IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

AMERICAN CIVIL LIBERTIES UNION OF MISSOURI, INC. and SARA E. BAKER, Plaintiffs, v. JOHN R. ASHCROFT, in his official capacity as Missouri Secretary of State; ERIC S. SCHMITT, in his official capacity as Attorney General for the State of Missouri; and NICOLE GALLOWAY, in her official capacity as Auditor for the State of Missouri, Defendants.	Case No. _____ Division: _____

Suggestions in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction

Pursuant to Mo. Sup. Ct. Rule 92.02 and for the reasons discussed herein, Plaintiffs request a temporary restraining order and, upon hearing, a preliminary injunction.

Introduction

The Missouri Constitution reserves to the people the right of referendum. MO. CONST. art. III, § 49. When a referendum petition has garnered enough signatures within a certain period of time, recent legislative acts are subjected to review by Missouri voters, who have the opportunity to either accept or reject what the legislature has done. The right of referendum is fundamental to a functioning democracy. *State ex rel. Westhues v. Sullivan*, 224 S.W. 327, 333 (Mo. banc 1920) ("The right [of referendum] is not only constitutional, but one of vital importance and of large proportions."). The Constitution therefore recognizes that only two kinds of legislative acts are shielded from the people's scrutiny: certain important appropriations and laws "necessary for the

immediate preservation of the public peace, health or safety." *Id.* § 52a; *see also State ex rel. Voss v. Davis*, 418 S.W.2d 163, 167 (Mo. 1967) ("Provisions reserving to the people the powers of initiative and referendum are given a liberal construction to effectuate the policy thereby adopted.").

It has long been established that the courts—not the General Assembly and surely not the head of any executive agency—have the exclusive power and duty to determine whether a newly enacted law addresses such "a real or existing danger"—such a "present impelling necessity"—that it may appropriately be considered an emergency law and thereby be insulated from the people's referendum power. *State ex rel. Pollock v. Becker*, 233 S.W. 641, 649 (Mo. banc 1921) (Walker, J., concurring); *see also Westhues*, 224 S.W. at 333 ("The broad position is taken that . . . . the Legislature can foreclose the constitutional right of referendum by simply tacking on and passing an emergency clause. This idea is not sound . . . .").

Nonetheless, on June 6, Secretary of State Jay Ashcroft rejected the valid petition form Plaintiffs submitted to begin the referendum process for HB126, a law passed by the General Assembly and signed by Governor Parson in May. Ashcroft, in conjunction with Attorney General Eric Schmitt, claims that merely by including an emergency clause as to a single provision of HB126, the legislature stripped Missourians of their fundamental right of referendum as to the entire bill.

Unlike Defendants, Missouri's courts have long rejected tricks like this. *Inter-City Fire Prot. Dist. of Jackson Cty. v. Gambrell*, 231 S.W.2d 193, 199 (Mo. banc 1950) ("A mere declaration by a legislative body that an act which is passed is an emergency measure cannot make it so, but it is for a court in a judicial proceeding to determine whether the act is in fact an emergency measure within the meaning of the constitutional provisions."); *Westhues*, 224 S.W.

at 337 (holding that if emergency clause was sufficient to insulate a law from referendum, "[t]he very substance of a constitutional right could be taken from the people by an overanxious and hostile legislative body . . . . If the courts cannot . . . determine whether or no the lawmakers overstepped the constitutional restrictions in denying the referendum of the measure by their ukase on the subject of 'immediate preservation of peace, health or safety' then the constitutional referendums become a farce."); *Pollock*, 233 S.W. at 646 (Elder, J., concurring, with Graves & Walker, JJ., and Blair, C.J.) ("Such a doctrine would be totally destructive of the referendum, for, by mere ipse dixit of the Legislature, without cause in truth or fact, any measure could be withheld from ratification or rejection by the people at the polls.").

At least in this instance, it is indeed nothing more than a trick. The Senate handler of HB126, Sen. Andrew Koenig, has publicly said as much: "What we did in the bill is actually preempt that type of situation by putting an emergency clause in there. So there can't be a referendum."[1] To put it plainly: the "situation" that Senator Koenig wants to "preempt" is Missourians' exercise of their fundamental right to scrutinize the legislative acts of their elected representatives.

The State cannot demonstrate that the "emergency" portion of HB126 is "necessary to the immediate preservation of the public peace, health, or safety." *State ex rel. Harvey v. Linville*, 300 S.W. 1066, 1068 (Mo. 1927) (reiterating that under the referendum clause, "the emergency must appear in fact upon the face of the bill to be within the terms of the Constitution"); *Westhues*, 224 S.W. at 338 ("[N]o measure subject to the referendum can be withdrawn therefrom by a mere emergency clause. Nor should the people be denied their constitutional right

[1] J. Rosenbaum, Jun. 3, 2019, *Missouri Abortion Ban Opponents Could Face Referendum Snag*, ST. LOUIS PUB. RADIO, https://news.stlpublicradio.org/post/missouri-abortion-ban-opponents-could-face-referendum-snag#stream/0.

of referendum by a mere declaration of 'immediate preservation of the peace, health or safety' unless such declaration is borne out by the face of the measure itself.").

But despite the weakness of their position, Defendants will nonetheless succeed in permanently and irrevocably blocking Plaintiffs from exercising their right of referendum and in insulating HB126 from the people's review if the Court does not intervene. Missouri imposes strict deadlines on the referendum process. *See* RSMo. §§ 116.332; 116.175; 116.334. Without a temporary order immediately requiring Defendants to accept Plaintiffs referendum petition form, to fulfill their other statutory duties regarding the referendum process, and to allow Plaintiffs to begin collecting the signatures necessary to put HB126 on the November ballot, Defendants will enable the antidemocratic ploy of Koenig and his compatriots to succeed.

General Factual Allegations

Scope of HB126

1. On May 17, 2019, HB126 passed the second chamber of the Missouri General Assembly and, pursuant to state law, was sent to the governor for approval.
2. On May 24, 2019, Governor Michael Parson signed HB126 into law.
3. The law repeals seven statutes (RSMo. §§ 135.630, 188.010, 188.015, 188.027, 188.028, 188.043, and 188.052) and replaces them with 17 new provisions.
4. Although all of the new provisions relate in some way to the regulation of abortion, they cover issues as disparate as a ban on certain abortions and abortions undertaken for certain reasons, requirements concerning multiple kinds of insurance, tax credits for certain charitable donations, and the information to be made available to pregnant people who go to a family planning agency or abortion provider.

5. Some of the new provisions vary only slightly from the laws currently in place, while others are significantly different or altogether new.

New Version of RSMo. § 188.028

6. In addition to modifying 16 other statutes, HB126 repeals and replaces RSMo. § 188.028, governing under what circumstances an abortion may be performed on a person under the age of 18.

7. For pregnant persons under the age of 18 who have not obtained judicial authorization to self-consent or judicial consent to an abortion, the prior version of section 188.028 required consent thereto from one parent or guardian before such a person could seek an abortion.

8. The new version of section 188.028, as enacted by HB126, also requires that "the consenting parent or guardian of the minor has notified any other custodial parent in writing prior to the securing of the informed written consent of the minor and one parent or guardian."

9. The new version of section 188.028 then sets out exceptions to when a consenting parent need not notify any other custodial parent, including if that parent was convicted of certain offenses, was the subject of certain orders of protection, had his or her parental rights terminated, or suffers from some kind of incapacity.

10. Other than the requirement of a particular type of notification of all custodial parents for a minor who seeks an abortion but who has not obtained either judicial authorization to self-consent or judicial consent to an abortion, the amendments to section 188.028 are almost entirely limited to the addition of language clarifying that the "induction" of an abortion is subject to the same limitations as the "performance" of an abortion.

11. The bulk of the new version of section 188.028 is identical to the previous version.

"Emergency" Clause

12. Although it modifies 17 different statutes, HB126 contains an "emergency clause" only as to the new version of section 188.028:

> Because of the need to protect the health and safety of women and their children, both unborn and born, the repeal and reenactment of section 188.028 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 188.028 of this act shall be in full force and effect upon its passage and approval.

13. There is no discussion of the immediate danger to the public on the face of HB126 that the new version of section 188.028 allegedly attempts to address.

14. By virtue of that "emergency clause," the new section 188.028 when into effect on May 24, upon the signing of HB126 by Governor Parson.

15. The rest of the statutes created or repealed and replaced as a result of HB126 will go into effect on August 28, 2019.

16. The "emergency clause" was included in HB126 not because of an immediate need to preserve the public peace, health, or safety but rather in order to defeat any attempt to refer the bill for voter approval or rejection under the fundamental right of referendum described in the Missouri Constitution.

Referendum Petition Unconstitutionally Rejected

17. As required under section 116.332 in order to initiate a referendum petition, Plaintiffs American Civil Liberties Union of Missouri and Sara Baker submitted their referendum petition form to Defendant Secretary of State Jay Ashcroft on May 28, 2019, within the time prescribed by law.

18. Defendant Ashcroft announced on June 6 that he was rejecting Plaintiffs' valid referendum petition because the omnibus HB126 contains an "emergency clause" as to the repeal and reenactment of section 188.028 with its new requirement that a parent consenting to their minor child's abortion provide written notice to other custodial parents as that term is defined in the subsection.

19. Defendant Ashcroft stated that he was not rejecting Plaintiffs' petition "as to form," despite the fact that form is the only ground on which he has authority to accept or reject a referendum petition.

20. Defendant Ashcroft has no authority to reject Plaintiffs' petition on any ground other than form.

Time Is of the Essence

21. To call a referendum by citizen petition, petitions must be signed by "five percent of the legal voters in each of two-thirds of the congressional districts in the state." Mo. Const. art. III, § 52a.

22. Referendum petitions (with a sufficient number of valid signatures) must be filed with the Secretary of State no later than 90 days after adjournment of the session in which the bill to be referred was passed by the General Assembly.

23. Referendum petitions on bills passed this session, including HB126, must be filed with the Secretary of State by August 28, 2019.

24. Plaintiffs intend to call a referendum by citizen petition on HB126 and have demonstrated that intent by filing a valid referendum petition form with the Secretary of State, as required under state law.

25. However, before Plaintiffs may begin obtaining petition signatures, a series of government actions must occur: the Secretary of State must approve the form of the referendum petition (up to 15 days); the Auditor must prepare a fiscal note (up to 20 days); the Secretary of State must issue a summary statement (up to 23 days); the Attorney General must approve the fiscal note and summary statement (up to 10 days); and the Secretary of State must certify the official ballot title of the referendum measure (up to 3 days).

26. Signatures obtained before the Secretary of State's certification of the official ballot title "shall not be counted." RSMo. § 166.334.2.

27. Defendants' invalid rejection of Plaintiffs' referendum petition form cuts off the rest of the referendum process and blocks Plaintiffs from collecting signatures in a manner that ensures they will be counted.

28. As a result, it violates Plaintiffs' fundamental constitutional right to call a referendum by citizen petition as to HB126.

29. Plaintiffs have no alternative remedy to vindicate their fundamental right.

LEGAL STANDARD

Under Rule 92.02(a)(1) of the Missouri Supreme Court Rules, a temporary restraining order is warranted where, as here, the party seeking relief "demonstrates that immediate and irreparable injury, loss, or damage will result in the absence of relief." A preliminary injunction preserves the status quo between the parties until a final adjudication of the merits and is appropriate "where the failure to grant a preliminary injunction would have the effect of rendering a final judgment for injunctive relief ineffectual." *Furniture Mfg. Corp. v. Joseph*, 900 S.W.2d 642, 648 (Mo. App. W.D. 1995).

In evaluating whether temporary or preliminary relief is appropriate, a court should weigh: (1) the threat of irreparable harm to the movant absent the injunction; (2) the balance between this harm and the injury that the injunction's issuance would inflict on other interested parties; (3) the public interest; and (4) the movant's probability of success on the merits. *State ex rel. Dir. of Revenue, State of Mo. v. Gabbert*, 925 S.W.2d 838, 839 (Mo. banc 1996) (citing *Pottgen v. Mo. State High Sch. Activities Ass'n*, 40 F.3d 926, 928 (8th Cir. 1994); *see also Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981)). Each of these factors weighs heavily in favor of the entry of a temporary restraining order and, after hearing, a preliminary injunction.

ARGUMENT

I. PLAINTIFFS WILL SUFFER IRREPARABLE HARM IF DEFENDANTS ARE PERMITTED TO BLOCK THEM FROM VINDICATING THEIR FUNDAMENTAL RIGHT OF REFERENDUM.

Plaintiff Baker and Plaintiff ACLU of Missouri and its members—as well as voters as a whole—will be irreparably harmed if Defendants are permitted to cut off the referendum petition process. Because of the strict deadlines under Missouri's statutory referendum process, Defendants' actions will have deprived Plaintiffs of their constitutional right of referendum before the merits of this action can be fully considered. Ultimately, Defendants' rejection of Plaintiffs' valid referendum petition is nothing less than the deprivation of the right to vote on a citizen-referred ballot measure. Infringing upon the right to vote is the epitome of irreparable harm because "once [an] election occurs, there can be no do-over and no redress." *League of Women Voters of N. Carolina v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014), *cert. denied*, 135 S. Ct. 1735 (2015); *see also Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986) (the denial of right to vote is unquestionably "irreparable harm"); *Iowa Right to Life Comm., Inc. v.*

Williams, 187 F.3d 963, 970 (8th Cir. 1999) (loss of constitutionally protected rights "'for even minimal periods of time, unquestionably constitutes irreparable injury'") (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); *Amos v. Higgins*, 996 F. Supp. 2d 810, 814 (W.D. Mo. 2014) (concluding that plaintiffs' inability to exercise their fundamental right to marry caused them irreparable harm).

II. THE BALANCE OF HARMS FAVORS THE ENTRY OF A TEMPORARY RESTRAINING ORDER.

The balance of harms also weighs in favor of the grant of a temporary restraining order. Without such an order, the fundamental right to vote on legislative acts via referendum will be abridged. *See State v. Young*, 362 S.W.3d 386, 397 (Mo. 2012) (citing *Etling v. Westport Heating & Cooling Servs.*, Inc., 92 S.W.3d 771, 774 (Mo. 2003) ("Fundamental rights include the right[]…. to vote"). Plaintiffs have no other avenue to access the referendum petition process other than through Defendants. Absent temporary relief, they will suffer irreparable harm that goes to the very fabric of the democratic process. *Westhues*, 224 S.W. at 333 ("The right [of referendum] is not only constitutional, but one of vital importance and of large proportions.").

By contrast, Defendants will suffer (at most) minimal harm. If they ultimately carry their burden to show that an emergency of the public peace, health, or safety appears on the face of HB126, they can reject the referendum petition at that time. At most, Defendants will suffer some minimal administrative inconvenience in fulfilling their statutory duties under the referendum petition process. Minor inconvenience to government officials does not outweigh the risk of foreclosing access to a fundamental constitutional right, one that goes to the heart of the democratic process. *See State ex rel. Mack v. Purkett,* 825 S.W.2d 851, 857 (Mo. banc 1992) (stating that mere "administrative inconvenience" is the "weakest justification" for the loss of a right); *see also Goodwin v. Turner*, 908 F.2d 1395, 1406 (8th Cir. 1990) (citing *Carey*, 431 U.S.

at 691) (“’The prospect of additional administrative inconvenience has not been thought to justify invasion of fundamental constitutional rights’”).

III. A TEMPORARY RESTRAINING ORDER WILL SERVE THE PUBLIC INTEREST.

For the same reasons, the entry of a temporary restraining order and preliminary injunction would be in the public interest. There is an extraordinary public interest in protecting the right of referendum. *See, e.g.*, *Weinhues*, 224 S.W. at 333 (“right [of referendum] is . . . of vital importance”); *Weinschenk v. State*, 203 S.W.3d 201, 211 (Mo. banc 2006) (“[T]he right to vote is fundamental to Missouri citizens.”); *see also Iowa Right to Life Comm., Inc.,* 187 F.3d at 970 (“the public interest favors protecting core…. freedoms”). The public has no greater interest than in the oversight of its elected representatives. *Pollock*, 233 S.W. at 654 (Blair, C.J., concurring, with Graves & Walker, JJ.) (“It will not do to say the people would have their remedy at the polls, and could punish legislators by defeating them. This was true before there was a referendum section proposed and adopted. The remedy by referendum was added to that available at the polls.”). Without temporary relief, Plaintiffs cannot move forward with their referendum petition, and the public’s right of referendum will be illusory. Indeed, legislators who wish to arbitarily insulate their legislative acts from public scrutiny will have a road map for doing just that.

IV. PLAINTIFFS HAVE A SUBSTANTIAL LIKELIHOOD OF PREVAILING ON THE MERITS.

As discussed above, it has long been established that the legislature’s “simply tacking on and passing an emergency clause” is insufficient to show that a law is so crucial to the immediate preservation of the public peace, health, or safety that it may not be referred to the people. *Westhues*, 224 S.W. at 333; *see also Pollock*, 233 S.W. at 646 (Graves, J., concurring) (“It is absolutely against all reason to rule that the Legislature can, by trick and chicanery, through a

declaration against the very face of the bill, cut the people off from the constitutional rights to refer all measures, and yet retain the legislative right.").

Instead, courts look to the face of the bill at issue to determine if it is truly necessary to address an emergency. *See Linville*, 300 S.W. at 1068 ("the emergency must appear in fact upon the face of the bill to be within the terms of the Constitution"); *Pollock*, 233 S.W. at 646 (Graves, J., concurring) ("this court could examine the face of the legislative act, and if in fact it was not for 'the immediate preservation of the public peace, health or safety' of the state," court would declare the emergency clause "void"); *Westhues*, 224 S.W. at 338 ("[N]o measure subject to the referendum can be withdrawn therefrom by a mere emergency clause. Nor should the people be denied their constitutional right of referendum by a mere declaration of 'immediate preservation of the peace, health or safety' unless such declaration is borne out by the face of the measure itself.").

In *Hatfield v. Meers*, the then-Kansas City Court of Appeals considered whether an "emergency" St. Joseph ordinance concerning low-income housing was necessary for the immediate preservation of the public peace, health, or safety and thus insulated from the referendum power enshrined in that city's charter. 402 S.W.2d 35. Drawing upon *Westhues* and *Pollock*, the court held that to call something an "emergency" measure entailed that it was meant to address "an unforseen combination of circumstances which calls for immediate action." *Id.* at 39 (quoting dictionary). Given the decades-long lag between the city's establishment of a housing authority and its passage of the ordinance at issue, the *Hatfield* Court held that the ordinance could not be called an emergency. *Id.* The court was not concerned with the wisdom of the law, but it was concerned with whether a condition that had long existed "should suddenly create an emergency, twenty-four years later, so as to require enactment of an emergency

ordinance to correct the situation, whereby the citizens of St. Joseph would be denied the right of referendum." *Id.* at 40. Ultimately, the court held that it was not an emergency measure and therefore not exempt from the referendum power. *Id.*

In *Pollock*, the Supreme Court of Missouri held that a statute enacted to modify the offices and duties of certain courts and constables was—despite its emergency clause—not necessary for the immediate preservation of the public peace, health, or safety. 233 S.W. at 644–45. In concurrence, Judge Graves wrote that the emergency clause could not transform the measure into an emergency when it was commonly known that it was not: "To say that the purpose of these bills was to protect Missouri in some great, impending emergency relative to her peace, health, or safety, is not only in the face of the bills themselves, but in the face of what her citizens know." *Id.* at 646 (Graves, J., concurring, with Walker, J. & Blair, C.J.). It could not be said that a law that affected merely a small group of constables and justices of the peace was necessary for the immediate preservation of the public peace, health, or safety. *See id.* at 649 (Walker, J., concurring, with Blair, C.J. & Graves, J.) (pointing out that a law with limited application could not be "of a general nature, such was evidently contemplated by the Constitution in the use of the word 'public' in the referendum"). The concurring *Pollock* judges also pointed out that the words "immediate preservation" have meaning: "The word 'preservation,' say the lexicographers, presupposes a real or existing danger; and 'immediate preservation' is indicative of a present impelling necessity, with nothing intervening to prevent the removal of the danger." *Id.* The language and "evident purpose" of the laws at issue revealed no reason, "except such as may exist in the exuberant fancy of their draftsman," that they were necessary for the immediate preservation of the public peace, health, or safety. *Id.*

Like in *Hatfield*, there is nothing "immediate" here: no new public menace supporting emergency status for the portion of HB126 that repeals and replaces section 188.028. Indeed, section 188.028 existed in its prior form—one-parent consent—for more than 30 years. And like in *Pollock*, the new section 188.028 cannot be said to be "of a general nature" such that it is necessary for the preservation of the public peace, health, or safety. Its effect is limited to pregnant minors who wish to seek an abortion, who have a consenting parent, who do not obtain judicial consent or judicial authorization to self-consent, and who have another "custodial parent" as the statute defines that term. Leaving aside "the propriety of their enactment and the wisdom of their terms," the amendments to section 188.028 do not bear out—as required—the public emergency they allegedly attempt to address. *Pollock*, 233 S.W. at 649; *see also Linville*, 300 S.W. at 1068 (reiterating that under the referendum clause, "the emergency must appear in fact upon the face of the bill to be within the terms of the Constitution"); *State ex rel. State Hwy. Comm'n v. Thompson*, 19 S.W.2d 642, 647 (Mo. banc 1929) (holding that even where law concerning issuance of bonds for road construction would concededly have effect on public safety but effect was indirect, law was not exempt from referendum); *Fahey v. Hackmann*, 237 S.W. 752, 761–62 (Mo. banc 1922) (holding that, despite legislative attempt at emergency clause and court's "regret" in postponing the disposition of funds "so richly deserved by the beneficiaries thereof," law authorizing issuance of bonds for payment of soldiers did not address such an immediate public need that it could be exempted from citizens' referendum power).

Even assuming that the amendments to section 188.028 and its emergency clause somehow revealed an immediate "impelling necessity" that menaced the public peace, health, or safety, Defendants still could not rely on it to reject Plaintiffs' valid referendum petition for the referral of HB126. It has already been established that the legislature cannot shield its most

favored laws from citizen scrutiny simply by "tacking on" an emergency clause to a law not necessary for the immediate preservation of the public good. It also cannot tack an emergency law onto a non-emergency law in order to evade citizens' fundamental right of review on laws that fall unambiguously within the people's constitutional referendum power.

The Supreme Court of Missouri has not addressed this question. But it has been addressed relatively recently by the high court of Washington. In 2003, the Washington Supreme Court unanimously held en banc that where only a portion of a legislative act truly addressed an emergency, the remainder of the bill was subject to citizens' constitutional referendum power. *Wash. State Labor Council v. Reed*, 65 P.3d 1203, 1210 (Wash. banc 2003). That is the logical result. Otherwise, the legislature would simultaneously be required to justify the impelling necessity of only a small portion of any given legislative act while simultaneously being permitted to shield the entirety of that act from citizen referendum—no matter how wide-ranging that act may be. That would be inconsistent with the Supreme Court's instruction that the constitutional referendum power be liberally construed in order to effectuate the reservation of power to the people that the referendum provision adopted. *Voss*, 418 S.W.2d at 167.

Furthermore, none of the defendants, including Defendant Ashcroft, have any current legal authority to reject Plaintiffs' referendum petition on the basis that HB126 is not within the constitutional referendum power reserved to the people. Defendants' statutory duty at this stage in the referendum process is to accept or reject the *form* of a referendum petition. The statute implementing a process for the people to carry out the constitutional referendum power not be more clear on this point. *See* RSMo. §§ 116.332 ("The secretary of state and attorney general must each review the petition for sufficiency ***as to form*** and approve or reject ***the form*** of the petition, stating the reasons for rejection, if any. . . . Upon receipt of a petition from the office of

the secretary of state, the attorney general shall examine the petition ***as to form***. If the petition is rejected ***as to form***, the attorney general shall forward his or her comments to the secretary of state within ten days after receipt of the petition by the attorney general. . . . The secretary of state shall review the comments and statements of the attorney general ***as to form*** and make a final decision as to the approval or rejection of ***the form*** of the petition.") (emphases added). Defendant Ashcroft has already acknowledged his abdication of his statutory duty to accept a referendum petition whose form is valid under the law and should not be permitted to continue to avoid carrying out the duties of his office.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request the Court issue a temporary restraining order and, after a hearing, a preliminary injunction prohibiting Defendants and anyone acting in concert with them from rejecting Plaintiffs' Referendum Petition on the basis that one provision of HB126 is subject to an emergency clause and requiring that Defendant Ashcroft approve the Referendum Petition form, prepare a summary statement, and certify the official ballot title; Defendant Galloway prepare a fiscal note and fiscal note summary; and Defendant Schmitt approve the summary statement and fiscal note, all within the time limits set forth by Missouri law, and to allow such other and further relief as is proper under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2019, the foregoing was served by fax and First Class mail upon:

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