

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

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

Relators,

v.

No. _____

HON. CHRISTOPHER K. LIMBAUGH,
Judge of the Circuit Court
of Cole County, Missouri,

Respondent.

PETITION FOR A WRIT OF PROHIBITION

This time-sensitive election case involves the validity of signatures collected and submitted to the Secretary of State (the “Secretary”) in support of a referendum on House Bill 1 (“HB 1”). The case was tried on December 8, 2025. The primary issue is the validity of roughly 100,000 signatures in support of the referendum that were collected before the Secretary’s approval as to form. On December 9, 2025, Relators submitted a referendum petition containing over 300,000 signatures to the Secretary. The Secretary has refused to follow the law and send roughly 100,000 of those signatures to local election authorities to be processed and verified solely because the signature date was before the Secretary’s approval as to form. Whether the Secretary has the right to take that action is the precise question presented in the underlying case.

On December 12, Respondent issued an order holding the case in abeyance until the Secretary determines whether the Referendum has enough signatures. The Secretary has made clear he does not intend to make that decision until August 2026. Absent

resolution of this case, the Secretary of State will hold those 100,000 signatures in limbo until it is too late for them to be verified and validated in support of the referendum.

This case needs to be decided without delay. Since December, Relators have repeatedly asked Respondent to enter judgment and have exhausted all efforts to obtain one. Relators now seek a writ of prohibition to ensure that a final judgment is entered with sufficient time to appeal and/or to timely process the 100,000 signatures the Secretary refuses to validate.

Consistent with the Missouri Constitution's command that open courts administer justice "without delay," Mo. Const. art. I, § 14, Relators respectfully request the Court to issue a Writ of Prohibition ordering Respondent to take no action other than to vacate his December 12, 2025 order holding the underlying case "in abeyance" and enter a final, appealable judgment forthwith.

I. STATEMENT OF FACTS

A. The Referendum

1. On September 12, 2025, the General Assembly adopted HB 1, which draws new congressional maps for Missouri. Ex. 4 at 30, ¶¶ 6-7; Ex. 6; Ex. 7. The same day, Relators submitted two referendum petition sample sheets to the Secretary (R-0001 and R-0002). *Id.* at 30, ¶¶ 9-11; Ex. 8; Ex. 9. On Monday, September 15, Relators submitted a third referendum petition sample sheet to the Secretary (R-0003). *Id.* at 31, ¶¶ 16-17; Ex. 12. Relators commenced collecting signatures.

2. The Constitution sets strict time limits for gathering signatures supporting a referendum. *See* Mo. Const. Art. III, § 52(a); *No Bans on Choice v. Ashcroft*, 638 S.W.3d

484, 491 (Mo. banc 2022). These signatures must be submitted “not more than ninety days” from the conclusion of the legislative session. The General Assembly adjourned its Special Session on September 12, 2025, making any Referendum due no later than December 11, 2025. Ex. 4 at 30, ¶ 8; Ex. 7.

3. On September 26, 2025, the Secretary rejected all three sample sheets as to form because they were submitted before the Governor signed HB 1. Ex. 4 at 32, ¶ 22-33; Ex. 15.

4. On September 29, Relators submitted a fourth sample sheet (R-0004), which, as the Secretary admitted, is identical in every respect to R-0003. Ex. 4 at 32, ¶¶ 25-26; Ex. 16; Ex. 20 at 618-619 (75:24-76:15). The Secretary approved R-0004 as to form on October 14. Ex. 4 at 32, ¶ 27; Ex. 17. Relators gathered roughly 100,000 signatures in support of the Referendum before that date. Ex. 3 at 26, ¶¶ 29, 32.

5. The Secretary publicly announced that no signatures gathered before October 14, 2025 would be considered valid (and that gathering them was a crime). Ex. 4 at 32-33, ¶¶ 29-30; Ex. 18.

B. Relators File Suit and Seek Expedited Trial

6. Relators brought this lawsuit to ensure the Secretary did not unlawfully invalidate—solely on the basis of when they were gathered¹—the 100,000 signatures gathered before October 14. *See gen.* Ex. 4.

¹ Relators have made clear that their request is simply for the *processing* of the signatures. Ex. 4 at 22-23. Relators agree that individual signatures could still be invalid because they are not the signatures of registered voters.

7. The operative petition has two counts. Count I challenges the Secretary's rejection of referendum petition sample sheets "as to form" before the Governor signed HB 1, and Count II seeks a declaration that signatures gathered before the Secretary's "as to form" approval are not *per se* invalid under Article III, Section 52(a) and Chapter 116. Ex. 4. In plain terms, Relators seek to ensure the Secretary processes those 100,000 signatures as he would any other signature and have local election authorities verify their validity.

8. At Relators' request, the case was set for trial on November 4. Ex. 1 at 8. Due to judicial illness and an improper grant of intervention (which is the subject of another writ proceeding in this Court, *see* No. WD88522), the case was not tried until December 8, 2025. Ex. 1 at 3-7.

9. At trial, Intervenor called the Secretary's Director of Elections, Chrissy Peters, to testify. Ex. 20 at 567 (24). Ms. Peters testified that the 100,000 signatures Relators gathered before October 14, 2025 would "be processed and put in a separate area to be scanned in later for preservation; and then those that have valid dates would then be scanned in and sent to the local election authorities for verification." Ex. 20 at 623 (80:21-25).

10. When asked whether the Secretary intended to confirm whether the roughly 100,000 signatures not sent to local election authorities would nonetheless be checked to determine whether they were signed by registered voters, the Ms. Peters testified: "We will scan them in and preserve them for review. . . . But at this point, the ones that we are sending to the local election authorities for verification during this time we will be

processing, will be the ones that have – from our office’s position, been determined to be collected on a valid date.” Ex. 20 at 624 (81:1-12).

11. Following trial, all three parties submitted proposed judgments. Ex. 21; Ex. 22; Ex. 23 No one asked Respondent to hold the case in abeyance. *Id.* The Secretary and Intervenor both asked Respondent to either dismiss the case for lack of a justiciable controversy or to rule for the Secretary on the merits. Ex. 22; Ex. 23.

C. Relators Submit 300,000 Signatures to the Secretary; Secretary only sends two-thirds to Local Election Authorities

12. On December 9, 2025 (the day after trial), Relators submitted approximately 300,000 signatures in support of the referendum. Ex. 24.

13. This included the roughly 100,000 signatures gathered before October 14, 2025. Ex. 3 at 27, ¶¶ 29, 32.

14. As the Secretary chose to send the referendum petition to local election authorities for verification, Missouri law requires the Secretary to send “[c]opies of *all* *pages* . . . [to] the office of the election authority not later than two weeks after the petition is filed in the office of secretary of state.” § 116.130.1(1), RSMo. Contrary to this requirement, the Secretary has *not* sent the signatures gathered before October 14, 2025 to local election authorities. Ex. 20 at 620-625 (77:10-82:11); Ex. 25; Ex. 26; Ex. 27; Ex. 28.

15. Local Election Authorities have until “5:00 p.m. on the last Tuesday in July prior to the election” to complete their verification. § 116.130.2, RSMo. Of course, they cannot verify signatures they have not received.

16. The Secretary has until at least August 4, 2026 to issue a certificate of sufficiency or insufficiency. § 116.150.3, RSMo. He may have until as late as August 10, depending on when the local election authorities complete their work. *Id.*

17. By law, no changes can be made to the November general election ballots after September 8, 2026. § 115.125.3, RSMo.

D. The Attorney General and Secretary of State, Both Opponents of the Referendum, Publicly Declare a Delay Strategy

18. Despite the referendum submission containing a facially sufficient number of signatures, the Secretary and Attorney General both publicly announced their view on December 10 that HB 1 is “in effect” and that the maps it drew will be used to conduct the 2026 congressional election.²

19. The Attorney General claimed the HB 1 maps would “remain in place unless [the Secretary] determines the referendum petition is constitutional and contains sufficient signatures.”³ And the Secretary “promised a ‘slow and steady’ review of the signatures” and indicated he “isn’t likely” to complete that process until late July 2026.⁴ The Secretary also pledged “to do everything I can to protect” the map in HB 1.⁵

² <https://www.pbs.org/newshour/politics/opponents-of-trump-backed-redistricting-in-missouri-submit-petition-with-thousands-of-signatures-to-force-a-public-vote>

³ *Id.*

⁴ *Id.*

⁵ *Id.*

20. The Attorney General declared: “As long as the status quo is the new maps, *delay works in our favor.*”⁶

E. Respondent Places Matter in Abeyance

21. On December 12, Respondent entered an order *sua sponte* referencing Relators’ submission of signatures and placing the case in abeyance. Ex. 24.

22. Respondent observed there “could be enough signatures to place the referendum on the ballot *thereby moot*ing the issues presented in the case at bar.” *Id.* (emphasis added). Respondent ruled the case would be held “in abeyance until the requisite number of signatures have been certified or up until enough signatures have been rejected so as to prevent plaintiffs’ referendum from appearing on the ballot.” *Id.*

F. Relators Unsuccessfully Try to Obtain an Appealable Judgment

23. On January 5, Relators updated Respondent with documents showing that, consistent with Ms. Peters’ trial testimony, the Secretary deemed 16,695 pages of signatures to be invalid and refused to submit them to local election authorities for further processing on the basis that the signatures were gathered before the Secretary’s approval as to form. Ex. 25; Ex. 26; Ex. 27; Ex. 28.

24. The Secretary separated these signatures and denominated them as “Petition Name: *Invalid Date* – People Not Politicians.” Ex. 27 (emphasis added).⁷

⁶<https://www.kansascity.com/news/politics-government/article314249251.html> (emphasis added); *see also* <https://omny.fm/shows/newstalk-stl/missouri-attorney-general-catherine-hanaway>.

⁷ Relators are unaware of any other time a Secretary State has divided signatures supporting a referendum or initiative into multiple categories and refused to send a massive portion of such signatures to local election authorities for verification.

25. Following a hearing on January 13, more than one month after trial, Respondent did not enter a judgment and instead set the case for a status conference in February. Ex. 1 at 2.

26. More than two months after trial, on February 17, Relators urged Respondent at a status conference to either enter judgment on the merits or, if he believed the case was not ripe, enter a judgment of dismissal so Relators could appeal. Following that hearing, Respondent did not enter judgment and instead set another status conference for March. Ex. 1 at 1.

27. On March 6, nearly three months after trial, Relators filed a Motion to End Abeyance and Render Judgment, along with supporting exhibits. Ex. 29; Ex. 30; Ex. 31; Ex. 32; Ex. 33. Relators explained: (i) the underlying case is, and has always been, ripe; (ii) if Respondent concludes the case is not ripe, the only thing for Respondent to do is dismiss it so Relators can appeal; (iii) the case is not moot; and (iv) the hypothetical possibility that the case might become moot is no basis to refuse to enter judgment. Ex. 29.

28. Relators further explained the hardship that will result should the Secretary wait until August to make a decision on the sufficiency of Relators' referendum (as he has promised to do) and the parties find themselves in a signature challenge requiring 100,000 signatures to be reviewed and verified. Ex. 29 at 14-17.

29. Relators also explained that the refusal to render a decision is likely to create significant hardship for Relators because the Secretary and Intervenor are *already* arguing in multiple other cases concerning HB 1 that it is too late for courts to order the

Secretary not to use the HB 1 map to conduct the 2026 congressional election, while insisting that HB 1 is in effect. *Id.*

30. On March 16, the Secretary and Intervenor both filed oppositions to Relators' Motion, arguing Respondent should continue to hold the case in abeyance. Ex. 34; Ex. 35. Intervenor argues that future events might render the case moot. Ex. 35 at 828-830. The Secretary, by contrast, argues the case is "premature" and not ripe. Ex. 34 at 789.

G. The Secretary Confirms He Intends to Delay as Long as Possible

31. The parties appeared for a status conference on March 17. Ex. 1 at 1.

32. During that conference, Intervenor's counsel suggested the Secretary may be taking some undisclosed action outside the statutory process to verify the 100,000 withheld signatures, contrary to Ms. Peters' trial testimony. Later that day, Relators noticed a deposition of a Rule 57.03(b)(4) representative of the Secretary's Office to "ascertain what the Secretary's Office is doing with the referendum signatures . . . that are dated on and between September 15, 2025 and October 13, 2025 and that the Secretary did not send to local election authorities in connection with Plaintiffs' pending Motion to End Abeyance and Render Judgment." Ex. 36 at 1.

33. On March 23—the day before the scheduled deposition—the Secretary moved to "quash" the deposition notice. Ex. 37.

34. In his Motion to quash, the Secretary asserted he "has until August 4, 2026 . . . to fulfill all statutory requirements and decide whether to certify the referendum petition." Ex. 37 at 976-977. The Secretary also conceded no further factual development

is needed to decide the merits of this case “because all facts have been stipulated (or elicited in cross examination) and legal issues briefed.” Ex. 37 at 982-983.

II. RELIEF SOUGHT

Relators seek a writ of prohibition directing Respondent to vacate his December 12, 2025 order holding the case in abeyance and to forthwith render a final, appealable judgment.

III. STATEMENT OF REASONS WHY WRIT SHOULD ISSUE

In this case, Relators (and thousands of Missourians who support their Referendum) will suffer irreparable harm from Respondent’s abuse of discretion in holding this case in abeyance. No party asked Respondent to hold this time-sensitive election case in abeyance and Respondent should not have done so.⁸

A writ of prohibition is appropriate to remedy an abuse of discretion or where a party may suffer irreparable harm if relief is not granted. *State ex rel. Strauser v. Martinez*, 416 S.W.3d 798, 801 (Mo. banc 2014); *State ex rel. Anheuser-Busch, LLC v. Moriarty*, 589 S.W.3d 567, 570 (Mo. banc 2019). “A circuit court abuses its discretion when its ruling is clearly against the logic of the circumstances then before the court and is so unreasonable and arbitrary that it shocks the sense of justice and indicates a lack of

⁸ Relators respectfully submit that mandamus would also be warranted here. A writ of mandamus is the proper remedy to compel a trial court to enter a final, appealable judgment. *State ex rel. Henderson v. Asel*, 566 S.W.3d 596, 599-600 (Mo. banc 2019). “[E]ntry of [a] judgment on the records of the court is a ministerial act.” *Cozart v. Mazda Distributors (Gulf), Inc.*, 861 S.W.2d 347, 351 (Mo. App. 1993). “[T]he writ of mandamus has been granted to compel the entering of judgments when nothing remains but the mere ministerial duty of making the proper entry.” *State ex rel. St. Louis, K. & N.W. Ry. Co. v. Klein*, 41 S.W. 895, 898 (Mo. 1897) (quotations omitted).

careful, deliberate consideration.” *Hanshaw v. Crown Equip. Corp.*, 2026 WL 512824, at *2 n.2 (Mo. banc Feb. 24, 2026) (quotations omitted). The undisputed facts readily meet the standard for an abuse of discretion. Respondent’s continued inaction threatens to create a crisis for both Relators and the appellate courts in the months leading up to the 2026 election.

A. Election Cases Should Be Decided Without Delay

“There are compelling reasons for [courts] to promptly hear and rule on cases having effect on elections in view of the short timetables involved.” *State ex rel. Teichman v. Carnahan*, 357 S.W.3d 601, 603 (Mo. banc 2012) (writ petition concerning apportionment plan resolved within two weeks). Election contests are to be promptly resolved without continuance. §§ 115.535 and 115.551, RSMo. Ballot title cases must be filed within ten days and placed at the top of the docket. § 116.190, RSMo. Cases concerning the validity of the Secretary’s sufficiency determinations on referenda must also be advanced quickly. § 116.200, RSMo. This Court regularly expedites briefing in cases impacting elections, sometimes on its own motion.⁹ *See, e.g.*, Order, *Toder v.*

Uccello, No. WD88582 (Mo. App. Jan. 1, 2026) (setting briefing and oral argument to be

⁹ Looking outside of the elections context, while there is no hard and fast rule on how quickly courts should rule after trial, Missouri’s public policy leans toward a 90-day timeline for deciding questions that are fully submitted to the court. *See* § 508.010, RSMo (motions regarding venue deemed granted if not ruled in 90 days); § 375.1214, RSMo (motion for reconsideration deemed denied after 90 days); *see also* Rule 29.11(g) (in criminal cases, a motion for new trial is automatically denied if not ruled on within 90 days); Missouri Supreme Court Operating Rule 17.46 (requires all judges complete and submit a survey of cases “under advisement 90 days or more.”). This case was tried December 3, 2025.

completed less than one month after appeal in ballot title challenge); Order, *People Not Politicians v. Hoskins*, No. WD88795 (Mo. App. Mar. 27, 2026) (same).

The underlying referendum concerns the bill adopting a congressional map the Secretary is actively trying to use for the upcoming elections, including primary elections in August. The statutory verification process for the referendum is underway *right now*. Respondent should enter a prompt decision resolving the parties' dispute regarding the Secretary's decisions to reject the referendum as to form and to withhold verification for signatures collected before the Secretary's approval as to form.

The Secretary has made clear he intends to slow walk a decision on the sufficiency of this referendum.¹⁰ Yet, he is presently refusing to process nearly *one-third* of the signatures gathered. Ex. 4 at 32-33, ¶¶ 29-30; Ex. 18; Ex. 29. There is a statutory deadline for making changes to the ballot. § 115.125.3, RSMo ("No court shall have the authority to order an individual or issue be placed on the ballot less than eight weeks before the date of the election.").¹¹ This Court should direct that this case be decided—one way or another—forthwith to make sure that, if and when Relators are successful, the

¹⁰ <https://www.pbs.org/newshour/politics/opponents-of-trump-backed-redistricting-in-missouri-submit-petition-with-thousands-of-signatures-to-force-a-public-vote>.

¹¹ In 2024, Respondent ordered an issue removed from the ballot on Friday, September 6 – mere days before the statutory deadline. That forced the parties to appeal to this Court on Saturday, September 7, whereupon this Court immediately transferred the case to the Supreme Court. The parties filed briefs over the weekend and the Supreme Court heard arguments and rendered its decision on Tuesday, September 10. *See Coleman v. Ashcroft*, 696 S.W.3d 347 (Mo. banc 2024). The Supreme Court emphasized that there is no justification for delaying straightforward decisions until the end of the initiative process and creating a crisis. *Id.* at 353-54. It is for that very reason that this case should be promptly resolved.

local election authorities have sufficient time to process the 100,000 signatures for verification. By holding the case in abeyance, Respondent has allowed the Secretary to simply delay the processing of signatures. Worse, if it turns out the measure has insufficient signatures, there will not be enough time to count the remaining 100,000 submitted signatures within the election timelines. Relators have no doubt there will be future litigation if the Secretary persists in his effort to uphold House Bill 1, but the parties should get on with it. At this time, Respondent's unreasonable abeyance order is the only cause of delay in this case or in the processing of referendum signatures generally.¹²

B. The Abeyance Here is an Abuse of Discretion

Assuming trial courts generally have discretion to hold cases in abeyance as part of their inherent authority to manage their docket, such decisions are reviewable for abuse of discretion. *See, e.g., Rhines v. Weber*, 544 U.S. 269 (2005) (holding stay and abeyance in habeas proceedings not per se improper and directing court of appeals to review for abuse of discretion). Respondent's *sua sponte* decision to hold this case in abeyance and his ongoing refusal to render a decision is "clearly against the logic of the circumstances." *Hanshaw*, 2026 WL 512824 at *2 n.2. As detailed above, time-sensitive election cases generally require expedited consideration by the courts. The specific action involved in the circumstances of this case is the verification of roughly 100,000 signatures to determine whether the signers are registered voters in Missouri.

¹² The past delays in trial caused by Respondent improperly permitting Intervention are addressed in the parallel writ proceeding.

The circumstances of this case are now that the Secretary has refused to deliver those signatures to local election authorities for validation. Respondent's abeyance order authorizes the Secretary's inaction to continue without judicial review until August 2026, with a September statutory deadline for changes to the ballot looming. If the Secretary issues a certificate of insufficiency in August, Respondent will still have to decide the questions the parties tried back in December about the 100,000 signatures. Even assuming Respondent were to promptly rule for Relators after a certification decision in August, the Secretary and local election authorities will *then* have to undertake verification of nearly 100,000 additional signatures. But there not be time in advance of the election to do so.

Missouri's statutes also permit "any citizen" to challenge the Secretary's certification decision within 10 days. *See* § 116.200, RSMo. Such a challenge is likely to occur here.¹³ When it does, the 100,000 signatures gathered before October 14, 2025 will come into play. Any signature challenge needs to be undertaken on a *complete* record regarding *all* signatures submitted in support of the referendum. As it stands, Respondent's order enables the Secretary's lawless course of action – withholding roughly 100,000 signatures from being verified – to persist until (or even after) a certification decision.

Should the Secretary reject the Referendum as insufficient for containing an inadequate number of signatures, Relators will have until September 8, 2026 to (a)

¹³ Of course, there can be no challenge to the validity (or invalidity) of signatures that have never been processed.

complete an entire appeal; (b) obtain review and validation of 100,000 signatures; and (c) place the qualified referendum on the ballot for the general election. Given the time required for each of those steps, Respondent's decision "is so unreasonable and arbitrary that it shocks the sense of justice and indicates a lack of careful, deliberate consideration." *Hanshaw*, 2026 WL 512824, at *2 n.2. The Missouri Constitution does not permit Respondent to sit on the case in the hopes it becomes moot. There is presently a live controversy and Respondent should be commanded to decide it without further delay. Mo. Const. art. I, § 14.

There is more. The Secretary and Intervenor began telling Missouri's courts in February it is already too late to make changes for the 2026 election under the federal courts' "Purcell Principle." See *Luther v. Hoskins*, No. SC101412; *Maggard v. Hoskins*, No. 25AC-CC09120. While Relators believe they are wrong as a matter of law, allowing this dispute to simmer until August or later increases the proximity of the decision to the November general election, requiring extraordinary and expedited efforts from the parties and the Courts to resolve the legal questions that are fully fit for determination by Respondent right now.

Further, on March 24, 2025, the Supreme Court—in a divided opinion—held the General Assembly had the authority under the Missouri Constitution to redraw congressional districts without receipt of new census data. See *Luther v. Hoskins*, No. SC101412. As the Supreme Court has concluded the General Assembly had authority to pass HB 1, the Referendum (with a record number of signatures) has a significant impact on the maps to be used in the 2026 congressional election. It shocks the conscience for

Respondent to delay resolution of whether the Secretary must send the 100,000 signatures gathered before October 14, 2025 for verification until one month before the statutory drop-dead date.

C. No Authority Authorizes Respondent to Refuse to Decide This Case

There is no Supreme Court Rule authorizing Respondent to hold the case in abeyance post-trial. Nor is there any case law approving this practice. “When a matter is held in abeyance it is in a condition of being undetermined. It is not finally settled.” *Savannah Place, Ltd. v. Heidelberg*, 164 S.W.3d 64, 66 n.4 (Mo. App. 2005) (quotations omitted). By contrast, this case is fully tried and submitted. The only thing preventing it from being fully settled is Respondent’s order refusing to rule.

The few Missouri cases discussing abeyances concern either the Court of Appeals holding a matter in abeyance during a limited-purpose remand or a trial court holding execution of judgment on certain claims in abeyance while other claims are tried. *See, e.g., G & S Masonry, Inc. v. MJC Constructors, Inc.*, 164 S.W.3d 530, 533 (Mo. App. 2005); *State v. Anderson*, 580 S.W.2d 553, 554 (Mo. App. 1979); *Brickner v. Normandy Osteopathic Hosp., Inc.*, 687 S.W.2d 910, 913-14 (Mo. App. 1985). Relators are unaware of any authority allowing a trial court to simply refuse to decide a fully tried case based on its belief that waiting long enough might obviate the need to rule (the stated basis for this abeyance). The problems with such a rule—particularly in an election case—are obvious.

The two cases Intervenor cited below to support the abeyance are irrelevant and distinguishable. In *Knapp v. Missouri Local Government Employees Retirement System*,

738 S.W.2d 903 (Mo. App. 1987), a plaintiff prematurely filed an action for judicial review of an agency decision and the parties *stipulated* to holding the case in abeyance while the agency proceeding concluded. *Id.* at 907. There is no underlying agency proceeding here and no one challenged the propriety of the abeyance in *Knapp*. In *Logan v. Sho-Me Power Elec. Co-op.*, 122 S.W.3d 670 (Mo. App. 2003), the case involved parallel wrongful death proceedings in the trial court and the Labor and Industrial Relations Commission. The Court of Appeals concluded the trial court should have held the wrongful death case in abeyance during the pendency of the workers' compensation case to avoid the risk of prejudice to the plaintiff from the running of the statute of limitations. While in *Logan*, the abeyance protected the plaintiffs' right to sue, in this case, Respondent's unreasonable decision to forbear issuing judgment threatens the very rights that Relators seek to protect. Neither case supports Respondent's abeyance.

D. No More Factual Development Is Needed

This case presents two straightforward legal questions: (1) whether the lack of the Governor's signature on a bill is a "matter of form" that allows the Secretary to reject a referendum petition and (2) whether signatures on a referendum can be deemed invalid solely on the basis that they were gathered before the Secretary's approval as to form. The parties stipulated to all relevant facts. A trial was held and the record closed. The Secretary *agrees* "all facts have been stipulated (or elicited in cross examination) and legal issues briefed." Ex. 37 at 982-983. These are not difficult questions – controlling case law conclusively answers both.

As to the first question, “the secretary of state’s authority to review a referendum petition sample sheet for sufficiency as to form does not extend to substantive matters including, without limitation, determining compliance with the Missouri Constitution.” *ACLU v. Ashcroft*, 577 S.W.3d 881, 892 (Mo. App. 2019). The Secretary’s conclusion (in September 2025) that Relators were not permitted to initiate a referendum on a bill that had not been signed by the Governor is a matter of substance, not form. Ex. 14. Indeed, the rejected form is identical to the approved form, differing only in the dates of submission and the Secretary’s approval.

As to the second question, nothing in the Constitution or statutes requires that approval as to form predate a registered voter signing a referendum petition. Section 116.332.1 merely requires that a referendum sample sheet be *submitted* to the Secretary before circulation. It does not require approval as to form before signatures may be gathered. And the Supreme Court invalidated any such requirement as an unconstitutional impediment to the people’s right to the referendum. *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 492 (Mo. banc 2022).

E. This Case Is Not Moot and Hypothetical Future Events Are Irrelevant Because an Exception to Mootness Will Apply

The issue here is *not* whether this case is *currently* moot. The mootness concept that animated Respondent’s abeyance order is whether the case will *become* moot if the Secretary concludes there are sufficient signatures without the 100,000 not being

reviewed.¹⁴ *See* Ex. 24. It will not. The Supreme Court addressed a remarkably similar issue in *No Bans on Choice*. The underlying issue there – like this one – involved the Secretary using procedural processes related to a referendum to shorten the available time to collect signatures. Even when no signatures were submitted to the Secretary, the Supreme Court concluded the rights at stake brought the case “squarely within the mootness exception of ‘capable of repetition, yet evading review.’” 638 S.W.3d at 490 n.9. Here, the signatures have been submitted and the controversy is live. Respondent’s improper abeyance order is the only thing preventing it from being resolved.

F. This Case Is Ripe and Even If It Were Not, Dismissal Would be the Proper Course of Action

The Secretary has alternatively argued Respondent is correct to hold this case in abeyance because the case is not ripe. The ripeness issues have been fully briefed to Respondent, and he is simply refusing to rule. At present, this is *not* a case “wherein adequate relief can be afforded through an appeal.” *Henderson*, 566 S.W.3d at 598. Relators are entitled to relief because Respondent will not decide this case *so that* a timely appeal can follow.

Even if Respondent were to agree that this case is not ripe, the proper thing to do is to dismiss the case, not hold it in abeyance. Dismissing the case for want of a justiciable controversy will permit an appeal. *Henderson*, 566 S.W.3d at 600 n.6

¹⁴ Respondent’s Order states the case is held in abeyance until the Secretary *either* certifies enough signatures for the referendum to qualify *or* certifies that Relators do not have enough signatures. Ex. 24. The latter possibility has nothing to do with hypothetical mootness.

(dismissals in these circumstances are “final and appealable”). In either event, withholding judgment is causing significant prejudice to Relators, is inconsistent with the Missouri Constitution’s Open Courts provision, and risks creating a need for emergency pre-election appeals that would not exist but for Respondent’s improper abeyance order.

IV. CONCLUSION

WHEREFORE, for the reasons set forth above and in the suggestions in support of this Petition contemporaneously filed herewith, Relators request the Court:

1. Issue its preliminary writ of prohibition directing Respondent to show cause why the December 12, 2025 abeyance order should not be vacated and he should not be directed to promptly enter a judgment;
2. Upon submission, make the writ permanent and direct Respondent to vacate the December 12, 2025 abeyance order and direct Respondent to enter judgment forthwith; and
3. Grant such other and further relief as just and proper.

Respectfully Submitted,

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