

SC101801

IN THE SUPREME COURT OF MISSOURI

PEOPLE NOT POLITICIANS, *et al.*,

Appellants,

v.

MISSOURI SECRETARY OF STATE DENNY HOSKINS,

Respondent,

and

PUT MISSOURI FIRST,

Intervenor-Respondent.

On Appeal from the Circuit Court of Cole County

Case No. 25AC-CC07128

INTERVENOR-RESPONDENT'S BRIEF

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JURISDICTIONAL STATEMENT

Appellants filed a notice of appeal on August 17, 2026 from a judgment entered in the Circuit Court of Cole County on August 16, 2026. On August 18, 2026, this Court transferred the case on its own motion.

STATEMENT OF FACTS

A. House Bill 1

On September 12, 2025, the Missouri General Assembly truly agreed to and finally passed House Bill 1 and adjourned its special session. D65:P2. House Bill 1 redrew Missouri's congressional districts. D67. At the time of its passage and adjournment, House Bill 1 had not been signed by the Governor. D65:P2.

Article III, section 52(a) of the Missouri Constitution requires referendum petitions to be filed with the Secretary of State within ninety days after final adjournment of the legislative session in which the General Assembly passed the bill on which the referendum is demanded. MO. CONST. art. III, § 52(a).

B. PNP Submits and Begins Circulating Referendum Petitions

On September 12, 2025, the same day House Bill 1 was passed, Richard von Glahn submitted two referendum petition sample sheets to the Secretary of State. D65:P2; D69 (R001); D70 (R002). The Secretary designated those submissions 2026-R001 and 2026-R002. D69; D70.

The Secretary's Office initially responded that House Bill 1 had been truly agreed to and finally passed but had not yet been signed by the Governor. D71. Two days later, the Secretary superseded that correspondence and advised von Glahn that the submissions would proceed through the statutory review process prescribed by § 116.332, RSMo. D65:P3; D72.

The Secretary explained that the sample sheets had been transmitted for the statutorily required review and expressly advised von Glahn that the Secretary had “not yet made a final determination whether your referendum petition may be accepted for processing or circulation.” D72. The Secretary

further stated that, once the required review was complete, his office would issue a written decision approving or rejecting the petition as to form. D72.

On September 15, 2025, while that review remained pending and before the Governor had signed House Bill 1, von Glahn submitted a third referendum petition sample sheet, designated 2026-R003, to correct a possible clerical error in the September 12 submissions. D65:P3; D73 (R003). The Secretary again advised von Glahn concerning the statutory review process and the Attorney General's review preceding a determination as to form. D74.

That same day, counsel for von Glahn sent the Secretary and Attorney General a letter asserting that the referendum process could proceed before the Governor signed House Bill 1 and that review of the petition as to form was ministerial. D75.

von Glahn and People Not Politicians (together, "PNP") did not await either the Governor's signature or the Secretary's approval as to form with respect to R003 before beginning circulation. Instead, after submitting R003 on September 15, PNP began collecting signatures on the referendum petition. D14:P4. Thus, PNP was circulating and collecting signatures on R003 while House Bill 1 remained unsigned and while the Secretary's statutory review of the petition remained pending. D14:P4; D71; D73; D74.

C. PNP Files Suit While Review of R003 Remains Pending

On September 18, 2025, three days after submitting R003 and while the Secretary's statutory review of that petition remained pending, PNP filed this action in the Circuit Court of Cole County. D124. At that time, House Bill 1 had not been signed by the Governor, the Secretary had not approved any of PNP's referendum petitions as to form, and PNP had already begun circulating R003 and collecting signatures. D14:P4; D71; D72; D73; D74.

The case was initially assigned to the Honorable Brian K. Stumpe on

September 18, 2025. D1:P10. Four days later, on September 22, PNP exercised its right to a change of judge, removing Judge Stumpe from the case. D1:P11. The case was thereafter assigned to the Honorable Daniel Green. *See* D1:P11.

The original petition sought declaratory relief regarding the Secretary's position that PNP could not circulate a referendum petition targeting House Bill 1 before the Governor signed the bill. D124:P10. It also asserted a separate Sunshine Law claim against the Secretary and sought injunctive relief. D124:P10.

D. PNP Continues Circulating R003 Before the Governor Signs House Bill 1

PNP continued circulating R003 while the Secretary's statutory review remained pending and while House Bill 1 remained unsigned. D14:P4. On September 26, 2025, the Secretary rejected R001, R002, and R003 as to form. D65:P4; D76. The Secretary's letter enclosed an opinion from the Attorney General recommending rejection because Governor Kehoe had not yet signed House Bill 1, and the bill was therefore not yet a "law passed by the General Assembly." D76.

By the time the Secretary issued that determination, PNP had already been circulating R003 for eleven days. *See* D14:P4; D65:P3; D76. PNP continued collecting signatures after the Secretary's September 26 rejection. D14:P4.

Governor Kehoe signed House Bill 1 on September 28, 2025. D65:P4. By that date, PNP had collected approximately 32,600 signatures during the period in which House Bill 1 remained unsigned, and R003 had not been approved as to form. D14:P4.

E. PNP Submits R004 and Again Circulates Before Approval as to Form

On September 29, 2025, the day after Governor Kehoe signed House Bill 1, von Glahn submitted another sample sheet for a referendum petition to the Secretary. D65:P4; D77. The Secretary designated that submission 2026-R004. D65:P4; D77. R004 was identical in form to R003, which the Secretary had rejected three days earlier. D65:P4; D77; Tr. 75:21–76:7.

That same day, PNP filed its First Amended Petition. D2. Count I continued to challenge the Secretary's refusal to approve a referendum petition submitted before the Governor signed House Bill 1. D2. PNP also asserted Count II, seeking a declaration that the Secretary could not reject signatures because they had been gathered before the referendum petition was approved as to form. D2.

The September 29 submission of R004 did not result in immediate approval. D65:P4, D78. Nevertheless, PNP continued to circulate the petition and collect signatures while R004 awaited the Secretary's determination. D14:P4. Between September 29 and October 14, PNP collected approximately 70,200 additional signatures. D14:P4.

Thus, before the Secretary approved R004, PNP had collected more than 100,000 signatures: approximately 32,600 between September 15 and September 28, while House Bill 1 remained unsigned and R003 remained unapproved; and approximately 70,200 between September 29 and October 14, while R004 remained unapproved. D14:P4.

On October 14, 2025, the Secretary approved R004 as to form. D65:P4; D78. Accordingly, each of the approximately 70,200 signatures PNP reported collecting between September 29 and October 14 had been collected before the Secretary approved R004 as to form. D14:P4; D65:P4; D78.

F. Proceedings Following Approval of R004

The Secretary answered PNP's First Amended Petition on October 14. D13. The following day, Judge Green set the case for trial on October 28. D1:P12. On October 28, PNP and the Secretary filed joint stipulations and appeared for trial. D1:P13; D14. Because Judge Green was ill, however, the trial was continued, first to November 3 and thereafter to November 13. D1:P13-14.

PNP filed its trial brief on October 30, and the Secretary filed his trial brief on October 31. D30; D31.

On November 12, Put Missouri First filed a verified Motion to Intervene. D32. The motion explained that certification of the referendum would require Put Missouri First to undertake campaign activity and expenditures in opposition to the measure and that its interests were not necessarily coextensive with those of the Secretary of State. D32:P6,7,8.

The following day, before trial commenced, the circuit court heard the motion. PNP opposed intervention, and the court granted Put Missouri First's motion over PNP's objection. D36. Upon intervention, Put Missouri First sought discovery into the factual circumstances directly implicated by PNP's claim that signatures collected before the referendum petition's approval should be counted. See Transcript of Nov. 13, 2025 Hearing at 5:25-6:12. Accordingly, Put Missouri First presented a motion to exercise their right, like PNP had done earlier in the case, to take a change of judge. D37. Judge Green granted the change of judge at that time. PNP filed a motion to reconsider intervention the same day. D38.

G. Discovery Concerning PNP's Pre-Approval Signature Gathering

On November 13, Put Missouri First served interrogatories and requests for production seeking, among other things, the signed petition pages gathered

before October 14, signature counts associated with particular referendum petitions, contracts concerning PNP's signature-gathering operation, and reports concerning the validity of the signatures PNP had collected. D47.

The case was reassigned to the Honorable S. Cotton Walker, who set a trial date for November 21. D1:P16. On November 14, Defendant then filed a motion to exercise his right to a change of judge. D40. Judge Walker granted the change of judge, and the case was assigned to the Hon. Christopher Limbaugh. D41.

The circuit court subsequently ordered PNP to respond to that discovery by November 21. D1:P18. PNP served written answers and objections but did not produce the requested documents. *Id.* They instead sought a protective order. D46.

Put Missouri First moved to compel production on November 26. D60. On December 4, the circuit court granted Put Missouri First's motion to compel and denied PNP's motion for a protective order. D1:P21. PNP advised the court that it could not comply with the discovery order before the December 8 trial. Tr. 13:5–22. Yet those same signature sheets were submitted to the Secretary of State the following day, December 9. D116:P7 n.2.

Meanwhile, on November 24, the Secretary moved to dismiss. D55; D56. The Secretary argued, among other things, that Count I had become moot following approval of R004 and that Count II was not ripe because PNP had not yet submitted the signed referendum petition for a sufficiency determination. D55; D56. The Secretary also maintained that signatures collected before approval of a petition as to form could not be counted. *Id.* Put Missouri First filed its own motion to dismiss the following day. D58.

H. Trial

The case was tried before the Honorable Christopher Limbaugh on

December 8, 2025. D1. Before trial, Put Missouri First sought sanctions based on PNP's failure to comply with the court's discovery order. Tr. 8–9. The court took that motion with the case. Tr. 17:12–24.

PNP offered the parties' December 3 Amended Joint Stipulation and its exhibits, D65–D80. Tr. 18:18-24. PNP also offered an earlier joint stipulation solely between PNP and the Secretary, D14. Tr. 19:11-18. Put Missouri First objected to the non-unanimous stipulation. Tr. 19:19-22:4. The trial court overruled that objection. Tr. 22:5-6. The Secretary offered no additional evidence.

Put Missouri First called Chrissy Peters, the Secretary of State's Director of Elections. Tr. 53:21–54:15.

Peters testified that there was no difference in the form of R003 and R004. Tr. 75:21–76:7. She also testified that the Secretary's position was that signatures gathered before the Secretary's October 14 approval of R004 were invalid and would not be counted. Tr. 78:22–79:22. Consistent with that determination, petition pages containing signatures collected before October 15 would be separated from the pages transmitted to local election authorities for verification. Tr. 81:22–82:3.

Peters also testified that no signature pages for the referendum in question had been submitted to the Secretary. Tr. 50:9-17. That no determination of sufficiency or insufficiency had occurred at the time of trial Tr. 50:21-24. Further, that none of the pages in dispute had been submitted to the Secretary. Tr. 51:20-52:23.

At the conclusion of the evidence and argument, the circuit court took the matter under advisement. Tr. 136:3–4.

I. Submission of the Signed Petition and the Circuit Court's Abeyance

On December 9, 2025—the day after trial—PNP submitted a referendum

petition containing more than 300,000 signatures to the Secretary of State. D116:P7, n.2.

Three days later, the circuit court entered an order noting that the petition could conceivably contain enough otherwise valid signatures to qualify for the ballot, thereby mooted the issues presented in the litigation. D132. The court therefore held the case in abeyance until the requisite number of signatures either had been certified or enough had been rejected to prevent the referendum from qualifying. D132.

On January 5, 2026, PNP advised the circuit court regarding the ongoing signature-verification process. D92. The Secretary had transmitted 33,068 petition pages to local election authorities for verification but had not transmitted 16,695 pages because the signatures appearing on those pages had what the Secretary determined to be an invalid date. D92.

The Secretary subsequently confirmed that he had rejected signatures collected before the petition was approved as to form. D97. PNP repeatedly asked the circuit court to terminate the abeyance and enter judgment. D96; D98. The circuit court declined to do so while the sufficiency process remained ongoing. D1.

PNP also sought extraordinary relief from the Western District, asking that court to compel the circuit court to terminate the abeyance. *State ex rel. People Not Politicians v. Limbaugh*, WD88821 (Mo. App. Apr. 1, 2026). After receiving opposition suggestions, the Western District denied the petition on April 7, 2026. *Id.*

The circuit court thereafter denied PNP's motion to terminate the abeyance on May 4, 2026. D98; D103; D104.

J. The Secretary's Determination and Final Judgment

On August 4, 2026, the Secretary issued a certificate of insufficiency

concerning the referendum petition. *See, von Glahn v. Hoskins*, SC101805, D27 (Ex. 5).

On August 17, 2026, the circuit court entered judgment in favor of the Secretary and Put Missouri First. D116. The court held that the Secretary properly rejected R001, R002, and R003 because House Bill 1 had not yet become law when those petitions were submitted. D116. As the court explained, "[u]ntil Governor Kehoe signed House Bill 1 on September 28, 2025, it was merely a bill, not a law." D116.

The circuit court concluded that § 116.030's reference to a referendum petition concerning a "law passed by the General Assembly" required gubernatorial signature before the referendum petition could be approved as to form. D116. The court likewise rejected PNP's contention that Article III, section 49 authorized a referendum against an unsigned bill. D116.

Finally, the circuit court concluded that signatures collected on the prematurely submitted petitions were invalid. D116. The court further rejected PNP's contention that the constitutional period for submitting a referendum petition was unlawfully curtailed by the time consumed by gubernatorial action or the statutory review process. D116. Judgment was therefore entered in favor of the Secretary and Put Missouri First. D116.

SUMMARY OF THE ARGUMENT

This case is moot and should be dismissed. Any decision in *von Glahn v. Hoskins*, No. SC101805, will moot all the substantive claims in this case. Since they are to be argued and submitted on the same day to this Court, the resolution of *von Glahn* will moot this case.

Accordingly, this appeal should be denied and dismissed as moot.

If this Court finds an exception to mootness, this Court should affirm the trial court as PNP has not demonstrated, nor does the law provide, that a referendum on a bill can be circulated or that such signatures may be deemed valid.

PNP's abeyance argument fails because the abeyance was within the trial court's discretion, the Western District denied a writ, and the abeyance has ended with the entry of the final judgment.

Put Missouri First established all the elements of intervention as a matter of right. The undisputed facts below support the trial court's determination that intervention was proper.

ARGUMENT

I. The undisputed signature counts render the challenged signatures irrelevant and the controversy moot.

The dispute concerning whether signatures gathered before the Governor signed the underlying act or before the Secretary approved the referendum petition may be counted is now moot. “A cause of action is moot when the question presented for decision seeks a judgment upon some matter which, if the judgment was rendered, would not have any practical effect upon any then existing controversy.” *Precision Invs., L.L.C. v. Cornerstone Propane, L.P.*, 220 S.W.3d 301, 304 (Mo. banc 2007) (citing *Bank of Washington v. McAuliffe*, 676 S.W.2d 483, 487 (Mo. banc 1984)). Put differently, when an intervening event makes the court’s decision unnecessary or leaves no effective relief for the court to grant, there is no longer a justiciable controversy. See *Humane Soc’y of the U.S. v. State*, 405 S.W.3d 532, 535–36 (Mo. banc 2013).

That is the case here. In the related litigation, the Secretary stipulated that an official public exhibit constituted a true and accurate copy of the signature counts, excluding the signatures challenged here. See *von Glahn v. Hoskins*, SC101805, D22, D26. And those undisputed counts establish that, even without any of the contested signatures, the referendum contains sufficient valid signatures to satisfy the applicable constitutional and statutory requirements. Thus, regardless of how this Court resolves the legal questions presented here, the result is the same. If the challenged signatures may lawfully be counted, the referendum has sufficient signatures. If every challenged signature must instead be excluded, the official count reflected in the stipulated exhibit establishes that the referendum still has sufficient

signatures.¹

There is consequently no effective relief that can turn upon the resolution of the validity of the challenged signatures. A ruling on whether those additional signatures could have been counted would neither alter the referendum's sufficiency nor affect whether it qualifies for submission to the voters. It would decide only an abstract legal question whose answer no longer affects the parties' rights or obligations. Missouri courts do not "decide questions of law disconnected from the granting of actual relief." *State ex rel. Chastain v. City of Kansas City*, 968 S.W.2d 232, 237 (Mo. App. W.D. 1998); see also *Humane Soc'y*, 405 S.W.3d at 535–36.

Nor does it matter for purposes of mootness that the facts establishing the absence of a continuing controversy appear in the record of the related proceeding rather than the original record in this case. In determining mootness, a court may consider matters outside the record. *Precision Invs.*, 220 S.W.3d at 304. Missouri courts may take judicial notice of the records of another case when justice requires it. *State v. Flores*, 437 S.W.3d 779, 787 n.7 (Mo. App. W.D. 2014).

Of course a court can judicially notice its own records, and courts, when justice requires, should and do, in deciding a case, consider the records of other cases, as " * * * where the interests of the public in ascertaining the truth are of paramount importance, as also in cases where the court is seeking to determine what is a reasonable exercise of its discretion, or whether the present proceeding is merely a moot one. And 'there may be cases so closely interwoven, or so clearly interdependent as to invoke' a rule of judicial notice in one suit of the proceedings in another suit." 23 C.J., pp. 113–114;

¹ Indeed, avoiding adjudication of a controversy that the Secretary's sufficiency review might render moot is precisely why this case was held in abeyance pending completion of that review. See D132 ("Conceivably, this could be enough signatures to place the referendum on the ballot thereby mooting the issues presented in the case at bar.").

Thompson v. Scott[19 S.W.2d 1063 (Mo. 1929)], supra. See, also, 31 C.J.S., Evidence, s 50.

Knorp v. Thompson, 175 S.W.2d 889, 894 (Mo. 1943). Here, the stipulated exhibit is an official public record bearing directly upon the very signature totals whose legal sufficiency underlies this action. It has been filed in the legal file of the *von Glahn* case currently pending in this Court. Because those undisputed totals demonstrate that the referendum succeeds even after excluding every signature challenged in this case, adjudication of whether those signatures were properly collected can have no practical effect upon the existing controversy. The claim is therefore moot.

Neither of the narrow exceptions to mootness, the case becomes moot after argument and submission or the public-interest exception, warrants adjudication of an issue that can no longer affect this referendum. “These exceptions are to be narrowly construed.” *In the Interest of A.D.T.*, 527 S.W.3d 916, 919 (Mo. App. E.D. 2017) citing *In re J.T.S.*, 462 S.W.3d 475, 478–79 (Mo. App. W.D. 2015).

Because this matter had been argued and submitted before the intervening sufficiency determination, the first exception may render dismissal discretionary rather than mandatory. But that is all it does. *In re J.T.S.*, 462 S.W.3d at 478–79. It does not require the Court to decide a controversy that subsequent events have stripped of any practical consequence. Indeed, *J.T.S.* recognized that, even where the exception arguably applies, a court remains free to dismiss rather than engage in the “empty formality” of determining whether relief once might have been available. *Id.* at 479 (quoting *State ex rel. Donnell v. Searcy*, 152 S.W.2d 8, 10 (Mo. banc 1941)). That discretion should be exercised here. After submission, the Court itself held this matter in abeyance pending the Secretary’s sufficiency review. That review has now supplied the very fact that makes

resolution of the disputed signatures unnecessary: even excluding those signatures, the referendum contains enough valid signatures to qualify. Deciding their validity now would therefore accomplish nothing beyond resolving an abstract question of law.

The public-interest exception fares no better. Even assuming that the question presented is important and likely to recur, there is no basis to conclude that it will **evade appellate review in a future live controversy**. See *Hummel v. Ashcroft*, 647 S.W.3d 577, 582 (Mo. App. W.D. 2022). A controversy evades review only when its duration is “so limited that it is not possible for a claim to be heard and appeals to be exhausted during its duration.” *Vernon Cnty. Republican Comm. v. Lee*, 692 S.W.3d 439, 445–46 (Mo. App. W.D. 2024) (quoting *Bernhardt v. McCarthy*, 467 S.W.3d 348, 351 (Mo. App. W.D. 2015)). *Vernon County* rejected that proposition even where the relevant election controversy existed for only seventy-seven days, emphasizing Missouri courts’ “long history of resolving cases involving election-related issues on an extremely expedited basis” and concluding that such disputes are “practically capable of review in a future live controversy.” *Id.* The statutory scheme governing petition sufficiency makes that conclusion even stronger here. Section 116.200 permits a citizen to challenge the Secretary’s sufficiency determination within ten days of certification, commands that the action “shall be advanced on the court docket and heard and decided by the court as quickly as possible,” and provides an additional ten-day period for appeal. § 116.200.1, .3, RSMo. Thus, Missouri law expressly provides an expedited vehicle for obtaining judicial resolution of precisely the sort of signature-sufficiency dispute presented here.

Nor is the prospect of such a future controversy merely theoretical. Missouri repeatedly receives initiative and referendum petitions, and recent

petitions have turned on remarkably small numbers of signatures. In 2024, initiative petition 2024-160 was certified with 25,714 valid signatures in Congressional District 1 where 25,632 were required—a margin of only **82 signatures**.² More significantly, that same year a petition initially found insufficient produced a judicial challenge under § 116.200. In *Osage River Gaming & Convention v. Ashcroft*, the Cole County Circuit Court determined, after receiving stipulated evidence concerning disputed signatures, that the petition contained 36,153 valid signatures in Congressional District 2 where 36,099 were required—a difference of only **54 signatures**—and ordered the Secretary to certify the petition for the ballot. No. 24AC-CC07163 (Cole Cnty. Cir. Ct. Aug. 30, 2024). Missouri law itself anticipates such close cases: where random sampling is used and places a petition between ninety and 110 percent of the required signatures in a congressional district, the Secretary must order examination and verification of **every signature filed**. § 116.120.4, RSMo. Close signature disputes are therefore neither hypothetical nor incapable of timely judicial resolution. The fact that the challenged signatures happen not to determine sufficiency **in this case** provides no reason to decide them now; it provides every reason to await a future controversy in which their validity actually matters.

Therefore, the Court should dismiss PNP's Points I and II as moot. Further, once the underlying controversy is moot, the Court likewise need not resolve collateral procedural questions concerning abeyance or intervention that cannot affect the disposition of the case. *See Owens v. Hoskins*, WD 88981, 2026 WL 1642211, at *12 (Mo. App. W.D. June 5, 2026) (declining to address

² See Certificate of Sufficiency, Initiative Petition 2024-160 accessed at <https://www.sos.mo.gov/CMSImages/Elections/Petitions/2024-160WebSufficiency.pdf>

challenges to intervention where the asserted error did not affect the arguments presented or the outcome); *McCrackin v. Mullen*, 701 S.W.3d 868, 876 (Mo. 2024) (declining to address a moot stay issue because any discussion would be “hypothetical”); *State ex rel. County of Jackson v. Mo. Pub. Serv. Comm’n*, 14 S.W.3d 99, 103–04 (Mo. App. W.D. 2000) (declining to decide questions concerning intervention and other “ancillary issues” after intervening events eliminated the underlying justiciable controversy because appellate courts “neither render advisory opinions nor decide non-existent issues”). Accordingly, the Court should dismiss PNP’s entire case as moot.

II. The Circuit Court correctly held that the Secretary properly rejected Referendum Petition R-003 as to form because House Bill 1 was not yet a “law” subject to referendum. (Responds to PNP’s Point I)

The Circuit Court correctly held that Referendum Petition R-003 was not eligible for approval as to form because House Bill 1 (“HB 1”) was not yet a “law” within the meaning of Article III, Section 49 of the Missouri Constitution or Section 116.030, RSMo. That conclusion follows from the plain text of the statute, the Constitution’s own structure and history, and this Court’s precedent.

Standard of Review

This Court will affirm a declaratory judgment “unless there is no substantial evidence to support it, unless it is against the weight of the evidence, unless it erroneously declares the law, or unless it erroneously applies the law.” *Luther*, 730 S.W.3d at 570 (internal quotation omitted). “Questions of law involving constitutional interpretation are reviewed de novo.” *Maggard v. State*, 733 S.W.3d 411, 413–14 (Mo. 2026).

“The judgment of the trial court will be affirmed unless there is no substantial evidence to support it, it is against the weight of the evidence, or it

erroneously declares or applies the law.” *Healey v. State*, 732 S.W.3d 827, 849 (Mo. 2026) quoting *Pearson v. Koster*, 367 S.W.3d 36, 43 (Mo. banc 2012).

A. The plain text of Section 116.030 limits referendum sample sheets to “any law passed by the general assembly.”

Section 116.030 states that the statutory form applies to “referendum petitions on any **law** passed by the general assembly of the state of Missouri.” Section 116.030, RSMo (emphasis added).³ The word choice is intentional and material.

A bill that has not yet been signed by the Governor is not “law”—it has not yet been enacted. The statute’s own plain language presupposes an enacted law as the subject of the referendum when the sample sheet is submitted. This reading tracks the constitutional sequence for how a bill becomes a law: “No law shall be passed except by bill.” Mo Const. art. III, § 21. In addition, the constitution provides a bill becomes law upon the Governor’s signature or, absent action within the constitutionally allotted period, by operation of the Governor’s inaction. MO. CONST. art. III, § 31 (“If the bill be approved by the governor it shall become a law.”) It also tracks this Court’s precedent. *State ex rel. Drain v. Becker*, 240 S.W. 229, 232 (Mo. banc 1922) (emphasis added) (“The people cannot refer a measure until it has been adopted by the General Assembly **and signed by the Governor[.]**”).

This reading gives effect to plain language of the statute and the words chosen by the General Assembly, as this Court must. *State ex rel. Bailey v.*

³ The form itself in Section 116.030 also requires the proponent of a referendum to insert the “title of **law**”. *Id.* In addition, Section 116.050, requires “Each page of a referendum petition shall be attached to or shall contain the full and correct text of the measure on which the referendum is sought.” The “full and correct text” shall “Include all sections of **existing law** or the constitution which would be repealed by the measure.” Section 116.050.2(2).

Fulton, 659 S.W.3d 909, 912 (Mo. banc 2023) (citing *State ex rel. Goldsworthy v. Kanatzar*, 543 S.W.3d 582, 585 (Mo. banc 2010) (“The primary goal of statutory interpretation is to give effect to legislative intent, which is most clearly evidenced by the plain text of the statute.”). A sample sheet for a referendum submitted before HB 1 was signed into law on September 28, 2025, sought to refer something Section 116.030 does not describe – a bill.

PNP’s reliance on *Stickler v. Ashcroft*, 539 S.W.3d 702 (Mo. App. W.D. 2017) and *Maggard v. State*, 733 S.W.3d 411 (Mo. banc 2026) to argue that a gubernatorial signature is immaterial to referendum eligibility is misplaced. *Stickler* was addressing Article III, Section 52(b), a provision that describes what happens to a measure’s operative effect after it has already been enacted and properly referred; it says nothing about what makes a measure eligible for referendum in the first instance. Likewise, the quote from *Maggard* about when a petition might relate back to its original filing date is a question that presupposes an enacted law was the proper subject of the petition to begin with.

B. *American Civil Liberties Union of Missouri v. Ashcroft* does not extend to the threshold question presented here.

PNP relies heavily on *ACLU v. Ashcroft*, see App. Br. at 33, where the Western District held that a Secretary’s review of a sample sheet for “sufficiency as to form” under Section 116.332 cannot extend “to matters of substance, including constitutional compliance.” *Id.* at 891. There, the Secretary conceded the sample sheet’s form was adequate but nonetheless rejected it because he believed the underlying measure was unconstitutional – an inquiry into the *substance* of the proposed law that Section 116.030 does not authorize at the form stage.

Sections 116.332 repeatedly uses the phrase “sufficiency as to form” to **describe the secretary of state's statutory authority during the “pre-signature collection stage” of the referendum process to approve or reject a sample sheet.** Though the phrase “sufficiency as to form” in section 116.332 is not afforded an express statutory definition, section 116.030 effectively serves as the definition for the phrase, as it addresses the required form of a referendum petition sample sheet, and includes an exemplar form. Importantly, section 116.030 provides that the exemplar form “shall be substantially the form of each page of referendum petitions on any law passed by the general assembly of the State of Missouri,” and that “[i]f this form is followed substantially and the requirements of section 116.050 and section 116.080¹² are met, *it shall be sufficient*, disregarding clerical and merely technical errors.” (Emphasis added.)

ACLU of Missouri v. Ashcroft, 577 S.W.3d 881, 890–91 (Mo. App. W.D. 2019), as corrected (July 10, 2019) (emphasis added).

The question here is different. The Secretary did not reject Referendum Petition R-003 because of some substantive or constitutional defect *in* the measure it sought to refer. He rejected it because Section 116.030, by its own terms, prescribes a form for referendum petitions “on any law passed by the general assembly.” HB 1 was not yet such a qualifying law. That is not an inquiry the *ACLU* court held off-limits; it is the application of Section 116.030’s own eligibility requirement, which *ACLU* itself recognized “effectively serves as the definition” of “sufficient as to form”. *Id.* at 890. Confirming that a submitted document is describing an enacted law, rather than an unenacted bill, is confirming that the statutory form applies at all – not making a constitutional judgment about the measure’s substance.⁴

⁴ PNP also argues that if Section 116.030 is controlling, it “must be invalidated.” App. Br. at 36. PNP failed to raise any constitutional challenge to Section 116.030 before the trial court in its Petition (D134), its Amended Petition (D2) or in its pre-trial brief (D30). 638 S.W.3d at 491. At trial, counsel

C. “Substantial compliance” with the form of Section 116.030 cannot cure the absence of an enacted law to refer.

PNP argues that Referendum Petition R-003 “substantially complied” with Section 116.030’s form requirements and that any deficiency should be “disregard[ed] as “clerical [or] merely technical.” Section 116.030, RSMo. But the substantial-compliance savings clause addresses deviations in how a proponent fills out the statutory form, not whether the measure being referred is the kind of thing Section 116.030 describes in the first place.

A sample sheet submitted before HB 1 became law could not, as a structural matter, ever satisfy Section 116.050.2(2)’s requirement to identify the “existing law...which would be repealed,” because no such existing law yet existed. That is not a clerical or technical defect capable of being excused; it is the absence of the very thing the form exists to describe. This also explains why the Secretary approved the identical document on September 29: the words on the page did not change, but the state of the law those words purported to describe did, once the Governor signed HB 1. Substantial compliance cannot substitute for that missing element regardless of how the

for PNP told the court directly “We’re not asking you to do that. You don’t need to declare any statutes unconstitutional here[.]” Tr. 98:24-99:1. Counsel for Put Missouri First later confirmed “They’ve expressly said they’re not seeking the unconstitutionality of any statute.” Tr. 131:24-25.

To preserve a constitutional challenge for appellate review, a party must “(1) raise the constitutional question at the first available opportunity; (2) designate specifically the constitutional provision claimed to have been violated, such as by explicit reference to the article and section or by quotation of the provision itself; (3) state the facts showing the violation; and (4) preserve the constitutional question throughout for appellate review.” *Mayes v. Saint Luke’s Hosp. of Kansas City*, 430 S.W.3d 260, 266 (Mo. banc 2014) (citing *United C.O.D. v. State*, 150 S.W.3d 311, 313 (Mo. banc 2004)). PNP did not raise the constitutionality argument at the trial court, and in fact, expressly disclaimed it, nor did it preserve the constitutional question throughout.

paperwork read on either date.

D. Article III, Section 49 reserves the referendum power over “any act of the general assembly,” which means enacted law, not an unsigned bill.

To advance their argument, that the Secretary incorrectly rejected Referendum R-003 because the Governor had not yet signed HB 1, PNP argues that the use of the word “act” in Section 49 means “bill.” App. Br. at 37. This reading is inconsistent with the precedent of this Court, which has previously explained. “The people cannot refer a measure until it has been adopted by the General Assembly **and signed by the Governor[.]**” *State ex rel. Drain v. Becker*, 240 S.W. 229, 232 (Mo. banc 1922) (emphasis added).

Historically, the word “act” in Section 49 means an enacted law, not a bill. *See State ex rel. Lashly v. Becker*, 235 S.W. 1017, 1023 (Mo. banc 1921) (“The legislative acts so referred to include the approval and veto power of the Governor[.]”) *Id.* at 1023. This court has previously treated “law” and “act” as equivalent: “This law is an act of the Legislature, and under [the referendum provision] of the Constitution is subject to the referendum.” *Fahey v. Hackmann*, 237 S.W. 752, 762 (Mo. banc 1922).⁵

PNP frames this as a case of plain, unambiguous constitutional text, arguing the Court need look no further than the word “act.” But *Lashly* and *Fahey* show the word “act” was never as self-defining in this referendum context as PNP suggests. This Court has long read it to mean a completed act of lawmaking, not a bill still moving through the constitutionally prescribed

⁵ PNP’s Brief, at 35, cites to *State ex rel. Barrett v. Dallmeyer*, for its assertion that an act is not a law. However, *Barrett*, actually states the opposite: “...it is shown that the **law** creating the office of supervisor of public welfare, Laws of Missouri 1921, page 589, likewise approved March 24, 1921...” 245 S.W. 1066, 1068 (Mo. banc 1922) (emphasis added).

process for becoming law.

In addition, constitutional provisions are read in harmony with all related provisions. *Comm. for Educ. Equal. v. State*, 294 S.W.3d 477, 488 (Mo. 2009) (citing *Neske v. City of St. Louis*, 218 S.W.3d 417, 421 (Mo. banc 2007)). Section 49 reserves to the people “power to approve or reject by referendum any act of the general assembly, **except as hereinafter provided.**” Section 52(a) provides that referenda may not be held on “except as to **laws** necessary for the immediate preservation of the public peace, health or safety, and **laws** making appropriations for the current expenses of the state government, for the maintenance of state institutions and for the support of public schools. MO. CONST. art. III, §52(a) (emphasis added). These exceptions would be illogical if a referendum could proceed against the underlying bill before it was ever signed into law, and PNP offers no reasoned explanation why an unsigned or vetoed bill would be an “act” subject to referendum. Section 52(a)’s single reference to “bill” appears only in the timing clause, fixing a filing deadline by reference to when the General Assembly acted, rather than defining what may be referred. Harmonizing Article III, Sections 49, 52(a) and 52(b) supports the Secretary’s decision here.

This reading was recognized by this Court in *No Bans on Choice*, when the Court explained that a referendum campaign’s practical timeline runs from when “the challenged legislation [was] signed by the governor.” *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 491 (Mo. banc 2022). Nothing in that decision, or in the referendum provisions themselves, supports treating an unsigned bill as eligible for referendum before the Governor has acted.

E. Any Delay Caused by the Ordinary Constitutional Process for Signing HB 1 Did Not Interfere with PNP’s Referendum Right.

Article III, Section 49 creates an express limitation on the power of

referendum by stating “except as hereinafter provided.” MO. CONST. art. III, §49. This language reflects that there are other provisions of the constitution which restrict or limit referenda. Article III, Section 52(a) contains a number of these limitations: “except as to laws necessary for the immediate preservation of the public peace, health or safety, and laws making appropriations for the current expenses of the state government, for the maintenance of state institutions and for the support of public schools.” MO. CONST. art. III, §52(a). Each of these exceptions relate to “laws” and not to bills, reflecting that the Governor plays an essential role in laws and thus in referenda.

The Governor’s powers are not created by statute, but by constitutional provisions. The constitution provides that he shall have the right and power to approve (sign), veto or take no action on a bill before it can become law. MO. CONST. art. III, §31.

The Governor’s exercise of his own constitutional prerogative under Article III, Section 31 is not a **legislatively-imposed** precondition to circulation; it is the **constitutionally mandated** process by which a bill becomes a law in the first instance, a process the referendum right presupposed rather than displaces. And on the facts of this case, the delay between PNP’s September 15 submission and the Governor’s signature on September 28 – was thirteen days – a fraction of the systemic thirty to-forty-five day delay this Court took issue with in *No Bans on Choice*. PNP’s argument rests on the theoretical maximum delay permitted, not on the facts in this case.

In *No Bans on Choice v. Ashcroft*, this court invalidated sections 116.180 and 116.334.2 because they systematically and mandatorily consumed “more than one-third to more than one-half” of the ninety days allotted for signature

collection – a minimum of roughly thirty to forty-five days, in every referendum effort by operation of statute. 638 S.W.3d at 491. Nothing of the kind happened here. Furthermore, *No Bans* related to the powers of the Secretary of State, solely provided by statute, not on a separate power granted to the Governor by the constitution itself.

In reviewing an express exception to the referenda process, the other provisions of the constitution are expressly called into play by Article III, section 49. The Governor has the authority to take up to forty-five days to make his decision under Article III, section 31. He cannot go beyond that date or the bill becomes a law automatically. MO. CONST. art. III, §31. He can also act more quickly as was recognized in *No Bans*, 638 S.W.3d at 491 (noting that the Governor signed the right to work law 113 days before the adjournment of session and more than 203 days before the referendum deadline.).

This Court should read the provisions of Article III, sections 31, 49 and 52(a) together. The bill only becomes a law with the action (or inaction) of the Governor and a referendum cannot be initiated until there is a law. To read it any other way would be to render meaningless the plain language of the Constitution, the implementing legislation, and the constitutional powers of the Governor.

The delay, if any, did not interfere with the rights of PNP to proceed with their referendum. As argued in Point I in support of why this case is moot, even without the signatures at issue in this case, PNP had sufficient time to collect the signatures needed.

Conclusion

For these reasons, HB 1 was not a “law passed by the general assembly” until the Governor signed it on September 28, 2025, and the Secretary correctly rejected Referendum Petition R-003 as to form on that basis. Neither *ACLU*

nor the substantial-compliance savings clause supports a contrary result. The Circuit Court's judgment on Point I should be affirmed.

III. The Circuit Court correctly held that Missouri law does not permit gathering signatures before a valid, approved referendum petition exists and no signatures collected before the Secretary's approval as to form may be counted. (Responds to PNP's Point II)

PNP's Point II rests on a single premise: that Section 116.332.1, RSMo requires only "submission" of a sample sheet, not the Secretary's approval, before a proponent may lawfully begin collecting signatures. The Circuit Court correctly rejected that premise on two independent grounds, each addressed below: (A) a referendum petition rejected as to form is not a valid petition at all, so signatures collected on it are invalid regardless of what happens later; and (B) even signatures collected on the form ultimately approved (R-004) could not lawfully be gathered before that approval issued.

Standard of Review

This Court will affirm a declaratory judgment "unless there is no substantial evidence to support it, unless it is against the weight of the evidence, unless it erroneously declares the law, or unless it erroneously applies the law." *Luther*, 730 S.W.3d at 570 (internal quotation omitted). "Questions of law involving constitutional interpretation are reviewed de novo." *Maggard v. State*, 733 S.W.3d 411, 413–14 (Mo. 2026).

"The judgment of the trial court will be affirmed unless there is no substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law." *Healey v. State*, 732 S.W.3d 827, 849 (Mo. 2026) quoting *Pearson v. Koster*, 367 S.W.3d 36, 43 (Mo. banc 2012).

A. Section 116.332.1 requires an approved sample sheet before a referendum petition may be circulated for signatures.

PNP's argument concerning the signatures gathered after R-004 was

submitted but before it was approved depends almost entirely on one sentence in Section 116.332.1, RSMo: “Before...a referendum petition may be circulated for signatures, a sample sheet must be submitted to the secretary of state in the form in which it will be circulated.” From the statute’s use of “submitted,” PNP infers that submission alone affirmatively authorizes immediate circulation. *See* App. Br. at 42-43.

The statute says no such thing. Section 116.332 establishes a mandatory pre-circulation review process. Submission initiates that process. § 116.332.1, RSMo. The Secretary and Attorney General then review the petition for sufficiency as to form. § 116.332.1, .3, .4, RSMo. Reading the first step in that process as authorization to disregard the remaining steps defeats the purpose of the statutory review.

The distinction between a condition necessary to circulation and affirmative authorization to circulate is critical. Section 116.332 says that a petition may not be circulated **before** submission. It does not say that a petition **may immediately be circulated upon** submission regardless of the Secretary’s subsequent determination.

That interpretation would make approval as to form largely meaningless. That interpretation is also in direct contradiction to *Gash v. Lafayette County*, 245 S.W.3d 229, 232 (Mo. banc 2008). There, this Court explained:

[A] statutory phrase cannot be read in isolation. *Burns*, 219 S.W.3d at 225. Instead, “[t]he provisions of a legislative act are ... construed together and read in harmony with the entire act.” *Mo. Dep’t of Soc. Servs., Div. of Aging v. Brookside Nursing Ctr., Inc.*, 50 S.W.3d 273, 276 (Mo. banc 2001).

Id. at 232. The same statute PNP relies on requires the Secretary and Attorney General to “review the petition for sufficiency as to form and approve or reject

the form of the petition.” See Section 116.332.1, RSMo. PNP’s reading of the statute was outright rejected in *ACLU v. Ashcroft*, 577 S.W.3d 881, 890 (Mo. App. W.D. 2019), when it explained: “[T]he proponent of a referendum petition cannot begin to collect signatures unless the sample sheet is approved.” *Id.* at 893.

This threshold issue and the timing related to it is exactly why the General Assembly set such short timeframes for the approval process, to ensure that a petition could be quickly reviewed and approved before signature gathering. Section 116.332 provides for accelerated timing: ten days for the Attorney General to review and opine on the form, then the Secretary of State must issue his decision **no less than fifteen days after submission** (not after the Attorney General’s opinion is issued, but encompassing it within that timeframe).⁶

Of course, a sample sheet that the Secretary rejects as to form is not, and never becomes, a valid referendum petition. As the Circuit Court held, because the PNP’s first three sample sheets were rejected as to form, all signatures collected on those rejected sheets “occurred ‘during the pre-signature collection’ state of the referendum process” and are “per se invalid.” D116:P20-21; see *ACLU v. Ashcroft*, 577 S.W.3d 881, 890 (Mo. App. W.D. 2019).

Because R-003 was rejected as to form, signatures collected on it cannot be salvaged by pointing to R-004’s later approval. Whether R-003 and R-004

⁶ Of note, that had even one page of the sixty-five page referendum not included the full text of the measure or an erroneous version of HB 1 or an illegible page was included, that the referendum would be invalid under the full text requirement of the Missouri Constitution. The legislative intent is of the full text requirement is evident from Chapter 116, RSMo -- signers of the petition should have the full information with regard to what they are being asked to sign before signing.

are “indistinguishable” does not change the fact that no valid referendum petition existed while R-003 was the only sample sheet on file. A form that the Secretary has rejected confers no right to gather signatures, no matter how closely a later-approved form happens to resemble it.

B. *State ex rel. Basinger v. Ashcroft* confirms that collecting signatures before the statutory trigger confers no right to have them counted.

PNP argues that nothing in Chapter 116, RSMo, expressly forbids collecting signatures before approval as to form fails for the same reason the Western District has already rejected the identical argument under Chapter 116’s initiative-petition provisions. *State ex rel. Basinger v. Ashcroft*, 677 S.W.3d 562 (Mo. App. W.D. 2023) held that a proponent who acts before the relevant constitutional or statutory trigger has occurred does not get credit for having jumped the gun: the Secretary’s obligation “did not arise” until the triggering event.

The proponent in *Basinger* argued that because Section 116.332 was “silent as to when the Secretary of State must begin processing sample initiative petitions” that silence entitled him to immediate processing. *Id.* at 566. The Western District rejected that inference: silence about timing does not create a right to act early. Just as the statute’s silence in *Basinger* did not excuse the proponent’s attempt to act before the window opened, Section 116.332.1’s silence about early signature-gathering does not excuse PNP’s attempt to act before the Secretary’s approval – the event that opens the window for lawful circulation. The same principle forecloses treating Section 116.332’s silence about what becomes of early-gathered signatures as an entitlement to gather them anyway.

C. *No Bans on Choice* invalidated only the statutory bar on collecting signatures before ballot-title certification and does not reach the Secretary's approval as to form.

PNP invokes *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484 (Mo. banc 2022), for the proposition that requiring proponents to wait before collecting signatures “interferes with and impedes” the constitutional right of referendum. App. Br. at 35. Notably, PNP has not brought a constitutional challenge to Section 116.334, RSMo.⁷ *No Bans on Choice* held unconstitutional only Sections 116.180 and 116.334.2, RSMo, the provisions barring circulation until after the Secretary certifies the official ballot title, a step that occurs only following approval of the petition as to form. 638 S.W.3d at 492. It said nothing about, and did not disturb, the Secretary's antecedent authority under Section 116.332 to approve or reject a sample sheet's form in the first instance. Two years later, this Court made abundantly clear that the approval as to form remains a reasonable and valid requirement:

The reason these decisions by the Attorney General and the Secretary of State are so important is they occur at the beginning of the process, when an error in form can be corrected with minimum disruption to the citizens' constitutional power of initiative petition. Perhaps more important, if (as here) the claimed defect is that the petition omits required information essential for Missourians to have before deciding whether to sign the petition in the first instance, a correction at the beginning of the process – before signatures are gathered – protects that interest.

Coleman v. Ashcroft, 696 S.W.3d 347, 351-52 (Mo. banc 2024). Requiring a proponent to wait for the threshold form-approval decision is a different thing than a ballot title, and *No Bans on Choice* provides no basis to excuse it,

⁷ To the extent PNP now asserts invalidity of Section 116.332.1, they have waived that argument by failing to plead it before the trial court. See, Point II.C., *supra*.

especially after the more recent decision of this Court in *Coleman*.

D. Permitting signature collection before approval as to form would create the precise voter confusion and ballot-fraud exposure the form-approval requirement exists to prevent, and *United Labor Committee* does not counsel otherwise.

As the Circuit Court correctly concluded, allowing petitioners to collect signatures before approval as to form “will sow confusion.” A voter who signs an invalid petition, believing it valid, may decline to sign a later, valid petition on the same measure causing his voice to go uncounted. D116:P25. If he signs both, he may expose himself to liability for ballot fraud under Section 116.190.1(1). *Id.*

PNP’s theory is that signatures become valid retroactively if the Secretary later approves the same or similar form. The validity of a voter’s signature would remain unresolved when the voter signs and then spring into legal existence only if the Secretary later approves the form. That approach would inject precisely the uncertainty into the referendum process that pre-circulation review is designed to prevent.

United Labor Committee of Missouri v. Kirkpatrick, 572 S.W.2d 449 (Mo. banc 1978), does not assist PNP’s timing argument. *United Labor Committee* addressed whether defects in a circulator’s affidavit at the post-collection verification stage could invalidate otherwise genuine signatures. *Id.* at 456. That case did not address whether the pre-collection approval-as-to-form requirement that Chapter 116 imposes on referendum petitions can be skipped altogether. A rule that clerical or affidavit-related defects should not defeat otherwise genuine signatures says nothing about whether a proponent may lawfully gather signatures before any valid petition exists to sign. The rule also does not authorize courts to disregard statutory prerequisites governing when and how a referendum may be circulated. A genuine signature must still be a

genuine signature on a legally valid petition circulated in accordance with Missouri law.

IV. PNP's Point III seeks no relief. (Responds to PNP's Point III)

In Point III, PNP attacks the trial court's decision to hold the underlying case in abeyance pending the Secretary's decision on the sufficiency of its referendum petition.

Standard of Review

PNP acknowledges the appropriate standard of review for scheduling decisions is abuse of discretion. *See* App. Br. at 45. However, it argues that standard should be replaced by *de novo* review here based on four inapplicable statutes and a highly selective reading of the record.

The four statutes cited by PNP apply to challenges in specific court actions, not "election cases" broadly as PNP implies. *See* App. Br. at 46 (citing §§ 115.535, 115.551, 116.190, and 116.200, RSMo). Section 115.535 gives extreme preference to election contests, while Section 115.551 does the same for appeals therefrom. Section 116.190 gives priority to ballot-title challenges. And Section 116.200 hastens challenges to the Secretary's final sufficiency determination, as was done in a related case now being appealed.⁸ But *this* case is a mid-review attack on the Secretary's procedures and does not fall within the scope of any of the aforementioned statutes. PNP's claim that the trial court "failed to follow" a "legislative directive for handling such cases" is unsupported by any authority. No statute requires expedited review of a case like PNP's.

As another attempt to escape the correct standard of review, PNP

⁸ *See von Glahn, et al. v. Hoskins*, No. SC101805, currently pending in this Court.

accuses the trial court of not “actually deliberat[ing] and exercis[ing] discretion.” See App. Br. at 46. It infers this from the *sua sponte* nature of the trial court’s decision and little else. See *id.* PNP’s argument omits several important facts from of the record. *First*, the trial court’s Order dated December 12, 2025, explains the reasoning behind the abeyance: the possibility of mootness depending on the outcome of the Secretary’s signature count. D132. *Second*, the parties filed regular status updates on the Secretary’s signature-counting efforts, including on January 5 (by PNP), D92, January 12 (by the Secretary), D97, and April 27 (by both PNP and the Secretary) D108, D114. *Third*, PNP repeatedly asked the trial court to end the abeyance, filing pleadings to that effect on January 12, D96, and March 6, D98. *Fourth*, the trial court heard arguments thereon and requested briefing, D107, then issued a written order denying those requests, D115. Contrary to PNP’s bold assertion that the trial court⁹ acted “without any actual consideration of the merits of the abeyance,” see App. Br. at 46, the record reflects periodic updates and well-briefed rejection of PNP’s protests.

“The trial court is vested with a broad discretion in controlling the docket and the progress of the litigation.” *John L. Thuston and Assocs. v. FDIC*, 869 S.W.2d 105, 108 (Mo. App. W.D. 1993). As PNP admits in its brief, the standard of review for a court’s scheduling decision is abuse of that discretion, see App. Br. at 45, and the Court should apply that standard. No case or statute supports PNP’s claim to *de novo* review.

⁹ PNP fails to mention that the Western District *also* stayed its consideration of PNP’s writ petition directed to other issues in this case. See Order in *State ex rel. People Not Politicians, et al. v. Limbaugh*, No. WD88522 (Mo. App. W.D. filed Dec. 22, 2025).

A. Point III is moot.

“A cause of action is moot when the question presented for decision seeks a judgment upon some matter which, if the judgment was rendered, would not have any practical effect upon any then existing controversy.” *Precision Invs., L.L.C. v. Cornerstone Propane, L.P.*, 220 S.W.3d 301, 304 (Mo. banc 2007). Put differently, when an intervening event makes the court’s decision unnecessary or leaves no effective relief for the court to grant, there is no longer a justiciable controversy. *See Humane Soc’y of the U.S. v. State*, 405 S.W.3d 532, 535–36 (Mo. banc 2013).

Point III challenges the trial court’s abeyance of the case below, an interlocutory ruling which has no bearing on the merits. As PNP notes, it receives no mention in the Judgment, *see* D116, because it was a procedural ruling. This case has now arrived before this Court; just as it would have been without an abeyance. No deadlines have been missed, and no equities have been altered. PNP does not identify any “practical effect” on the case that will result from reversal of the trial court’s order granting the abeyance. *See Precision Invs.*, 220 S.W.3d at 304. Nor can it, because the abeyance has ended.

The true purpose of Point III is to seek an advisory ruling, and PNP admits as much. Rather than any relief directed to itself or this case, it asks the Court to reverse the trial court “so that all courts in Missouri take seriously their constitutional^[10] obligations to resolve disputes ‘without delay.’” *See* App. Br. at 53. But courts “do not decide questions of law disconnected from the granting of actual relief.” *Vernon County Republican Committee by and through Haggard v. Lee*, 692 S.W.3d 439 (Mo. App. W.D. 2024). That is especially true where the broad “obligations” imagined by PNP do not exist

¹⁰ As discussed above, PNP alleges this duty arises from four specific statutory – not constitutional – provisions. *See* App. Br. at 46.

outside their limited statutory contexts.

The appropriate mechanism to challenge an interlocutory scheduling decision – whether it be called a stay, continuance, abeyance, or some other name – is to seek a writ. PNP did so and was rejected. *See State ex rel. People Not Politicians v. Limbaugh*, WD88821 (Mo. App. W.D. denied Apr. 7, 2026). The abeyance has now ended, the merits are before this Court, and any ruling on the abeyance will have no “practical effect” in this case. That is textbook mootness.

B. The Trial Court’s Abeyance Order is Unappealable.

“The right to appeal is purely statutory and, where a statute does not give a right to appeal, no right exists.” *Wilson v. City of St. Louis*, 600 S.W.3d 763, 767 (Mo. banc 2020) (quotation omitted). PNP does not identify any statute which confers the right to appeal from an abeyance or similar stay, nor can Respondents find one. The general appeal statute limits appeals from five distinct classes of rulings, none of which apply here. *See* § 512.020, RSMo. Even presuming the trial court’s abeyance ruling is not moot, it is unappealable as a matter of law because the abeyance did not affect the final judgment. *Cf. Pettis Cnty. Dev. Co., LLC v. Pettis Cnty.*, --- S.W.3d ---, 2026 WL 1465979 (Mo. App. W.D. May 26, 2026) (requiring dismissal of appeal not taken from final judgment).

The proper vehicle to challenge this interlocutory abeyance was to seek a writ in the Court of Appeals. PNP did exactly that, and the Court of Appeals denied the petition. *See State ex rel. People not Politicians v. Limbaugh*, No. WD88821 (Mo. App. W.D. denied Apr. 7, 2026). If the trial court abused its discretion in entering the abeyance – or acted entirely outside its authority as PNP’s brief argues – the Court of Appeals would have issued a writ. It did not.

PNP’s next remedy was to seek a writ from this Court. PNP failed to seek

review from this Court in a timely manner. It failed to seek a writ from this Court and is foreclosed from seeking it now. PNP has exhausted its remedies with respect to challenging the abeyance, and there is nothing left to appeal now.

C. The Abeyance was well within the Trial Court's discretion.

The trial court termed its order an “abeyance” for good reason. *See* D132.

“The term ‘abeyance’ means certain rights or conditions are ‘in expectancy.’ It clearly implies that the situation is not yet fully completed. 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. S.D. 2005) (quoting *Belitz v. City of Omaha, Ne.*, 108 N.W.2d 421, 425 (Neb. 1961)). Because the trial court correctly foresaw that the Secretary’s forthcoming decisions would have a meaningful effect on the court’s ruling, an abeyance¹¹ was appropriate here.

PNP contends there is no authority for a trial court to hold a case in abeyance. App. Br. at 49. This premise overlooks the well-worn rule that “[t]he trial court is vested with a broad discretion in controlling the docket and the progress of the litigation.” *John L. Thuston*, 869 S.W.2d at 108; *see also In re Marriage of House*, 292 S.W.3d 478, 483 (Mo. App. S.D. 2009) (“The decision to grant or deny a continuance is within the discretion of the trial court.” (quotation omitted)), *U.S. Bank, N.A. v. Coverdell*, 483 S.W.3d 390, 401 (Mo. App. S.D. 2015) (“The granting or refusing of a stay of proceedings rests in the trial court’s discretion, the exercise of which will not be disturbed on appeal unless clearly abused.”). PNP cites several cases discussing, granting, or

¹¹ Few cases discuss abeyances vis-à-vis stays, continuances, and similar rulings, but the trial court’s reasoning is that of an abeyance, not a stay or other procedural posture.

denying stays, but none hold a trial court *cannot* hold a case in abeyance where the facts warrant it. See App. Br. at 49-50. Contrary to PNP's view, the trial court had the inherent and well-established authority to hold the case in abeyance while important facts developed through the Secretary's review process.

The cases cited by PNP do not hold otherwise. *State ex rel. Teichman v. Carnahan* was a writ ruling on the merits, not an appeal from a final judgment or an abeyance order. 357 S.W.3d 601 (Mo. banc 2012). *Savannah Place* actually *granted* a stay in circumstances analogous to those here: it held a judgment "in abeyance" pending jury trials on other claims to reduce the case to a single judgment. 164 S.W.3d at 66. No case cited by PNP holds the trial court lacked authority to enter its stay, and *Savannah Place* holds the opposite.

So does *Logan*. There, the Court of Appeals found a trial court committed reversible error by *not* granting an abeyance for a wrongful death case. *Logan v. Sho-Me Power Elec. Co-op.*, 122 S.W.3d 670, 683 (Mo. App. S.D. 2003). The plaintiff pursued parallel actions for damages through both the workers' compensation system and a wrongful death action in circuit court. *Id.* at 673. Because the plaintiff was entitled to recovery through one, but not both, the trial court's premature dismissal of the wrongful death action was reversed with instructions to hold it in abeyance pending resolution of the workers' compensation claim. *Id.* at 683. It is impossible to square this command to hold a case in abeyance with PNP's claim that there is "little authority [] in Missouri for courts holding a case in abeyance..." See App. Br. at 49.

Conclusion

For these reasons, the trial court properly held the case in abeyance pending the resolution of the Secretary's review of PNP's petition. Furthermore, any disagreement with the trial court's abeyance is moot and

unappealable, and reversing the trial court's abeyance ruling would result in no meaningful relief for any party. Point III should therefore be denied.

V. The Circuit Court correctly granted Put Missouri First to intervene as a matter of right under Rule 52.12(a), because Put Missouri First established a direct, non-speculative interest in the subject matter of this action, that interest would be impaired absent intervention, and the Secretary did not adequately represent Put Missouri First's distinct interests, in that Put Missouri First litigated a defense — the absence of any showing of harm to PNP — that the Secretary never raised, and Put Missouri First's Verified Motion to Intervene, filed and sustained before trial, was timely under Missouri law. (Responds to PNP's Point IV)

Standard of Review

A circuit court's decision on intervention as a matter of right is reversed only if there is no substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law. *Johnson v. State*, 366 S.W.3d 11, 20 (Mo. banc 2012); *Robinson v. Mo. Dep't of Health & Senior Servs.*, 672 S.W.3d 224, 231 (Mo. banc 2023). Where the facts are undisputed and the question is whether the circuit court properly applied the law to those facts, review is *de novo*. *Robinson*, 672 S.W.3d at 231. Timeliness is reviewed for abuse of discretion. *Id.* Rule 52.12 "should be liberally construed to permit broad intervention." *Allred v. Carnahan*, 372 S.W.3d 477, 482 (Mo. App. W.D. 2012) (citation omitted).

Put Missouri First's Verified Motion to Intervene was verified under oath by its treasurer (D32), and PNP offered no contrary evidence in the circuit court. On this record, the Verified Motion's factual assertions stand uncontroverted.

A. Put Missouri First has a direct, quantifiable interest in the subject matter of this litigation.

Under Rule 52.12(a), a party is entitled to intervene as a matter of right,

upon a timely application, if it “claims an interest relating to the property or transaction that is the subject of the action” and disposition of the action may impair its ability to protect that interest, unless existing parties adequately represent it. An interest sufficient to support intervention “must be a direct claim upon the subject matter such that the intervenor will either gain or lose by direct operation of the judgment,” not “a mere, consequential, remote or conjectural possibility of being affected.” *State ex rel. Nixon v. Am. Tobacco Co.*, 34 S.W.3d 122, 128 (Mo. banc 2000); *Allred*, 372 S.W.3d at 484-85.

Put Missouri First’s Verified Motion established it is a political action committee organized under Chapter 130, RSMo, and MO. CONST. art. VIII, § 23, for the purpose of opposing the referendum on HB 1. D32:P1. Its “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,” and its “fundraising, communications, and expenditure decisions are triggered by the Secretary of State’s certification or rejection of a referendum petition.” D32:P3-4. Put Missouri First had, at the time of its Verified Motion, “already invested resources to educate voters, coordinate coalition opposition, and communicate the legal and policy defects of the proposal.” D32:P4.

These uncontroverted facts are materially indistinguishable from those the Western District found sufficient to support intervention as of right in *Allred v. Carnahan*. There, a committee supporting a ballot initiative submitted an affidavit establishing that it had paid staff to help gather signatures and that an adverse ruling would require it to expend additional time and money. 372 S.W.3d at 483. The Western District held that these facts established “more than just a curious, academic or sentimental interest,” giving the committee “a quantifiable interest in the underlying action that was

not merely consequential, remote or conjectural.” *Id.* at 485.

Put Missouri First’s showing here is, if anything, stronger: unlike the affidavit in *Allred*, Put Missouri First’s Verified Motion went un rebutted by any counter-evidence from PNP. *Id.* at n.4 (noting the initiative’s opponents in that case submitted a counter-affidavit).

This is why the Western District has consistently distinguished between committees with a quantifiable financial stake in a ballot measure and individual petition signers whose only asserted interest is having their own signatures counted. Compare *Allred*, 372 S.W.3d at 486-88 (affirming intervention for the proponent committee), with *Prentzler v. Carnahan*, 366 S.W.3d 557, 562-63 (Mo. App. W.D. 2012) (individual signers’ interest in having their own signatures counted was “too remote and conjectural” because factors outside the litigation could independently prevent those signatures from counting), and *Myers v. City of Springfield*, 445 S.W.3d 608, 614 (Mo. App. S.D. 2014) (individual signers of a petition alleged no specific economic harm to themselves in their motion to intervene).

Put Missouri First is not a signer with a personal stake in a single signature — it is the only political action committee registered with the Missouri Ethics Commission organized to oppose this referendum, and the disposition of the form-and-timing questions presented in this appeal directly determines whether, and how soon, Put Missouri First must escalate the statewide campaign operations, fundraising, and reporting obligations described in its Verified Motion. D32:P4-5.

This is precisely the kind of interest this Court held sufficient in *Johnson v. State*. There, three sitting legislators were permitted to intervene in a constitutional challenge to a House reapportionment plan because they showed “unique interests at stake in this case that went beyond their interests as

taxpayers,” including “personal and economic interests related to their planned reelection efforts, including interests in preventing delay and uncertainty and in avoiding unnecessary expenditures of time and resources.” *Johnson*, 366 S.W.3d at 21. Put Missouri First’s interest tracks *Johnson* closely: it will be required to deploy — or forgo deploying — substantial financial and organizational resources depending on whether PNP’s referendum is on the ballot. D4:P6-7 (¶¶ 37-41); D6:P6-7. That is a direct, quantifiable, organizational and financial interest in which map governs — not a generalized policy preference about HB1, and not a downstream campaign-timing interest contingent on whether a separate ballot measure is later certified and adopted.

The United States Supreme Court recently reviewed a nearly identical question regarding congressional elections. In *Bost v. Illinois State Board of Elections*, a Congressman challenged the Illinois mail-in ballot rules for its elections. 607 U.S. 71, 74-75 (2026). The majority held that “the harm candidates suffer is distinct from that suffered by the people generally,” so as to render them more than “generalized grievances.” *Id.* at 78-79. Five justices therefore held that *any* congressional candidate “has standing to challenge the rules that govern the counting of votes in his election,” regardless of whether they suffer any monetary harm. *Id.* at 83.

Justices Barrett and Kagan concurred in the judgment, finding the Congressman had standing to challenge the rule because “he has suffered a traditional pocketbook injury, not because of his status as a candidate.” *Id.* at 83 (Barrett, J., concurring in the judgment). Because the Congressman alleged he would “reasonably incur costs to mitigate and avoid” the consequences of the challenged statute, like needing additional poll watchers, two additional justices found he had standing to sue. *Id.* at 84-85. Thus, all seven justices

voting for the Congressman found this was sufficient to show “a concrete, particularized, and actual or imminent injury.” *Id.* at 83 (opinion of Barrett, J.) (quotation omitted).

The federal standing inquiry under Article III is functionally the same as the intervention inquiry under Missouri law: “What’s it to you?” *Id.* at 76 (quoting A. Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 SUFFOLK U. L. REV. 881, 882 (1983)). Put Missouri First has answered that plainly: the deployment of untold dollars and hours (among other resources) hinges directly on the final outcome of this case. Put Missouri First was formed for the express purpose of opposing R004 – its very *raison d’être* is at stake. *See* D32:P3-4.

PNP argues that Put Missouri First’s interest is “political” rather than legal, and that this litigation will not itself place the referendum on the ballot. App. Br. at 56–58.¹² The same could be said of the proponent committee in *Allred*, whose interest was likewise contingent on the Secretary’s certification decision rather than an immediate entitlement to appear on the ballot. 372 S.W.3d at 483, 485. The question under *Nixon* and *Allred* is not whether the intervenor’s ultimate goal is political — every proponent or opponent of a ballot measure has a political result in mind — but whether the intervenor has already committed resources toward that goal such that the challenged ruling

¹² PNP references *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824 (Mo. banc 1990) (“MPIP”) and *Missourians Against Human Cloning v. Carnahan*, 190 S.W.3d 451 (Mo. App. W.D.2006) (“MAHC”) as warning against a “partisan” using the judiciary on policy matters. App. Br. at 58-59. Both *MPIP* and *MAHC*, were discussing the Court’s role in ruling on the merits of whether an initiative was good policy or not. Put Missouri First has not raised any such claim in this case, instead focusing on the process for a referendum in order to protect its rights and interests. Rights and interests the trial court found sufficient and that record demonstrates is unique to Put Missouri First.

will cause it to “gain or lose by direct operation of the judgment.” *Allred*, 372 S.W.3d at 485 (citation omitted). Put Missouri First made that showing below; PNP offered nothing to rebut it.

B. Put Missouri First’s interest would be impaired absent intervention, and PNP waived any argument otherwise.

Put Missouri First’s Verified Motion establishes that, absent intervention, an adverse ruling would require it “to immediately deploy substantial financial and organizational resources,” including “fundraising, media advertising, voter outreach, and coalition coordination,” and would “negate or materially diminish the value” of resources it has already expended opposing the referendum. D32:P4-5. PNP’s Brief only gives passing mention to the impairment asserting merely that Put Missouri First’s interests “do not create a real interest in the resolution of Plaintiffs’ claim.” App. Br. at 59. PNP offers nothing else regarding this element. Having failed to meaningfully contest this element below or on appeal, PNP should be held to have conceded it. See *Robinson*, 672 S.W.3d at 231–32 (identifying the three elements). In any event, the uncontroverted, showing in the Verified Motion to Intervene (D32) satisfies the impairment element as a matter of fact and law.

C. The Secretary did not adequately represent Put Missouri First’s distinct interests.

The third element of Rule 52.12(a) requires only a “minimal showing” that representation by an existing party “may be” inadequate, once an applicant establishes an interest that may be impaired absent intervention. *Toombs v. Riley*, 591 S.W.2d 235, 237 (Mo. App. W.D. 1979); *Allred*, 372 S.W.3d at 487; *Trbovich v. United Mineworks of Am.*, 404 U.S. 528, 538 (1972). Put Missouri First cleared that bar with room to spare.

Put Missouri First’s litigation posture diverged materially from the

Secretary's. The Secretary stipulated to facts with PNP and offered no evidence at trial. D65 and Tr. 23. Put Missouri First, by contrast, propounded discovery directed at testing PNP's claimed injury, called a witness at trial, and was the only party to introduce evidence, and to raise a defense: that PNP had failed to demonstrate the harm required for the injunctive relief they sought. D33¹³, Tr. 23-53, Exs. A and B.

This divergence distinguishes this case from *Committee for Educational Equality v. State*, on which PNP principally relies. App. Br. at 63. There, this Court found that taxpayer-intervenors "asserted no claim, defense, or interest unique to themselves" beyond restating the State's defenses. 294 S.W.3d 477, 487 (Mo. banc 2009). Put Missouri First did the opposite: it raised and proved at trial a defense, lack of demonstrated harm, that the Secretary never asserted. That is precisely the "divergence of interest" that satisfies Rule 52.12(a)(2)'s adequacy-of-representation element. *Allred*, 372 S.W.3d at 487.

The divergence is structural, not merely tactical. As an executive officer, the Secretary's institutional obligation runs to defending the lawfulness of his own administrative process: whether the sample sheet was properly rejected as to form, and whether pre-approval signatures were properly invalidated. The Secretary has no comparable institutional stake in whether PNP can show cognizable harm, and, depending on the outcome, may elect not to appeal for reasons unrelated to Put Missouri First's interests. Put Missouri First's stake in the resources it has committed and will be forced to commit gave it reason to litigate issues the Secretary had no similar incentive to pursue, and the record shows that it did so.

¹³ Put Missouri First filed an Answer with its Motion to Intervene on November 12, 2025. D33. The Answer was filed again, with no changes on December 12, 2025. D91.

D. Put Missouri First's discovery and litigation conduct reflect a legitimate, distinct defense and not obstruction.

PNP characterizes Put Missouri First's discovery as a "nakedly political fishing expedition" undertaken to cause delay. App. Br. at 61. The record shows otherwise. Put Missouri First's discovery requests — signed petition pages, signature counts by petition number, and validity assessments — were directed at testing PNP's own pleaded allegation that its "campaign has gathered more than 20,000 signatures." D2:P8. That evidence bore directly on whether PNP could establish the harm required for injunctive relief — the same defense the Secretary never raised. A discovery request "reasonably calculated to lead to the discovery of admissible evidence" on a defense actually pending in the case is the ordinary exercise of a party's rights under Rule 56.01, not evidence of an illegitimate purpose.¹⁴ Put Missouri First's pursuit of that defense — and its success in eliciting the only trial testimony establishing the absence of harm to PNP — confirms, rather than undermines, the propriety of its intervention.

E. The Circuit Court did not abuse its discretion in finding the verified motion timely.

PNP invokes the four factors Missouri courts have borrowed from federal practice under Federal Rule 24: (1) how long the intervenor knew of its interest before moving; (2) prejudice to existing parties from the delay; (3) prejudice to the intervenor if intervention is denied; and (4) unusual circumstances. *Corson*

¹⁴ "Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter." Rule 56.01(b)(1).

v. Corson, 640 S.W.3d 785, 789–90 (Mo. App. W.D. 2022). Properly applied, those factors support affirmance.

Missouri courts have long recognized that “[i]f 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 Housing & Dev. Corp. v. Collector of Rev.*, 583 S.W.2d 574, 576 (Mo. App. 1979); *Pius v. Boyd*, 857 S.W.2d 238, 242 (Mo. App. W.D. 1993). This Court has gone further, holding that intervention may be timely even after judgment and on remand. *Robinson*, 672 S.W.3d at 230; *Breitenfeld v. Sch. Dist. of Clayton*, 399 S.W.3d 816, 836–37 (Mo. banc 2013). Here, the Verified Motion was filed before trial, sustained before trial, and reaffirmed on reconsideration before trial — comfortably within the range Missouri courts have found timely and well within the sound discretion of the trial court.

The remaining *Corson* factors confirm this result. Put Missouri First moved promptly once its interest crystallized, filing its Verified Motion within approximately two weeks of its formation as a committee organized specifically to oppose this referendum.¹⁵ D32:P1; App. Br. at 65.

Denial of intervention, by contrast, would have left Put Missouri First, the only registered opponent of this referendum, without any voice in litigation in which the outcome directly and immediately governs the scope of its statewide campaign obligations. Participation as *amicus curiae*, which PNP suggests was the appropriate alternative, App. Br. at 66, would not have

¹⁵ Put Missouri First properly filed a Motion to Shorten Time to promptly call up its Motion to Intervene. D34. This is the appropriate practice to call up a motion with less than seven days’ notice. The trial court heard that motion and the Motion to Intervene and sustained the same. D1:P16. The trial court further found that the Application for Change of Judge was timely filed. *Id.*

permitted Put Missouri First to conduct discovery, call witnesses, elicit testimony, present evidence, or otherwise develop the lack-of-harm defense it alone pursued.

The timing of the events shows that PNP's perceived harm from the so-called "delay" is imaginary. Intervention was granted on November 13, 2025. D1:P16. The trial on the merits was held on December 8, 2025. D1:P22 and Tr. 1. This results in a total of 25 days between intervention and trial that can arguably be related in any manner to intervention.¹⁶ Moreover, the trial occurred *before PNP even filed* their signature pages with the Secretary on December 9, 2025. App. Br. at 25. PNP's allegations of delays due to intervention are specious at best.¹⁷

PNP finally asserts that the case had a timeliness concern as it is an "election" case and should have gone to the top of the docket. Its assertion does not match with Missouri election law. First, PNP did not seek relief under Section 116.190, RSMo (ballot title challenge) or Section 116.200, RSMo (sufficiency challenge). Each of these statutory causes of action go to the top of the docket per the express statutory language; however, the premature question of what signatures might be valid or not simply do not implicate these provisions. As noted before, the signature pages for the referendum were not even submitted to the Secretary at the time the action was instituted,

¹⁶ By way of comparison, the trial court's abeyance of the matter lasted 249 days. As discussed in Point III, *supra*, this passage of time has not altered the rights of the parties either.

¹⁷ PNP asserts that the oral continuance failed to comply with Rule 65.02. App. Br. at 60. That issue is irrelevant as the trial court denied that motion. The trial court then order the case reassigned pursuant to Rule 51.05. D1:P16. These are the normal processes of litigation and have nothing to do with timeliness. Further, as addressed herein there was no prejudice to any party due to such processes.

intervention was granted, or even when the trial was held. App. Br. at 25 and D1:P1,16,22. PNP's Brief is devoid of any citation whatsoever reflecting that the challenge it brought was an expedited case.

F. PNP suffered no prejudice from intervention due to its deliberate violation of the Circuit Court's discovery order.

Despite PNP's complaints about Put Missouri First's intervention and discovery requests, the record shows PNP deliberately refused to produce court-ordered discovery going to the heart of its claims, represented to the circuit court that it could not produce that discovery before trial, and then demonstrated the falsity of that representation by delivering the very same petition sheets to the Secretary of State the next day.

The day after intervening, Put Missouri First served discovery seeking the signed referendum petition pages collected before October 14, the approximately 100,000 signatures PNP claimed to have gathered before approval as to form, signature counts associated with the various referendum petition numbers, and PNP's own validity reports concerning those signatures. D47. These materials bore directly on the litigation. Count II was premised on PNP's contention that signatures gathered before approval as to form remained valid. D2. The actual petition sheets – showing when the signatures were collected, on which petition they were collected, and whether PNP's asserted signature totals could be substantiated – were therefore among the most probative evidence bearing on PNP's claim.

PNP produced none of them. After serving objections but no documents, PNP sought a protective order. D46. On December 4, the circuit court denied PNP's motion for protective order and granted Put Missouri First's motion to compel. D1. Rather than comply, PNP advised the circuit court that it could not produce the ordered discovery before the December 8 trial. Tr. 13:5–22. Put

Missouri First therefore went to trial without the documents necessary to test PNP's assertions concerning approximately 100,000 signatures allegedly collected before approval. Put Missouri First moved for sanctions before trial and specifically requested that PNP's pleadings be stricken. Tr. 8–9. The circuit court took that motion with the case. Tr. 17:12–24.

On December 9 – the day after trial – PNP submitted those petition sheets to the Secretary of State as part of its referendum filing. D120:P7 n.2. PNP thus represented on December 4 that it could not produce the court-ordered petition sheets for use at a December 8 trial, proceeded through trial without producing them, and then had those same sheets sufficiently assembled and under its control to deliver them to the Secretary the following day. Yet PNP represents to this Court that it “could not comply with the discovery order before trial.” App. Br. 22–23. The chronology speaks for itself.

The prejudice in the trial court's discovery rulings was to Put Missouri First, not PNP. In addition to undercutting Put Missouri First's ability to prepare for trial, PNP's refusal to produce the petition sheets infected the evidentiary record itself. Before intervention PNP and the Secretary entered into a Joint Stipulation, D14, in which they stipulated that PNP had collected approximately 32,600 signatures between September 15 and September 28 and approximately 70,200 additional signatures between September 29 and October 14. D14 ¶¶ 29, 32. Put Missouri First was not a party to that stipulation, refused to agree to those factual assertions, and specifically objected to them at trial. *See Gleason v. Treasurer of State of Missouri-Custodian of Second Injury Fund*, 455 S.W.3d 494, 498 (Mo. App. W.D. 2015) (holding that a party who did not join in a stipulation “remained free to litigate the issue” conceded by another party and that the party who alleged the issue “remained obligated to prove” the allegation). But PNP offered the stipulation

at trial, and the circuit court admitted it over Put Missouri First's objection. Tr.18:19–23:16. The stipulated signature totals without Put Missouri First's consent, and despite PNP having withheld the underlying petition sheets that would have permitted Put Missouri First to test whether those asserted totals were accurate.¹⁸

The prejudice became concrete when the circuit court thereafter expressly incorporated those stipulated figures into its findings of fact. D116:P7. PNP thus obtained the evidentiary benefit of its own stipulated signature counts while simultaneously depriving Put Missouri First of the court-ordered evidence necessary to challenge them.

This was not a technical violation or an innocent delay. PNP resisted production, lost its request for protection, disobeyed an express order compelling production, represented that timely compliance was impossible, and then demonstrated the next day that the documents were within its possession and control.

PNP should not now obtain reversal – or any other advisory relief – through the withholding of the very evidence the circuit court ordered it to disclose. The judgment should therefore be affirmed.

***G. Toder v. Hoskins* confirms, rather than forecloses, intervention here.**

PNP relies heavily on *Toder v. Hoskins*, 730 S.W.3d 129 (Mo. App. W.D. 2026), but that case underscores why intervention was proper here. In *Toder*, the proposed intervenor's claimed interest, that her daughter might lose a

¹⁸ PNP asserted to the Court that the prior stipulation, D14, was rendered “inoperative” by the ensuing amended stipulation. D83:P4. This argument was used to evade their obligations under the rules of discovery and evade responding to Put Missouri First's discovery. *Id.* PNP then offered the document they asserted was “inoperative” as evidence.

scholarship if a ballot measure passed, was “speculative,” and the Western District held that a merely “consequential, remote or conjectural possibility of being affected” cannot support intervention as of right. *Id.* at 137. Put Missouri First’s interest is nothing like that. It rests not on speculation about a contingent future harm to a third party, but on funds and organizational resources Put Missouri First has already committed, and will be required to expand, depending directly on the disposition of this action. D32:P4-5. This is precisely the kind of quantifiable, already-incurred expenditure the Western District found sufficient in *Allred*. 372 S.W.3d at 483, 485.

Toder is also distinguishable on its statutory footing. That case arose under §116.190, RSMo, which the Western District held gives “private parties who support the Secretary of State’s summary statement” no textual “role in litigation.” 730 S.W.3d at 136. This appeal arises under different provisions of Chapter 116 governing the form of referendum petitions and the timing of signature collection, which contain no comparable textual limitation excluding a registered opponent committee from litigation that directly determines the scope of its own campaign obligations. Nor does Put Missouri First occupy Uccello’s, the intervenor, position of merely defending “the exact wording the Secretary originally proposed,” *id.* at 136; instead, Put Missouri First raised a defense (lack of demonstrated harm) that the Secretary never advanced.¹⁹ For these reasons, PNP’s Point IV should be denied.

¹⁹ PNP candidly admits it is seeking an advisory opinion “‘from this Court’ because of their dislike of the rules regarding intervention: “Regardless of the outcome on the merits, this Court should issue guidance to discourage allowing intervention except in the most compelling circumstances...” App. Br. at 69.

VI. The Circuit Court was correct in granting Put Missouri First permissive intervention under rule 52.12(b), because Put Missouri First's Verified Motion to Intervene was timely, its claims and defenses share genuine questions of law and fact with this litigation, and Put Missouri First asserted a defense — the absence of any showing of harm to PNP — that was unique to Put Missouri First and that no other party raised. (Responds to PNP's Point V)

Standard of Review

This Court reviews the grant of permissive intervention for abuse of discretion. *Johnson*, 366 S.W.3d at 20. A circuit court abuses its discretion only when its ruling is “clearly against the logic of the circumstances then before the court and is so arbitrary and unreasonable as to shock the sense of justice and indicate a lack of careful consideration.” *State ex rel. Nixon*, 34 S.W.3d at 131.

A. The verified motion was timely for purposes of permissive intervention.

For the reasons set forth in the Response to Point IV, above, Put Missouri First's Verified Motion was timely. The conclusion applies with at least equal force here, because permissive intervention, unlike intervention as of right, requires no showing of interest at all, only a timely motion presenting “a question of law or fact in common” with the main action. Rule 52.12(b)(2). When the Verified Motion was filed, no evidentiary hearing on the merits of any claim or defense had yet occurred in this case. D32, ¶¶ 48–50. Missouri courts assessing timeliness for permissive intervention look to “how far the litigation has progressed when intervention is sought, the reason for the delay, and prejudice that other parties will suffer as a result of additional delay.” *Robinson*, 672 S.W.3d at 233 (citation omitted). Put Missouri First moved to intervene within approximately two weeks of organizing for the purpose of opposing this referendum; not the kind of unexplained, dilatory delay that

forecloses permissive intervention. See Point IV.D., *supra*, for a more fulsome discussion of the fallacy of PNP's timeliness claims.

B. Put Missouri First's claims and defenses share genuine questions of law and fact with this litigation and Put Missouri First asserted a unique defense.

Rule 52.12(b)(2) permits intervention where “an applicant's claim or defense and the main action have a question of law or fact in common.” “Proposed intervenors are not entitled to permissive intervention if they simply will reassert the same defenses, but intervention can be appropriate when the intervenor can show interest unique to themselves.” *Toder*, 730 S.W.3d at 135 (citation modified); *Johnson*, 366 S.W.3d at 21.

Put Missouri First's defenses plainly share questions of law and fact with this litigation: whether the Secretary properly rejected the referendum sample sheet as to form, and whether signatures gathered before the Secretary's approval are valid, are questions common to every party, including Put Missouri First. But Put Missouri First did not stop at reasserting the Secretary's defenses. Put Missouri First was the only party to raise and prove at trial the defense that PNP had failed to demonstrate the harm necessary to support the injunctive relief sought in its Amended Petition. D33:P17; D13:P29.

This is precisely the showing that *Committee for Educational Equality* found lacking, and that distinguishes this case from both *Committee for Educational Equality* and *Toder*. In *Committee for Educational Equality*, this Court held permissive intervention improper because the taxpayer-intervenors “asserted no claim, defense, or interest unique to themselves.” 294 S.W.3d at 487. In *Toder*, the Western District likewise found intervention improper where the intervenor “expressed the same interest or defense... defending the Secretary's Summary Statement... as the Secretary.” 730 S.W.3d at 136. Put

Missouri First is unlike either of those other intervenors: it advanced, litigated, and proved at trial a defense the Secretary never raised. That unique contribution which was not the mere duplication of the Secretary's position is exactly what Rule 52.12(b)(2) and this Court's precedent allows the basis for permissive intervention. *See also Breitenfeld v. Sch. Dis. of Clayton*, 399 S.W.3d 816, 836–37 (Mo. banc 2013) (affirming permissive intervention where the intervenors' claims were "in common with the main action").

Because Put Missouri First's Verified Motion was timely and it litigated and proved a defense unique to itself, the circuit court acted well within its discretion and certainly did not act in a manner "so arbitrary and unreasonable as to shock the sense of justice" in granting permissive intervention. *State ex rel. Nixon*, 34 S.W.3d at 131. For these reasons, PNP's Point V should be denied.

VII. PNP failed to establish standing to prosecute Counts I and II because the only purported evidence that the disputed signatures existed was an inadmissible, superseded stipulation unsupported by the underlying signature sheets, testimony, or any other competent evidence.

A. Preservation

Put Missouri First challenged PNP's standing and the ripeness of Count II in its motion to dismiss. D58. Put Missouri First specifically argued that PNP had not submitted any signatures to the Secretary, that no signatures had been rejected, and that PNP's alleged injury depended upon contingent events that might never occur. *Id.*

Put Missouri First thereafter sought discovery concerning the existence, number, timing, and contents of the signature sheets on which PNP based their asserted injury. D60. The circuit court granted Put Missouri First's motion to compel and ordered PNP to produce the responsive materials under a

protective order. D1:P21. PNP nevertheless failed to produce the signature sheets before trial. Tr. 13:5–22.

At trial, PNP offered the original Joint Stipulation as Exhibit 17. Tr. 23:3-7; D14. Put Missouri First objected that it had not been a party to the original stipulation, did not agree to its factual assertions, and had not received the discovery necessary to test those assertions. Tr. 19:18-21:1. Put Missouri First specifically argued that, if PNP wanted the asserted facts in the record, PNP “should have to put a witness on and prove them.” Tr. 19:23-20:1. Put Missouri First further identified the precise assertions at issue: “that particular stipulation references numbers of signatures that they have.” Tr. 20:5-6; D14:P4.

The circuit court then confirmed its understanding of the objection:

“[Y]ou want to have them lay the foundation and any other necessary requirements to admit this—well, I guess I can’t call them stipulations, but those statements into evidence. Is that—what you’re asking for?”

Counsel twice responded, “Yeah.” Tr. 20:7-16. The court nevertheless admitted Exhibit 17 over the objection, stating that it would determine the weight to give the exhibit. Tr. 23:9-13.

An evidentiary objection is preserved when its basis is sufficiently clear to make the circuit court and opposing counsel cognizant of the asserted defect and able to rule upon or cure it. *Khan v. Gutsell*, 55 S.W.3d 440, 442–43 (Mo. App. E.D. 2001). Counsel need not provide a “hornbook exposition” or state the objection with “mathematical precision.” *Id.* Here, the objection did not merely recite “lack of foundation.” It identified the particular deficiencies: Put Missouri First had not assented to the purported stipulation; the underlying discovery had not been produced; and PNP needed a witness to prove the factual statements contained in the document. *See* Tr. 19:18-21:1. The court’s

own formulation of the objection confirms that the court understood it as challenging the “foundation and any other necessary requirements” for admitting “those statements into evidence.” Tr. 20:7-16.

The judgment subsequently relied expressly on Exhibit 17—and only Exhibit 17—in finding that PNP collected approximately 32,600 signatures between September 15 and September 28, 2025, and approximately 70,200 signatures between September 29 and October 14, 2025. D116:P7.

Put Missouri First therefore presented both the threshold justiciability issue and the evidentiary issue to the circuit court. Rule 78.07(b). Because this was a court-tried case, Put Missouri First was not required to file a motion for new trial to preserve matters previously presented to the circuit court.

B. Standard of Review

“A trial court judgment will be affirmed if cognizable under any theory, regardless of whether the reasons advanced by the trial court are wrong or not sufficient.” *Mack v. State*, 716 S.W.3d 260, 263 (Mo. 2025). “Standing is a threshold issue and a prerequisite to a court’s authority to address substantive issues.” *Byrne & Jones Enters., Inc. v. Monroe City R-1 Sch. Dist.*, 493 S.W.3d 847, 851 (Mo. banc 2016). This Court reviews standing *de novo*. *Mo. State Conference of the Nat’l Ass’n for the Advancement of Colored People v. State*, 730 S.W.3d 550, 560 (Mo. banc 2026).

[w]hen there is contested evidence, this Court will affirm the circuit court's factual findings unless there is no substantial evidence to support the finding or the finding is against the weight of the evidence.” *Faatz v. Ashcroft*, 685 S.W.3d 388, 400 (Mo. banc 2024) (footnote omitted). “In reviewing a court-tried case, this Court accepts all evidence and inferences therefrom in the **light most favorable to the prevailing party** and disregards all contrary evidence.” *MC Dev. Co. v. Cent. R-3 Sch. Dist. of St. Francois Cnty.*, 299 S.W.3d 600, 602 (Mo. banc 2009).

Id. (emphasis added)

“Substantial evidence is evidence that, if believed, has some probative force on each fact that is necessary to sustain the circuit court’s judgment.” *Ivie v. Smith*, 439 S.W.3d 189, 199 (Mo. banc 2014). A finding lacks substantial evidence when “there is no evidence in the record tending to prove a fact that is necessary to sustain the circuit court’s judgment as a matter of law.” *Id.* at 200.

The admission of evidence generally is reviewed for abuse of discretion, but whether the circuit court applied the correct legal standard governing the proper evidentiary rules presents a question of law reviewed de novo. *Fed. Nat’l Mortg. Ass’n v. Bostwick*, 414 S.W.3d 521, 524–25 (Mo. App. W.D. 2013) (“Questions of law, however, we review de novo.”).

Moreover, a court-tried case does not relax the rules of evidence. Section 510.310.1 requires the circuit court to rule on evidentiary objections as it would in a jury-tried case. The court’s statement that it would determine Exhibit 17’s “weight” therefore did not relieve it of its obligation to determine whether the exhibit was legally admissible and for what purpose it could be used.

C. Exhibit 17 was not competent substantive evidence that PNP collected the disputed signatures.

1. Once superseded, the original stipulation was not a binding judicial admission.

A stipulation is an agreement between the parties concerning a matter pending before the court. *Pierson v. Allen*, 409 S.W.2d 127, 130 (Mo. 1966). Its controlling effect arises from the parties’ agreement: “[a] stipulation is binding upon the parties and the court” according to its terms. *Barrows v. Firststar Bank*, 103 S.W.3d 386, 390–91 (Mo. App. W.D. 2003). It must be interpreted in light of the result the parties intended to accomplish. *Pierson*, 409 S.W.2d at 130.

The original Joint Stipulation was entered before Put Missouri First

became a party. D14; D1:P13. That document purported to stipulate that PNP collected approximately 32,600 signatures during one period and approximately 70,200 during another. D14:P4.

After intervention, however, all parties executed and filed an Amended Joint Stipulation. D65. The amended stipulation omitted both numerical assertions. D65. Instead, the parties agreed only that referendum petitions “have been circulated for signatures” and that no signed referendum petitions had been submitted to the Secretary. D65:P5, ¶32.

PNP themselves left no doubt about what the amendment accomplished. In opposing Put Missouri First’s motion to compel, PNP represented that the original stipulation was “no longer operative”; that the Amended Joint Stipulation rendered it “inoperative”; and that the omitted signature-count facts were “not before this Court and cannot be relied on by any Party.” D83:P4. PNP further characterized the counts as merely a “good faith estimate.” *Id.*

PNP thus ask this Court to accept two irreconcilable propositions: the original stipulation was sufficiently inoperative to shield its factual basis from discovery, but sufficiently operative to establish standing at trial. The amendment cannot simultaneously deprive Put Missouri First of discovery into the disputed assertions and preserve those same assertions as conclusive proof against Put Missouri First. Treating the deleted numbers as binding would erase the amendment and reward the precise inconsistency PNP created.

2. PNP supplied neither a personal-knowledge witness nor the underlying source material necessary to substantiate the estimates.

The circuit court’s receipt of Exhibit 17 subject to a later determination of its “weight” did not excuse PNP from establishing its admissibility. In a court-tried case, the court must “rule upon all objections to evidence as in jury cases.” § 510.310.1, RSMo. A document, therefore, must satisfy the same

foundational requirements that govern a jury trial, including authentication, relevance, the best-evidence rule, and hearsay. *Hadlock v. Dir. of Revenue*, 860 S.W.2d 335, 337 (Mo. 1993); *Healthcare Servs. of the Ozarks, Inc. v. Copeland*, 198 S.W.3d 604, 615–16 (Mo. banc 2006).

Put Missouri First raised precisely that objection. Put Missouri First explained that, because it had not agreed to the original stipulation, PNP were required to “put a witness on and prove” any facts they wished to establish through that document. Tr. 19:18-21:1. The circuit court then confirmed that Put Missouri First was requiring PNP to “lay the foundation and any other necessary requirements” for admitting the statements, and Put Missouri First’s counsel agreed. Tr. 20:7-16. PNP nevertheless offered no sponsoring witness and laid no foundation for treating Exhibit 17’s numerical assertions as proof that the underlying signatures existed.

To be clear, the material question is not whether Exhibit 17 was an authentic copy of the document PNP and the Secretary previously filed. Its presence on the docket may establish that PNP and the Secretary once made the statements appearing within it. But authentication of the document’s identity does not establish the accuracy of its contents. Once Exhibit 17 ceased to operate as a binding stipulation, PNP still had to connect its approximate counts to competent evidence showing that the signatures actually existed and that the asserted numbers accurately reflected them. *See Hadlock*, 860 S.W.2d at 337. An authentic copy of an unsupported assertion remains an unsupported assertion.

Healthcare Services illustrates the distinction. There, the trial court admitted spreadsheets over foundation and hearsay objections after stating that those objections would be considered in determining the evidence’s weight. 198 S.W.3d at 615. The spreadsheets purported to summarize information

contained in underlying business records, but the sponsoring witness admitted that the information was not necessarily based on firsthand knowledge, and the underlying records were neither introduced nor made available to the opposing party. *Id.* at 615–16. The Supreme Court reiterated that a summary of records is admissible only if the competency of the underlying records is first established and those records are made available to the opposing party for examination. *Id.* at 616. The trial court ultimately rejected the claimed damages as speculative, and the Supreme Court affirmed that determination. *Id.*

Here, the foundational failure was more complete—and its consequence more severe. No witness testified that the disputed signatures existed, personally reviewed or counted the signature sheets, explained who calculated the estimates, described the method used to calculate them, or verified that Exhibit 17 accurately summarized the underlying sheets. No witness explained whether the estimates included duplicate, incomplete, facially deficient, or improperly dated signatures. Indeed, PNP themselves later characterized the figures as nothing more than “good faith estimate[s].” D83:P4. The numerical assertions therefore entered the record without any testimony establishing their existence, source, preparation, methodology, or accuracy.

Nangle v. Brockman demonstrates what was missing. 972 S.W.2d 545, 549–50 (Mo. App. E.D. 1998). There, the sponsoring witness personally prepared the numerical summaries from his own records, identified the summaries, testified that they were true and accurate, explained their contents in detail, and made the underlying records available to the opposing party. *Id.* His sworn testimony constituted primary evidence of the independently existing facts, so any imperfection in the summaries did not

leave the findings unsupported. *Id.* at 550.

PNP supplied none of those safeguards. They presented only a superseded document containing approximate figures originally asserted by counsel. But “[a]rguments and statements of counsel are not evidence of the facts presented.” *Wilson v. Wilson*, 667 S.W.3d 181, 187 (Mo. App. W.D. 2023) (quoting *Andersen v. Osmon*, 217 S.W.3d 375, 381 (Mo. App. W.D. 2007)). Once Put Missouri First declined to adopt those assertions and the Amended Joint Stipulation eliminated them, the statements could not prove themselves. PNP were required to present a witness or other competent evidence establishing the independently existing facts the statements purported to describe.

Nor did PNP make the underlying signature sheets available. When Exhibit 17 was offered, Put Missouri First informed the court that PNP had not produced those sheets despite Put Missouri First’s discovery requests and the court’s direction. Tr. 8:2-9:23; D1:P21. Thus, even if Exhibit 17 were treated as a summary of voluminous signature sheets, it failed the rule that the underlying records be shown competent and made available to the opposing party for examination. *Healthcare Services*, 198 S.W.3d at 616. PNP’s production of the sheets the day after trial, to only the Secretary of State, could not retroactively authenticate the estimates, supply the missing foundation, permit cross-examination, or place the sheets into the trial record.

The circuit court therefore had no evidentiary basis for finding that PNP actually collected approximately 32,600 and 70,200 signatures during the specified periods. Exhibit 17 established, at most, that PNP and the Secretary previously asserted those approximate numbers. Without a witness, an explanation of the calculations, or access to the source materials, it could not

establish that the assertions were accurate.²⁰ The court's reservation that it would determine the exhibit's "weight" could not transform an unauthenticated numerical summary into competent substantive proof—particularly when Findings 43 and 44 cite Exhibit 17 as their sole evidentiary basis. D116:P7.

3. Alternatively, Exhibit 17 was insufficient to carry PNP's burden even if deemed admissible.

The same circumstances render Findings 43 and 44 against the weight of the record even if Exhibit 17 possessed some limited admissibility.

The original stipulation was, by Plaintiff's own admission, superseded. D83:P4. Its numbers were deliberately removed from the operative stipulation. D65. PNP told the court that the original stipulation was inoperative, could not be relied upon, and contained only good-faith estimates. D83:P4. PNP then refused to produce the only records capable of verifying those estimates before trial. Tr. 13:23-17:23. Finally, PNP presented no witness or independent evidence substantiating either number.

Although a circuit court may believe or disbelieve uncontradicted evidence, *Healthcare Services*, 198 S.W.3d at 616, deference does not transform

²⁰ Even if PNP had adequately authenticated Exhibit 17 and supplied the otherwise necessary foundation, its numerical assertions remained inadmissible hearsay when PNP offered them to prove their own truth. See *State v. Tisius*, 362 S.W.3d 398, 405–06 (Mo. banc 2012). A party's prior statement qualifies as an admission because it is offered by an opposing party; PNP instead offered their own prior estimates to establish facts necessary to their own standing. See *State v. Brown*, 833 S.W.2d 436, 438–39 (Mo. App. W.D. 1992); *Gollwitzer v. Theodoro*, 675 S.W.2d 109, 112–13 (Mo. App. E.D. 1984). And even an agreement concerning a document's admission or foundation does not make otherwise inadmissible hearsay competent substantive evidence. *Long v. St. John's Reg'l Health Ctr.*, 98 S.W.3d 601, 607 (Mo. App. S.D. 2003).

an unexplained and disavowed estimate into proof of a contested jurisdictional fact. Exhibit 17's lack of foundation and PNP's refusal to permit examination of its supposed source materials deprive the numerical assertions of the probative force necessary to carry PNP's burden.

The judgment confirms that no independent evidence supplied the missing proof: Findings 43 and 44 cite only Exhibit 17. D116:P7. This is therefore not a harmless admission of cumulative evidence. Exhibit 17 was the entire evidentiary basis for the findings.

D. Without competent proof that the disputed signatures existed, PNP failed to establish standing or a ripe controversy under Count II.

1. PNP bore the burden of proving standing separately for Count II.

A plaintiff must establish standing for each individual claim because standing is unique to the particular injury asserted. *Cox v. Grady Hotel Invs., LLC*, 732 S.W.3d 81, 87 (Mo. banc 2026). A plaintiff may therefore possess standing to prosecute one count while lacking standing to prosecute another. *Id.* Standing requires a personal stake arising from a threatened or actual injury. *Schweich v. Nixon*, 408 S.W.3d 769, 774 (Mo. banc 2013). The plaintiff bears the burden of proving that standing from the evidence or record before the circuit court. *Manzara v. State*, 343 S.W.3d 656, 664 (Mo. 2011).

Speculation that governmental action might adversely affect the plaintiff is insufficient. *Missouri State Conference*, 730 S.W.3d at 560; *Mo. Coal. for the Env't v. State*, 579 S.W.3d 924, 927 (Mo. banc 2019). A controversy also is not ripe if it depends on "contingent future events that may not occur as anticipated, or indeed may not occur at all." *Geier v. Mo. Ethics Comm'n*, 474 S.W.3d 560, 569 (Mo. banc 2015).

2. Counts I and II required proof that actual signatures existed and were subject to the Secretary's challenged position.

Counts I and II were premised on the contention that the Secretary's position regarding pre-Governor signature and preapproval signatures injured PNP because PNP had already collected signatures that the Secretary would treat as invalid. D2:P10, ¶¶79-P11, ¶86. That theory necessarily required PNP to establish, at minimum, that actual signatures had been collected during the disputed period. Without such signatures, the Secretary's statement affected nothing belonging to PNP and Counts I and II sought only an advisory opinion concerning hypothetical signatures.

The Amended Joint Stipulation did not establish this essential fact. It stated only that petitions "have been circulated for signatures." D65:P5. Circulating a petition is not the same as obtaining a signature. The same stipulation confirmed that no signed petitions had been submitted to the Secretary. *Id.*

Nor could PNP rest on allegations in their petition after the existence of the signatures was contested and the case proceeded to trial. Allegations are assumed true when a court tests the sufficiency of a petition on a motion to dismiss. *Missouri Coalition*, 579 S.W.3d at 926. But after a bench trial, standing must be established from the evidence or record before the circuit court. *Missouri State Conference*, 730 S.W.3d at 560; *Manzara*, 343 S.W.3d at 664. PNP's allegation that they collected more than 20,000 signatures was not a substitute for proving that allegation after Put Missouri First placed it in dispute.

The Supreme Court's analysis in *Missouri State Conference* is instructive. There, a plaintiff feared that a future provisional ballot might be rejected because of a signature mismatch. 730 S.W.3d at 562. But because the

plaintiffs “introduced no evidence” that her signature had ever been rejected, the alleged injury remained speculative and did not establish standing. *Id.*

The same defect exists here. PNP feared—or sought a declaration concerning—the Secretary’s possible rejection of preapproval signatures. But they introduced no competent evidence that any such signature actually existed, appeared on an affected petition sheet, or had been presented to and rejected by the Secretary. The prospect that some unidentified future signature might eventually be rejected was no less speculative than the possible future signature rejection held insufficient in *Missouri State Conference*.

The circuit court’s later judicial notice that PNP publicly claimed to have collected more than 300,000 signatures does not cure the deficiency. D116:P7. At most, the court could notice that PNP made the public representation. The generalized representation did not establish its truth, did not establish that any signature was collected before approval, and did not prove the particular temporal divisions stated in Findings 43 and 44.

Likewise, signature sheets produced after the evidentiary record closed were never admitted into evidence and cannot retroactively establish PNP’s standing at trial. Rule 84.13(d)(3) does not permit an appellate court to treat post-trial discovery material as though it had been authenticated, admitted, and subjected to cross-examination during trial.

3. PNP’s failure of proof eliminated any justiciable Counts I and II controversy.

PNP bore the burden to establish that Counts I and II concerned a real injury to actual signatures. They did not satisfy that burden. Their only purported proof was an original stipulation that they had superseded, disavowed as inoperative, and offered against a party who never joined it. The underlying sheets were withheld, no witness testified, no counting method was

explained, and no competent evidence established that the disputed signatures existed.

Without that proof, Counts I and II rested on a hypothetical question: if PNP had collected signatures before approval, and if they later submitted those signatures, and if the Secretary then rejected them, would the rejection be lawful? Missouri courts do not issue advisory opinions resolving such contingent factual scenarios. *Geier*, 474 S.W.3d at 569; *Mo. Soybean Ass'n v. Mo. Clean Water Comm'n*, 102 S.W.3d 10, 25–26 (Mo. banc 2003).

The appropriate disposition is therefore to hold that PNP failed to establish standing and ripeness as to Counts I and II. Because standing is antecedent to adjudication on the merits, the circuit court lacked authority to render an alternative merits determination on that count. *Missouri State Conference*, 730 S.W.3d at 560. This Court should decline to rely on Findings 43 and 44, vacate the merits disposition of Counts I and II, and remand with directions that Counts I and II be dismissed without prejudice.

CONCLUSION

The Court should affirm the circuit court's judgment.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

A copy of this document and the appendix were served on counsel of record through the court's electronic notice system on August 25, 2026. This brief complies with the limitations contained in Supreme Court Rule 84.06 and Local Rule 41. Relying on the word count of the Microsoft Word program, the undersigned certifies that the total number of words contained in this brief is 19,033, excluding the cover, table of contents, table of authorities, signature block, appendix, and this certificate. The font is Century Schoolbook 13-point type. The electronic copies of this brief were scanned for viruses and found to be virus free. Pursuant to Rule 55.03, the undersigned further certifies the original of this brief has been signed by the undersigned.

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