

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

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

Relators,

v.

No. _____

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

Respondent.

**SUGGESTIONS IN SUPPORT OF
PETITION FOR A WRIT OF PROHIBITION**

The Missouri Constitution commands its courts to be open and to administer justice without delay. Mo. Const. Art. I § 14. The Constitution also “guarantees the right of referendum to *all* Missouri citizens.” *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 491 (Mo. banc 2022). This case arises from the intersection of these constitutional provisions, as Respondent’s unreasonable, *sua sponte* decision to hold this case in abeyance after trial is enabling and protecting the Secretary’s decision to withhold validation of roughly 100,000 signatures in support of the referendum.

The law is clear that when the Secretary chooses to have local election authorities review referendum signatures, he has a duty to send “all” submitted signatures for review, not just the ones he chooses to send. § 116.130.1(1), RSMo (“Copies of all pages from not less than one petition shall be received in the office of the election authority”) The facts are clear that the Secretary has failed in this duty. Relators have

repeatedly urged Respondent to issue a final, appealable decision, but he has not done so. Given the looming election deadlines, the vital significance of the legal and constitutional issues, and the irreparable harm that flows to Relators from continued delay, a Writ of Prohibition is warranted.

This Court should issue its writ of prohibition ordering Respondent to take no action other than to vacate his December 12, 2025 order holding the underlying case “in abeyance” and enter a final, appealable judgment forthwith.

I. A Writ of Prohibition Should Issue Requiring Respondent to Vacate the Abeyance Order.

“A writ of prohibition is appropriate if it is necessary to preserve ‘the orderly and economical administration of justice’” *State ex rel. Delmar Gardens N. Operating, LLC v. Gaertner*, 239 S.W.3d 608, 610 (Mo. banc 2007) (citation omitted). The Court can also issue a writ to correct an abuse of discretion or prevent irreparable harm. See *State ex rel. Sasnett v. Moorhouse*, 267 S.W.3d 717, 720 (Mo. App. 2008). Here, all three grounds merit a writ.

Respondent’s *sua sponte* decision to hold the case in abeyance, after the Secretary and Attorney General have announced their preference for delay, “is so unreasonable and arbitrary that it shocks the sense of justice and indicates a lack of careful, deliberate consideration.” *Hanshaw v. Crown Equip. Corp.*, 2026 WL 512824, at *2 n.2 (Mo. banc Feb. 24, 2026). And when the interplay between the statutory requirements and deadlines for verification, certification, and changes to the ballot are included in the consideration, his ongoing refusal to render a decision is “clearly against the logic of the

circumstances.” *Id.* The abeyance order threatens irreparable harm to Relators (and the public interest), and a writ of prohibition is therefore “necessary to preserve the orderly and economical administration of justice.” *Delmar Gardens N. Operating, LLC*, 239 S.W.3d at 610.

A. Election Cases Should Be Decided Without Delay

Respondent’s *sua sponte* decision to hold the case in abeyance runs counter to decades of Missouri jurisprudence requiring election cases to be resolved without delay. “There are compelling reasons for [courts] to promptly hear and rule on cases having effect on elections in view of the short timetables involved.” *State ex rel. Teichman v. Carnahan*, 357 S.W.3d 601, 603 (Mo. banc 2012). Missouri Courts regularly expedite election cases. *See, e.g.*, Order, *Coleman v. Ashcroft*, No. SC100742 (Mo. banc Sept. 10, 2024) (resolving election challenge two business days after trial court ruling and on eve of deadline to modify ballots); Order, *Toder v. Uccello*, No. WD88582 (Mo. App. Jan. 1, 2026) (setting briefing and oral argument to be completed less than one month after appeal in ballot title challenge); Order, *People Not Politicians v. Hoskins*, No. WD88795 (Mo. App. Mar. 27, 2026) (same).

The statutory schemes related to elections also provide strict deadlines, requiring cases to be placed at the top of the docket and decided without delay. §§ 115.535 and 115.551, RSMo. Ballot title cases must be filed within ten days and placed at the top of the docket. § 116.190, RSMo. Cases concerning the validity of the Secretary’s sufficiency determinations on referenda must also be filed within ten days of the Secretary’s decision. § 116.200, RSMo.

Respondent's order holding the case in abeyance will steer this case directly into the statutory deadlines governing challenges to the Secretary's certification decision on the Referendum and the statutory deadline for making changes to the ballot. § 115.125.3, RSMo ("No court shall have the authority to order an individual or issue be placed on the ballot less than eight weeks before the date of the election."). This is the exact scenario the Supreme Court of Missouri warned against in 2024. Litigants "who fear getting trapped between the Scylla and Charybdis of sections 116.200.1 and 115.125.3, or who wish to challenge the constitutional validity of either statute, should give thought to at least attempting to assert their form-related claims at the beginning of the process." *Coleman v. Ashcroft*, 696 S.W.3d 347, 354 (Mo. banc 2024).

Relators took this admonition to heart and asserted their form-related claims at the very "beginning of the process," before signature gathering was complete and the case was tried before the Referendum was submitted. Yet, Respondent's unreasonable abeyance order places them directly into the Supreme Court's well-described trap. As the Supreme Court expressly held, there is "no . . . justification for delaying to the very end of the process claims regarding the form of the petition." *Id.*

This Court should issue its writ of prohibition requiring Respondent to vacate his abeyance order and enter a prompt decision resolving the parties' dispute regarding the Secretary's decisions to reject the referendum as to form and to withhold verification from signatures collected prior to the Secretary's approval as to form.

B. The Abeyance Here is an Abuse of Discretion

Respondent's *sua sponte* decision to hold this case in abeyance and his ongoing refusal to render a decision is "clearly against the logic of the circumstances." *Hanshaw*, 2026 WL 512824 at *2 n.2. As detailed above, time-sensitive election cases generally require expedited consideration by the courts. The specific action involved in this case is the verification of roughly 100,000 signatures to determine whether the signers are registered voters in Missouri. As it stands, Respondent's order enables the Secretary's lawless course of action – withholding roughly 100,000 signatures from being verified – to persist until a certification decision without a judicial determination of whether the Secretary's decision is lawful.

How Missouri law requires the Secretary to handle those signatures is the precise issue presented in the case. As Relators feared when they filed suit, the Secretary has refused to deliver roughly 100,000 signatures to local election authorities for validation, as he must. See §116.130, RSMo. Respondent's abeyance order authorizes the Secretary's inaction to continue without judicial review until August 2026, with a September statutory deadline for changes to the ballot looming. This unreasonable decision functionally deprives the parties of a meaningful opportunity to obtain appellate review. As the Supreme Court has held, this writ should issue "to preserve 'the orderly and economical administration of justice'" *Delmar Gardens N. Operating, LLC*, 239 S.W.3d at 610 (citation omitted).

The Secretary has specifically indicated to Respondent he does not plan to make a certification decision until August 2026. Ex. 33 at 808-809, 814-815. Should the

Secretary reject the Referendum as insufficient for containing an inadequate number of signatures at that time, Relators will have until September 8, 2026 to (a) complete an entire appeal; (b) obtain review and validation of 100,000 signatures; and (c) place the qualified Referendum on the ballot for the general election. Given the time required for each of those steps, Respondent's decision "is so unreasonable and arbitrary that it shocks the sense of justice and indicates a lack of careful, deliberate consideration." *Hanshaw*, 2026 WL 512824, at *2 n.2. The Missouri Constitution does not permit Respondent to sit on the case in the hopes that it becomes moot. There is presently a live controversy and Respondent should be commanded to decide it without further delay. Mo. Const. art. I, § 14.

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

This Court can also issue its writ of prohibition because Respondent lacks authority to hold the case in abeyance. *See State ex rel. Bailey v. Sengheiser*, 692 S.W.3d 20, 25 (Mo. banc 2024) (issuing writ of prohibition where trial court lacked authority to enter order). There is no Supreme Court Rule authorizing Respondent to hold the case in abeyance post-trial. Nor is there any case law approving this practice. The Missouri Constitution requires courts to be open and to resolve disputes "without delay." Mo. Const. art. I, § 14. In extreme cases, a trial court's unwillingness to resolve cases can amount to judicial misconduct. *See In re McGaugh*, 705 S.W.3d 535, 543 (Mo. banc 2025) (suspending judge for one year because "parties could not obtain finality in critically important, time-sensitive cases").

What little authority there is in Missouri for courts holding a case in abeyance provides no support for Respondent's action here. "When a matter is held in abeyance it is in a condition of being undetermined. It is not finally settled." *Savannah Place, Ltd. v. Heidelberg*, 164 S.W.3d 64, 66 n.4 (Mo. App. 2005) (quotations omitted). This case is fully tried and submitted. While the related question of whether the referendum is sufficient will be determined by the Secretary pursuant to Missouri law is still pending, the process questions in this case are fully developed. This is not a case with a limited-purpose remand. See, e.g. *State v. Thomas*, 801 S.W.2d 504 (Mo. App. 1991) (holding appeal in abeyance during such remand); *State v. Wakefield*, 689 S.W.2d 809 (Mo. App. 1985) (same); *G & S Masonry, Inc. v. MJC Constructors, Inc.*, 164 S.W.3d 530, 533 (Mo. App. 2005) (same); *State v. Anderson*, 580 S.W.2d 553, 554 (Mo. App. 1979) (same). Nor is it a case holding a verdict in abeyance while liability is determined. See *Brickner v. Normandy Osteopathic Hosp., Inc.*, 687 S.W.2d 910, 913-14 (Mo. App. 1985).

The two cases Intervenor cited below to support an abeyance are irrelevant and distinguishable. Ex. 35 at 965-966. In *Knapp v. Missouri Local Government Employees Retirement System*, 738 S.W.2d 903 (Mo. App. 1987), a plaintiff prematurely filed an action for judicial review of an agency decision and the parties *stipulated* to holding the case in abeyance. *Id.* at 907. *Knapp* is simply irrelevant. In *Logan v. Sho-Me Power Elec. Co-op.*, 122 S.W.3d 670 (Mo. App. 2003), the case involved parallel wrongful death proceedings in the trial court and the Labor and Industrial Relations Commission. The Court of Appeals concluded the trial court should have held the wrongful death case in

abeyance during the pendency of the workers' compensation review to avoid the risk of prejudice to the wrongful death Plaintiff from the running of the statute of limitations.

While in *Logan*, the abeyance protected the Plaintiffs' right to sue, in this case, Respondent's unreasonable decision to forbear issuing judgment threatens the very rights that Relator seeks to protect. Neither case supports Respondent's abeyance.¹

D. No More Factual Development Is Needed

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

As to the first question, "the secretary of state's authority to review a referendum petition sample sheet for sufficiency as to form does not extend to substantive matters including, without limitation, determining compliance with the Missouri Constitution."

ACLU v. Ashcroft, 577 S.W.3d 881, 892 (Mo App. 2019). The Secretary's conclusion (in September 2025) that Relators were not permitted to initiate a referendum on a bill that

¹As there is no authority for Respondent to hold this case in abeyance, this Court could issue its writ of prohibition requiring Respondent to lift the abeyance without concluding that doing so would be an abuse of discretion. "A writ of prohibition is appropriate to remedy an excess of authority . . ." *State ex rel. Monsanto Co. v. Mullen*, 672 S.W.3d 235, 239 (Mo. banc 2023).

had not been signed by the Governor is a matter of substance, not form. Ex. 10 at 368). Indeed, the rejected form is completely identical to the approved form, differing only in the dates of its submission and the Secretary's approval. See Ex. 20 at 618-619. The record is closed and a decision should be made.

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

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

The issue here is *not* whether this case is *currently* moot. The mootness concept that animated Respondent's abeyance order is whether the case will become moot if the Secretary concludes there are sufficient signatures without the 100,000. See Ex. 24 at 732. It will not. The Supreme Court addressed a remarkably similar issue a few years ago in *No Bans on Choice*. The underlying issue there – as here – involved the Secretary of State using procedural processes related to a referendum to shorten the available time to collect signatures. Even when no signatures were submitted to the Secretary, the Supreme Court concluded the rights at stake in the referendum process brought the case “squarely within the mootness exception of ‘capable of repetition, yet evading review.’” 638 SW.3d

at 490 n.9. Here, the signatures have been submitted and the controversy is live. Respondent's improper abeyance order is the only thing preventing it from being resolved.

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

The Secretary has alternatively argued Respondent is correct to hold this case in abeyance because the case is not ripe. The ripeness issues have been fully briefed to Respondent, and he is simply refusing to rule. As explained to Respondent, this case is unquestionably ripe in light of the Secretary's refusal to even review *one-third* of the signatures submitted. Ex. 29 at 768-776. At present, this is *not* a case "wherein adequate relief can be afforded through an appeal." *State ex rel. Henderson v. Asel*, 566 S.W.3d 596, 598 (Mo. banc 2019). Relators are entitled to relief because Respondent will not decide this case *so that* a timely appeal can follow.

Even if Respondent were to agree this case is not ripe, the proper thing to do is to dismiss the case, not hold it in abeyance. Dismissing the case for want of a justiciable controversy will permit an appeal. *Id.* at 600 n.6 (dismissals in these circumstances are "final and appealable"). In either event, withholding judgment is causing significant prejudice to Relators, is inconsistent with the Constitution's Open Courts provision, and risks creating a need for emergency pre-election appeals that would not exist but for Respondent's improper abeyance order.

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

1. Issue its preliminary writ of prohibition directing Respondent to show cause why the December 12, 2025 abeyance order should not be vacated and he should not be directed to promptly enter a judgment;

2. Upon submission, make the writ permanent and direct Respondent to vacate the December 12, 2025 abeyance order and direct Respondent to enter judgment forthwith;

3. Grant such other and further relief as just and proper.

Respectfully Submitted,

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