenged harm. Ex. 25, p. 403. Intervenor propounded discovery to Relators. Exs. 5, 6. Intervenor elicited evidence that there has been no harm to Relators. Ex. C, 54:21-56:23. The record reflects that the representation of the Secretary did not adequately represent Intervenor’s interests.

Relators cite just one case on adequacy of representation: *Committee for Educational Equality*. Suggs., p. 7. As Respondent noted above, Intervenor asserted different and additional defenses that the Secretary did not assert. In particular, the lack of harm on Relators due to the rejection as to form. The divergence of interests and strategy is sufficient to satisfy the third prong for intervention.

Relators also imply that there is an issue of timing with respect to the

granting of intervention in the underlying case. Suggs., pp. 7-8. However, the Supreme Court has found that intervention is timely at any time; even after a judgment is entered. See *Robinson*, 672 S.W.3d at 230 and *Breitenfield*, 399 S.W.3d at 816 (intervention timely on remand).” If application is made for intervention as of right before trial, leave to intervene is rarely denied, even though the application is made long after institution of proceedings and shortly before trial setting.” *Model Hous. & Dev. Corp. v. Collector of Revenue*, 583 S.W.2d 574, 576 (Mo. Ct. App. 1979); *Pius v. Boyd*, 857 S.W.2d 238, 242 (Mo. App. W.D. 1993).

Here the Verified Motion was filed before trial, sustained before trial, and re-affirmed before trial. The Intervention was timely under Rule 52.12.

The Verified Motion presented and Intervenor demonstrated satisfaction of all three prongs of Rule 52.12(a) for intervention as a matter of right. Accordingly, Respondent did not clearly act in excess of his jurisdiction when granting Intervention. The writ should be denied.

## **2. In the alternative, permissive intervention was proper.**

Relators' Petition for Writ of Prohibition contains a fundamental and dispositive defect: it challenges only intervention as of right under Rule 52.12(a)(2), while remaining completely silent on permissive intervention under Rule 52.12(b). This omission alone warrants denial of the writ.

Intervenor sought intervention on both grounds—and the trial court granted Intervenor's Verified Motion. Ex. 4. The order granting intervention did not specify which basis, so this Court can deny Relators' Petition on either basis (or both). Even assuming *arguendo* that Relators could demonstrate error in the trial court's grant of intervention as of right (which they cannot), they have wholly failed to challenge the independent and sufficient basis of permissive intervention. A writ of prohibition will not issue unless "the facts



and circumstances of the particular case demonstrate unequivocally that there exists an extreme necessity for preventative action." *Derfelt v. Yocom*, 692 S.W.2d 300, 301 (Mo. banc 1985).

Because Relators have not even attempted to demonstrate that the trial court abused its discretion in granting permissive intervention—much less that "extreme necessity" requires this Court's extraordinary intervention—their Petition must be denied.

If this Court decides to engage in a review of the merits of permissive intervention, Intervenor has met this standard also.

Under Rule 52.12(b), permissive intervention is authorized where “when an applicant's claim or defense and the main action have a question of law or fact in common.” Rule 52.12(b)(2). A grant of permissive intervention is reviewed for abuse of discretion. *Johnson v. State*, 366 S.W.3d 11, 20 (Mo. banc 2012). The granting of intervention would have to be “clearly against the logic of the circumstances then before the court and is so arbitrary and unreasonable to shock the sense of justice and indicate a lack of careful consideration.” *Id.* That standard has not been met by Relators.

As discussed *supra*, Intervenor’s defenses have questions of fact and law in common with the existing litigation.. Without belaboring the point, the Verified Motion contained twenty-six factual statements related to the questions of law and fact in common with the existing litigation. The underlying matter involves referendum petitions that Intervenor has been expending resources to oppose. The result of the underlying matter would directly impact Intervenor causing additional expenses and reporting requirements if Relators prevail. The questions of law and fact that are presented in the underlying matter directly affect Intervenor’s interests.

Permissive intervention was properly granted as an alternative and the

Relators' Petition should be denied.

### **C. Respondent's Order to Compel Discovery was not in Excess of the Court's Jurisdiction.**

#### **1. Standard in Reviewing Discovery Orders**

A trial court has broad discretion in controlling, managing, and administering the rules of discovery. *State ex rel. Ford Motor Co. v. Messina*, 71 S.W.3d 602, 607 (Mo. banc 2002); *State ex rel. Am. Standard Ins. Co. of Wis. v. Clark*, 243 S.W.3d 526, 529 (Mo. App. 2008). Courts will interfere with the trial court's exercise of discretion regarding discovery issues only when the Court deems it to have abused its discretion. *Am. Standard Ins. Co. of Wis.*, 243 S.W.3d at 529. "The trial court abuses [its] discretion if its order is clearly against the logic of the circumstances, is arbitrary and unreasonable, and indicates a lack of careful consideration." *Ford Motor Co.*, 71 S.W.3d at 607.

#### **2. The Scope of Discovery under Rule 56.01**

Relators suggest discovery *must be limited* to matters "relevant to a claim or defense" and "proportional to the needs of the case" citing Rule 56.01(b)(1). This turns Missouri's discovery rules on their head. Relators' Petition, p. 13.

Pursuant to Rule 56.01 "[p]arties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action." The term "relevant" is broadly defined to include material "reasonably calculated to lead to the discovery of admissible evidence." *State ex rel. Dixon Oaks Health Ctr., Inc. v. Long*, 929 S.W.2d 226, 231 (Mo. App. 1996). The discovery sought need not be admissible at trial. Rule 56.01.

"The rules of discovery are designed to preserve not to conceal evidence[.]" *VBM Corp. v. Marvel Enters., Inc.*, 842 S.W.2d 176, 180 (Mo. App. 1992) (citing *Combellick v. Rooks*, 401 S.W.2d 460, 464 (Mo. banc 1966); *J.B.C.*

*v. S.H.C.*, 719 S.W.2d 866, 869 (Mo. App.1986)). “[T]he purposes of discovery are to eliminate concealment and surprise, to assist litigants in determining facts prior to trial, and to provide litigants with access to proper information through which to develop their contentions and to present their sides of the issues as framed by the pleadings.” *State ex rel. Woytus v. Ryan*, 776 S.W.2d 389, 391 (Mo. banc 1989) (cleaned up) (emphasis added).

### **3. The Cases Cited by Relators are Easily Distinguishable**

None of the cases cited by Relators are on point here. *State ex rel. Kander v. Green* involved a Section 116.190, RSMo. case regarding whether an initiative petition ballot title was sufficient and fair. The Plaintiff (initiative petition proponent) sought discovery about the “Secretary’s personal beliefs about campaign finance and ethics reform generally, including requests related to public and private positions that the Secretary has taken on the subject matter of the Petition.” 462 S.W.3d 844, 847 (Mo. App. 2015). The court held “the Secretary’s stated views as they relate to Initiative Petition 2016–005—whether he is its staunchest advocate or most vociferous opponent—have no relevance to the question at issue[.]”. *Id.* at 852. The underlying case here is not a ballot title challenge, and Intervenor is not seeking information about the Secretary’s personal beliefs.

Similarly, *State ex rel. Humane Soc’y of Missouri v. Beetem* was a ballot title case where the ultimate issue before the trial court was “whether the Secretary’s use of ‘puppy mill cruelty,’ the title of the proposed crime, is likely to create prejudice for or against the measure.” 317 S.W.3d 669, 673 (Mo. App. 2010). There, initiative petition opponents sought “findings from a series of focus group studies [that] was developed to formulate political strategy, craft messaging, and analyze how the opponent’s political messaging might resonate with the public.” *Id.* at 671-72. The court held “The motives and political

strategies of initiative proponents are not relevant to the court's analysis of the Secretary's summary statement.” *Id.* at 673. Again, the underlying case here involving the wording of the ballot title – where the question before the court is narrow and limited by Section 116.190, RSMo. Nor does Intervenor here seek political focus group or polling data.

Relators rely heavily on *Concerned Citizens for Crystal City v. City of Crystal City*, 334 S.W.3d 519, 522 (Mo. App. 2010). There, the Plaintiffs had already disclosed more than 6,000 pages of information. *Id.* Here, Relators have not produced a single page.

In *Crystal City*, the President of the Citizens Group set up a website with an electronic forum for people to discuss a proposed development project. “The authors of posted remarks were anonymous to viewers of the Forum, but [the] webmaster of the Forum, had the ability to know who posted each comment, apparently due to the source email addresses and IP addresses for each posted remark.” *Id.* at 521. The intervenor sought “all information...that had been posted on the domain <http://www.clearpillar.com>” and “all databases...related to [the forum] ... to include, among other things, the IP addresses related to each post, member names and email addresses, and the text of private messages on the database.” *Id.* at 522. The Court found the request to be overbroad and the trial court’s sanction of the Plaintiffs an abuse of discretion. *Id.* at 524. In doing so, the Court outlined a “properly narrowed request for production regarding the Forum database.” *Id.* at 525. The Court suggested Intervenor could have requested (from the entire universe of public postings) specific posts that pointed to discoverable witnesses or information relevant to the Plaintiff’s claims or Defendant’s defenses. *Id.* at 524. It also noted the Intervenor could have requested the postings made by parties to the litigation (for the purposes of admissions). *Id.*



As detailed herein, the requests propounded by Intervenor are related to the claims and defenses raised in the underlying matter and the focus is on parties to the litigation.

#### **4. Relators' Claims and Requested Relief All Fail**

##### **a. Relators' Claims: Signatures**

Relators make specific claims about signature totals. Relators' Amended Petition claims:

57. To date, Plaintiffs' campaign has gathered more than 20,000 signatures of Missouri voters supporting the referendum on House Bill 1.

Ex. 2, p. 17. The (original) Joint Stipulation also states:

23. Richard von Glahn and People Not Politicians began gathering signatures in support of the referendum petition on September 15, 2025.

29. Between September 15, 2025 and September 28, 2025, Plaintiffs collected approximately 32,600 signatures in support of the referendum petition.

32. Between September 29, 2025 and October 14, 2025, Plaintiffs collected approximately 70,200 signatures in support of the referendum petition.

Ex. 19, pp. 289-90.

Relators now attempt to back peddle, claiming "The number of signatures in the parties' prior stipulation was always a good faith estimate, and it is ultimately irrelevant to the issues in this case." Relators' Suggs, p. 11; *see also* n.4 (where Relators claim the Stipulation itself includes no agreement that the facts therein were relevant or necessary). An Amended Stipulation was prepared and filed. *See* Ex. 20. The only substantive difference between the two Stipulations is removal of paragraphs 23, 29, 32. Compare Exs. 19 and 20. After offering the Amended Stipulation at trial, Relators still sought admission of the (original) Stipulation. It begs the question: if the signature

numbers contained in those three paragraphs are irrelevant, why did Relators feel the need to have it admitted at trial? Because, as Relators own actions show, they are relevant.<sup>9</sup>

**b. Relators' Claims: Harm**

In addition, in order to succeed, Relators must successfully plead and prove irreparable harm. Their Amended Petition describes the alleged harm:

77. If an injunction does not issue, Plaintiffs will suffer irreparable harm because "delays in the State's performance of its obligations in the pre-signature collection stage of the referendum process can have the practical effect of foreclosing meaningful exercise of the power of referendum." 577 S.W.3d at 890.

Ex. 2, p. 19. In opposition to the pending Motion to Dismiss, Relators elaborated:

Plaintiffs face the consequences of having signatures deemed invalid. ... This is also true of the public, with the additional potential hardship of having their signatures ... deemed invalid by the Secretary.

Ex. D, p. 147.

At the hearing on the Motion to Dismiss, Relators' counsel stated the following with respect to harm:

It's not that it's not ripe, but we do have injury because intervenors had pointed out that if ... a signature page that didn't comply, then no signatures are going to count. That's -- so that's the injury. So that's count one.  
...

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<sup>9</sup> At trial, Intervenor objected to these paragraphs being admitted. Ex. C, pp. 23:19-25; 25:25; 96:22; 97:1. Intervenor's objections were overruled. Intervenor argued the best evidence of the number of signatures collected on certain dates was the signatures themselves (which although having been compelled to produce by the Court, Relators failed to produce). Ex. C, p. 37:13-18. Intervenor was prejudiced by the admission of those paragraphs without having the opportunity to review the best evidence of the same.

Count two we have alleged the Secretary is not going to count certain signatures...

Ex. 21, 345:913; Ex. 21, 348:23-24.

**c. Relators' Requested Relief: Signatures**

In addition, the requested relief by Relators places the signatures at issue:

c. Declare that Signatures may be gathered once a sample sheet is submitted to the Secretary of State and such signatures may not be rejected because they were gathered prior to the Secretary issuing an approval of the sample sheet as to form.

f. Prohibit the Secretary of State and anyone acting in concert with him from rejecting signatures gathered on Plaintiffs' referendum petition because those signatures were gathered prior to the approval of the referendum sample sheet as to form and/or were gathered prior to the governor signing House Bill 1;

Ex. 2, p. 21. Relators wrongly claim, "It matters not whether there are no signatures or hundreds of thousands." Relators' Suggs. p. 9.<sup>10</sup> Let's assume, as Relators have suggested, that there are no signatures. How can the court, as Relators requested, declare that signatures "not be rejected because they were gathered prior to the Secretary issuing an approval of the sample sheet as to form" if there are no signatures? How can the Respondent prohibit the Secretary of State from "rejecting signatures....[that were] gathered prior to the approval...as to form and/or were gathered prior to the governor signing House Bill 1" if there aren't any signatures to reject? The existence of

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<sup>10</sup> Relators later give away their case admitting they would have to show at least one valid signature: "If there is even one valid signature the Secretary rejects due to his erroneous legal position" then they claim their right to referendum "is undermined." Relators' Suggs. p. 11-12. Of note, at trial, Relators did not call any witnesses, or offer any evidence of a single valid signature.

signatures directly concerns the defenses raised in this case like justiciability, mootness, and ripeness that Relators readily admit are at issue in this case. See Relators' Petition, p. 13. The lack of a single valid signature in the window of which Relators complain which even could be rejected relates to Intervenor's defenses of whether Relators have stated a claim, whether they have shown any harm, and whether their claims are speculative.

**5. The Fact that Relator has Submitted Signed Referendum Petitions to the Secretary of State does not Render Moot Intervenor's Interrogatories and Requests for Production of Documents, Concerning Collected Signatures, and Concerning Signed and Circulated Referendum Petitions.**

As evidenced by the docket sheet, the underlying case is on expedited review. Ex. 1. Relators initially agreed in open court to an expedited discovery deadline of November 21, 2025. Ex. 1, p. 4; Ex. 17. Respondent entered its order compelling the responses on December 4, 2025. To date, Relators have not produced a single page responsive to Intervenor's Requests for Production. See Ex. 29. Relators submitted their Petitions to the Secretary on December 9, 2025. Ex. 30. The Secretary has three weeks to deliver Petition pages to the Local Election authorities. See Section 116.030, RSMo. That deadline is December 30, 2025. The Secretary electronically scans the signature pages. Ex. C, 34:4-25. If the Secretary uses his allotted time, the signature pages will not be available to Intervenor from the Secretary until more than six weeks after the date Relators initially agreed to respond to the discovery. At the time the request was made, the pages were in the possession and control of Relators. Ex. 21, 323:7-11. Intervenor is not bound (like in the case of recorded documents) to search the records of a third party. See *Black v. Adrian*, 80 S.W.3d 909, 910 (Mo. App. 2002). Rather, Relators are bound to not only comply with the rules of discovery, but also comply with the Order of



Respondent. The fact that documents may at some point in the future be available through a third party does not absolve Relators from their obligation.

As to the signatures, Relators raise four objections (1) the request is “overbroad, unduly burdensome, and not proportional to the needs of this litigation” (2) the documents are irrelevant (3) the request implicates privacy and associational concerns and (4) that the documents will potentially be equally available from third parties. Ex. 28, pp. 424-5. The last objection is addressed above in response to the Court’s inquiry about mootness.

The request is not overbroad or unduly burdensome – it is proportional to the needs of the litigation. As Relators readily admit, they advised the Court on December 4, it was “impossible” to comply with the “burdensome discovery requests” in advance of the trial on Monday, December 8 at 1:30 p.m. *See* Relators’ Supp. Suggs., p. 1. Yet, Relators also admit it was *not impossible* to deliver almost all of the requested documents at 8:00 a.m. the next morning to Defendant Secretary of State. *See* Relators’ Supp. Suggs., p. 2.<sup>11</sup>

The signatures are relevant. Count II asserts that signatures gathered before the Secretary approved the sample sheet “as to form” remain valid as a matter of constitutional and statutory law and asks for declaratory relief to this end. Relators affirmatively allege that both the Constitution and Chapter 116 do not require approval as to form before signatures may be collected. *See* Ex. 2, p. 20, ¶¶80–83. They further allege that they “submitted sample sheets prior to gathering signatures on the referendum on HB 1,” and that they

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<sup>11</sup> Relators claim Intervenor’s requests would “include signatures that were not turned in.” Relators’ Supp. Suggs., p. 3. But there is no evidence in the record to support that claim. No Affidavit from Relator suggesting as much in the Motion for Protective Order or response to Intervenor’s Motion to Compel. Furthermore, Intervenor waived this claim as it was not raised in its initial Objections. *See* Ex. 28.

“complied with all requirements.” Ex. 2, p. 20, ¶84. These allegations make the timing of Plaintiffs’ signature-gathering efforts—and specifically, whether signatures were collected before the statutory steps were satisfied—an expressly pleaded and disputed factual issue. *Stevinson v. Deffenbaugh Indus., Inc.*, 870 S.W.2d 851, 860 (Mo. App. W.D. 1993) (“Evidence is relevant if it tends to prove or disprove a fact in issue[.]”).

The signature pages signed before September 28, 2025, are therefore not merely relevant under Rule 56.01(b)(1); they are the evidence Relators must rely upon to support the central contention in Count II—namely, that signatures gathered before form approval are constitutionally valid and must be counted. Plaintiffs cannot assert that these pre-approval signatures were lawfully obtained, rely on those signatures as the basis for the Secretary’s alleged future legal error, and then refuse to produce the very pages that contain those signatures. See Ex. 2, p. 20, ¶82–86; *State ex rel. Anheuser v. Nolan*, 692 S.W.2d 325, 328 (Mo. App. 1985) (“The purposes of discovery are to . . . provide the litigants with access to proper information with which to develop their respective contentions and to present their respective sides of the issues framed by the pleadings.”).

Moreover, the existence of signatures directly concerns the defenses raised in this case like justiciability, mootness, and ripeness that Relators readily admit are at issue in this case. See Relators’ Petition, p. 13. The lack of a single valid signature in the window of which Relators complain which even could be rejected relates to Intervenor’s defenses of whether Plaintiffs have stated a claim, whether they have shown any harm, and whether their claims are speculative.

The request does not implicate privacy or associational concerns. Relators raise concerns that the disclosure of signature and circulator

identities contravenes the First Amendment. Relators' Suggs., p. 15. Relators further suggest that disclosure of "supporter and circulator identities burdens associational rights and triggers exacting scrutiny." Relators' Suggs., p. 16. Again, while readily admitting that the day after trial, they made the identities signatories and circulators public records by submitting the same to the Secretary of State. Relators' Supp. Suggs., p. 2. Relators have waived this objection. Furthermore, statutes require the submission of signature pages and registration of circulators (making them open records). Sections 116.080, 116.100, RSMo.

Relators cannot rely on *NAACP v. Alabama*. That case applies when the acts of which are complained are actions of the state performed under color of law. *Moore v. City of Pacific*, 534 S.W.2d 486, 497 (Mo. App. 1976). *NAACP v. Alabama* concerned a state's attempt to compel disclosure of an advocacy organization's internal membership list—information that lay at the core of the group's private associational life and whose disclosure threatened to chill political participation and expose members to retaliation. *NAACP v. Alabama*, 357 U.S. 449, 462, 78 S. Ct. 1163, 1171, 2 L. Ed. 2d 1488 (1958). A referendum petition bears no resemblance whatsoever to the protected membership list at issue in *NAACP v. Alabama*. Petition signature pages are not confidential, internal organizational documents. Quite the opposite, they are public files and, once filed, open to any Missouri resident at any time upon request.

#### **6. Intervenor's Requests Seeking Production of "Contracts for Collection of Signatures" Fall within the Scope of Discovery Authorized by Rule 56.01(b).**

As to the signature collection contracts, Relators had raised five objections (1) the documents are irrelevant (2) the request is "overbroad" and (3) the request seeks competitively sensitive commercial and confidential information (4) the documents are protected by the attorney-client privilege,

work product doctrine (5) the documents are protected by the First Amendment associational privilege. Ex. 28, pp. 426-7.

First, the contracts for collection of signatures within the scope of Rule 56.01 because they are relevant to the subject matter of the pending action, relating to the claims and defenses of the parties. Any contracts governing circulation would show the date circulation efforts were initiated, the scope of those efforts, whether paid circulators were used, and the instructions governing collection activities. Such contracts would also show Relators' control over the signature pages.

Relators allege they began gathering signatures on September 15, 2025—thirteen days before House Bill 1 was even signed into law, and before the Secretary approved any petition as to form. Ex 19. Relators' position in Count II is that these pre-enactment, preapproval signatures are valid as a matter of law. Whether they are correct depends, in part, on the factual circumstances of circulation: who collected the signatures, what instructions they followed, what materials were used (statutes require circulation of the full text of the measure).

Relators allege facts about the number of signatures they collected in the time periods in question (before the Governor's signatures and before the Secretary's approval as to form). Moreover, Relators claim their injury and harm is that that certain signatures will not be counted as a result of the Secretary's position. That harm will never come to pass, if such signatures are not entitled to be counted regardless of the Secretary's position.

Petition circulators have a crucial role in signature gathering. Statutes require each Petition to contain a notarized "Circulator's Affidavit." Errors by the circulator can result in signatures not being counted. Section 116.060, RSMo. Further, defects in the Circulator Affidavit, or circulation by a



circulator who is not registered or qualified can cause signatures not to count. See Sections 116.080, 116.030, 116.120, RSMo. Contracts about the circulators could lead to the discovery of admissible evidence that the signatures that are the basis of Relators' claims were not entitled to be counted in the first place.

The request for the contracts is not overbroad. Plaintiff requests a discrete, easily identifiable document or documents that are either in Relators' possession or do not exist. Intervenor's request does not force Relators to search through years of documents, but rather just several months. Relator People Not Politicians was only formed on August 29, 2025. Ex. E.

Furthermore, Relators have not properly invoked any privilege here. See Mo. Sup. Court Rule 57.01(c)(3) ("If a privilege or the work product doctrine is asserted . . . the objecting party shall state information that will permit others to assess the applicability of the privilege or work product doctrine."); see also *State ex rel. Atchison, Topeka & Santa Fe Ry. Co. v. O'Malley*, 898 S.W.2d 550, 554 (Mo. 1995) (The party "must make the claim expressly and identify the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable the other party to assess the applicability of the privilege or protection.").

Any "First Amendment associational privilege" does not apply here. The First Amendment associational privilege laid out within *NAACP v. Alabama*, applies only when the acts of which are complained are actions of the state performed under color of law. *Moore v. City of Pac.*, 534 S.W.2d 486, 497 (Mo. App. 1976). Referendum petitions have no membership as they are not organizations but a function of direct democracy. Further, the requests do not seek donor lists, volunteer rosters, internal strategy memos, or membership records. They seek contracts governing the mechanics of signature collection.

This is far removed from the protected associational information in *NAACP v. Alabama*. Petition signature gathering is a public, regulated process, and documents created to facilitate that process do not implicate associational concerns.

Realtors complain that “these additional materials...[signatures not turned in, contracts with signature gatherers and internal validity reports] “should not be public records.” Relators’ Supp. Suggs., p. 3. That was never an issue. The Judge’s Order required disclosure under a protective order. *See* Ex. 1, p. 2 (“Motion to Compel is granted. All documents disclosed pursuant to the Motion to Compel are under a protective order.” Ex. 1, p. 2.”). This also disposes of the objection that the materials are competitively sensitive commercial and confidential information.

**7. Intervenor’s Requests Seeking Production of “validity report[s] regarding the signatures collected” Fall within the Scope of Discovery Authorized by Rule 56.01(b).**

As to the validity report, Relators objected that (1) the documents are irrelevant (2) that the request is overbroad and (3) the request is “ambiguous”). Ex. 28, p. 427.

As to the third objection, Relators claimed they had “no idea what Intervenor is referring to by ‘any validity report.’” Intervenor requests defined “Validity Report” as follows:

“Validity Report” means any document indicating whether or not a signature might be determined by a local election authority or by the Secretary of State as valid or invalid (for example, due to the signature being a registered voter, a registered voter at a different address, not registered, wrong signature, other district, or duplicate signature as those terms are set forth in 15 CSR 30-15.020).

Ex. 6., p. 78. The request is clear.

Nor is the request overbroad. This is a discrete, easily identifiable

document or documents that are either in Relators' possession or do not exist. If Relators have no such reports, they can simply state so. But if they do, those documents are highly relevant because they reflect Relators' own evaluation of the authenticity, sufficiency, and validity of signatures they seek to have declared valid by the court. Again, Relators claim their injury and harm is that that certain signatures will not be counted as a result of the Secretary's position. That harm will never come to pass, if such signatures are not entitled to be counted regardless of the Secretary's position. If Relators have signatures in their possession, and information that such signatures are invalid, it is directly relevant to whether Relators can show harm and Intervenor's defenses of whether Relators have stated a claim, whether they have shown any harm, and whether their claims are speculative.

For these reasons, Relators have failed to meet their burden. This Court should deny Relators' Petition.

#### IV. Conclusion

Relators' Petition fails under Rule 84.22 with respect to intervention as appeal is a remedy. It fails to establish a clear and unequivocal basis for overturning Respondent's presumptively correct granting of intervention as a matter of right to Intervenor. It waived any challenge to permissive intervention. Likewise, it fails to establish a clear and unequivocal basis for overturning Respondent's presumptively correct granting of the Motion to Compel. Relators have abjectly failed to establish this is a case of "extreme necessity" that warrants an "extraordinary remedy" that should be "used with great caution." See *State ex rel. Lester E. Cox Med. Ctr. v. Wieland*, 985 S.W.2d 924, 926 (Mo. App. 1999) (citing *Scott County Reorg. R-6 School Dist. v. Mo. Comm'n on Human Rights*, 872 S.W.2d 892, 893 (Mo. App. 1994)). This Court should deny Relators' Petition.

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 on December 12, 2025 on all parties of record.

/s/ Marc H. Ellinger