

IN THE NINETEENTH JUDICIAL CIRCUIT COURT  
COLE COUNTY  
STATE OF MISSOURI

PAMELA K. GROW; STEVE AND )  
LAURA M. HAUSLADEN; GEORGE )  
W. HOWELL; ROBYN HAMLIN; )  
MATT A. HAY; RONALD C. REITER )  
GREGORY A. MURPHY; SALLY S. )  
CATO; and CHARLES L. SANDERS, )  
Relators )

Cause No. \_\_\_\_\_

vs. )

Division \_\_\_\_\_

JEREMIAH W. NIXON, in his official )  
capacity as Governor of the State of )  
Missouri, )  
Respondent. )

**PETITION FOR WRIT OF MANDAMUS**

Come now the Relators, Pamela K. Grow, Steven and Laura M. Hausladen, George W. Howell, Robyn Hamlin, Matt A. Hay, Ronald C. Reiter, Gregory A. Murphy, Sally S. Cato, and Charles L. Sanders, pursuant to Missouri Rule of Civil Procedure 94.03, and state as follows:

**Parties**

1. Respondent Jeremiah W. Nixon (“the Governor” or “Governor Nixon”) is the sitting Governor of the State of Missouri. He has been notified and is aware that four seats in the Missouri General Assembly (the seats for the 120<sup>th</sup> District, 67<sup>th</sup> District, and the 151<sup>st</sup> District in the House of Representatives and the seat for the 22<sup>nd</sup> District in the Senate) are currently vacant. As of the filing of this petition the Governor has not issued a writ of election for any of the four vacant legislative seats.

2. The Relators are all Missouri citizens, taxpayers, and qualified voters residing in Missouri legislative districts whose seats in the General Assembly are currently vacant. Until the Governor fulfills his constitutional and statutory duty to issue writs of election for these vacant seats, the Relators will be improperly denied their right to have representation in both houses of the Missouri General Assembly.

3. Relator Pamela K. Grow resides at 10385 Southwood Drive, Rolla, Missouri 65401, which sits in Missouri's 120<sup>th</sup> Representative District.

4. Relators Steve and Laura M. Hausladen reside at 579 Thickety Ford Road, Bourbon, Missouri 65441, which sits in Missouri's 120<sup>th</sup> Representative District.

5. Relator George W. Howell resides at 12561 Bay Leaf Lane, Rolla, Missouri 65401, which sits in Missouri's 120<sup>th</sup> Representative District.

6. Relator Robyn L. Hamlin resides at 21 Nob Hill Drive, St. Louis, Missouri 63138, which sits in Missouri's 67<sup>th</sup> Representative District.

7. Relator Matt A. Hay resides at 1135 Airglades Drive, Arnold, Missouri 63010, which sits in Missouri's 22<sup>nd</sup> Senate District.

8. Relator Ronald C. Reiter resides at 537 Westwood Place, Festus, Missouri 63028, which sits in Missouri's 22<sup>nd</sup> Senate District.

9. Relator Gregory A. Murphy resides at 1815 Deer Run Trail, Pacific, Missouri 63069, which sits in Missouri's 22<sup>nd</sup> Senate District.

10. Relator Sally S. Cato resides at 407 Dayton Street, Bernie, Missouri 63822, which sits in Missouri's 151<sup>st</sup> Representative District.

11. Relator Charles L. Sanders resides at 2012 Grant Street, Dexter, Missouri

63841, which sits in Missouri's 151<sup>st</sup> Representative District.

### **Facts**

12. Missouri's 120<sup>th</sup> Representative District was most recently represented by Jason Smith, but was vacated on June 5, 2013, when Smith was sworn into office as Congressman representing Missouri's 8<sup>th</sup> Congressional District.

13. As of the filing of this Petition, the House of Representatives seat for Missouri's 120<sup>th</sup> District has been vacant for nearly seven months and the Governor has not issued a writ of election directing the relevant election authorities to fill the vacant seat.

14. Missouri's 67<sup>th</sup> Representative District was most recently represented by Steve Webb, but was vacated on December 2, 2013, when Webb announced his resignation from the House of Representatives.

15. As of the filing of this Petition, the seat for Missouri's 67<sup>th</sup> Representative District has been vacant for one month and the Governor has not issued a writ of election directing the relevant election authorities to fill the vacant seat.

16. Missouri's 22<sup>nd</sup> Senate District was most recently represented by Ryan McKenna, but was vacated on December 18, 2013, when McKenna became the director of the Missouri Department of Labor and Industrial Relations, a position to which the Governor appointed him.

17. As of the filing of this Petition, the seat for Missouri's 22<sup>nd</sup> Senate District has been vacant for more than two weeks, and the Governor has not issued a writ of election directing the relevant election authorities to fill the vacant seat.

18. Missouri's 151<sup>st</sup> Representative District was most recently represented by Dennis Fowler, but was vacated on December 18, 2013, when Fowler accepted the Governor's nomination to serve as a member of the Board of Probation and Parole.

19. As of the filing of this Petition, the seat for Missouri's 151<sup>st</sup> Representative District has been vacant for more than two weeks, and the Governor has not issued a writ of election directing the relevant election authorities to fill the vacant seat.

20. Until the Governor delivers a writ of election to the election authorities for legislative districts with vacant seats, those election authorities lack the power to call for an election to fill the vacant seats.

21. As long as a legislative seat remains vacant, the people living in that legislative district are deprived of a representative voice in that house of the legislature.

22. The Spring 2014 Session of the Missouri General Assembly is scheduled to convene on January 8, 2014. *See* <http://www.senate.mo.gov/schedule-2014.htm>.

23. The Missouri Secretary of State's Office lists April 8, 2014, as the date on which a General Municipal Election will be held. *See* <http://www.sos.mo.gov/elections/calendar/2014cal.asp>.

24. The Spring 2014 Session of the Missouri General Assembly is scheduled to end on May 16, 2014. *See* <http://www.senate.mo.gov/schedule-2014.htm>.

25. Holding elections for the vacant legislative seats in conjunction with the already-scheduled April 8, 2014, election would avoid the unnecessary expense of scheduling a stand-alone special election for the purpose of filling the empty legislative seats.

26. Holding elections for the vacant legislative seats in conjunction with the already-scheduled April 8, 2014, election would also allow the new legislators to be seated in time to provide the Relators and their neighbors with meaningful representation in the relevant house of the legislature for the Spring 2014 Session of the Missouri General Assembly.

27. According to the Missouri Secretary of State's Office, the last day for candidate filing associated with the April 8, 2014, election is January 21, 2014. *See* <http://www.sos.mo.gov/elections/calendar/2014cal.asp>.

28. According to the Missouri Secretary of State's Office, the date of final certification for candidates participating in the April 8, 2014, election is January 28, 2014. *See id.*

29. If on or before January 17, 2014, the Governor issues writs of election stating that the election to fill the vacant legislative seats will coincide with the already-scheduled April 8, 2014, election, there will be sufficient time for the appropriate election authorities to prepare accordingly.

30. If the Governor does not issue these writs of election before January 17, 2014, or if he refuses to set the elections to coincide with the already-scheduled April 8, 2014, election, he will effectively deprive the Relators and their neighbors of any meaningful representation in the relevant house of the legislature for the Spring 2014 session of the Missouri General Assembly.

### **Relief Sought**

31. The Relators ask the Court to issue a writ of mandamus ordering Governor

Nixon to immediately issue writs of election for each of the currently vacant seats in the Missouri General Assembly.

32. The Relators also ask the Court to require that the elections to fill the currently vacant seats in the Missouri General Assembly be held no later than April 8, 2014, the date on which a General Municipal Election is already scheduled.

**Reasons the Court Should Issue the Requested Writ of Mandamus**

33. A writ of mandamus is justified where a legal authority requires an official to perform an act in particular circumstances. *Chastain v. Kansas City Missouri City Clerk*, 337 S.W. 3d 149, 155 (Mo. App. W.D. 2011).

34. The purpose of the writ of mandamus is to compel the performance of a ministerial duty that one charged with the duty has refused to perform. *Furlong Companies, Inc. v. City of Kansas City*, 189 S.W.3d 157, 166 (Mo. banc 2006).

35. The Missouri Constitution requires the Governor to issue writs of election to fill vacancies in either house of the General Assembly. Mo. Const. Art. III, § 14.

36. The General Assembly has clarified that when the Governor receives notice of a vacancy in the legislature, he is required to “issue a writ of election to supply the vacancy” *without delay*. RSMo. § 21.110.

37. State law requires the Governor to issue the writ of election to the election authorities responsible for managing elections in the district whose seat at the legislature is vacant. RSMo. § 21.120.

38. Upon information and belief, Governor Nixon is aware that the seat for Missouri’s 120<sup>th</sup> Representative District is vacant, but Governor Nixon has not issued a

writ of election to fill the vacant seat.

39. Upon information and belief, Governor Nixon is aware that the seat for Missouri's 67<sup>th</sup> Representative District is vacant, but Governor Nixon has not issued a writ of election to fill the vacant seat.

40. Upon information and belief, Governor Nixon is aware that the seat for Missouri's 2<sup>nd</sup> Senate District is vacant, but Governor Nixon has not issued a writ of election to fill the vacant seat.

41. Upon information and belief, Governor Nixon is aware that the seat for Missouri's 151<sup>st</sup> Representative District is vacant, but Governor Nixon has not issued a writ of election to fill the vacant seat.

42. Because the Governor has been aware of these four legislative vacancies for seven months, one month, and two weeks, respectively, and yet has not issued writs of election to fill those vacancies, he is in violation of his express constitutional duty. Mo. Const. Art. III, § 14.

43. Because the Governor has been aware of these four legislative vacancies for seven months, one month, and two weeks, respectively, and yet has not issued writs of election to fill those vacancies, he is in violation of his express statutory duty to issue a writ of election to supply the vacancy "without delay." RSMo. § 21.110.

WHEREFORE, the Relators ask this Court to issue a writ of mandamus commanding Governor Nixon to immediately fulfill his duty to those citizens currently deprived of legislative representation by issuing writs of election to the appropriate



**CERTIFICATE OF SERVICE**

I hereby certify that on January 2, 2014, a copy of the above and foregoing was served by mail upon:

Jeremiah W. Nixon  
Governor of the State of Missouri  
216 State Capitol  
P.O. Box 720  
Jefferson City, Missouri 65102

A handwritten signature in black ink that reads "Dave Roland". The signature is written in a cursive style with a large initial "D" and "R".

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Dave Roland  
Attorney for Relators