IN THE ARKANSAS SUPREME COURT

BRYAN NORRIS, ARKANSAS VOTER INTEGRITY INITIATIVE, INC., and RESTORE ELECTION INTEGRITY ARKANSAS, a ballot question committee — APPELLANTS

v. CV-26-116

INDEPENDENCE COUNTY, ARKANSAS; TRACEY MITCHELL, WENDY HENRY, JENNIFER EMERY, AND FRANCIS HAIGWOOD (in their official capacities); TIM STEWART, JOHNNY MCMULLIN, BRENT HENDERSON, BRAD COVINGTON, CLIFF BARNETT, TAMMY PEARCE, KENNY HURLEY, JOHNATHAN ABBOTT, and DENNIS STEPHENS (individually and in their official capacities); STATE OF ARKANSAS — APPELLEES

ON APPEAL FROM THE CIRCUIT COURT
OF INDEPENDENCE COUNTY

THE HONORABLE TIM WEAVER, CIRCUIT JUDGE

BRIEF OF APPELLEES INDEPENDENCE COUNTY, ARKANSAS; TRACEY MITCHELL, WENDY HENRY, JENNIFER EMERY, AND FRANCIS HAIGWOOD (IN THEIR OFFICIAL CAPACITIES); AND TIM STEWART, JOHNNY MCMULLIN, BRENT HENDERSON, BRAD COVINGTON, CLIFF BARNETT, TAMMY PEARCE, KENNY HURLEY, JOHNATHAN ABBOTT, AND DENNIS STEPHENS (INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES)

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A. Pleadings and Procedure

This is an expedited appeal, **(RP 157)**, from an order of dismissal without prejudice, **(RP 152-155)**. The order on appeal concluded the Circuit Court lacked subject matter jurisdiction over Appellants Bryan Norris's; Arkansas Voter Integrity Initiative, Inc.'s; and Restore Election Integrity Arkansas's Class Action Complaint for Declaratory Judgment, Violation of the Arkansas Civil Rights Act, and Petition for a Writ of Mandamus, **(RP 10-19)**.

In that Complaint, Norris, AVIII, and REIA detailed four claims. First, a claim for a declaratory judgment about the validity of County Ordinance 2025-27, **(RP 15-16, 119-120)**. Second, a claim for a declaratory judgment holding Arkansas Code Annotated § 14-14-918(b) in violation of Arkansas Constitution Article 5, § 1, **(RP 16)**. Third, a claim for a violation of the Arkansas Civil Rights Act due to the passage of Ordinance 2025-27, **(RP 16-18)**. Finally, a petition for a writ of mandamus requiring Independence County to conduct a "hand marked, hand counted paper ballot" election, **(RP 18-19)**.

Separate Appellees Johnathan Abbott and Kenny Hurley, in their individual capacities, moved to dismiss that Complaint for failure to serve them, lacking personal jurisdiction, improper venue, insufficient subject matter jurisdiction, failure to plead a claim due to insufficient standing, failure to plead a claim that overcomes their immunity from suit, and failure to plead a claim on the underlying alleged constitutional defect. (RP 34-63). All of the Independence County parties, including Abbott and Hurley, then separately moved to dismiss, arguing insufficient subject matter jurisdiction, failure to state a claim, immunity from suit, and that a writ of mandamus was an improper remedy. (RP 64-88). Appellants responded to those motions. (RP 91-100).

On February 11, 2026, the Circuit Court scheduled a hearing for February 18, 2026. (RP 7). In the afternoon of February 17, 2026—hours before the hearing—Appellants filed a motion to declare Act 975 of 2025 unconstitutional. (RP 93). Appellees did not respond in writing to that motion. The Circuit Court then granted the motions to dismiss, finding it lacked subject matter jurisdiction over Appellant's Complaint. (RP 152-156). Appellants timely filed a notice of appeal, stating they would submit

to the doctrine of *res judicata* and waive any further right to assert claims about the subject matter of the instant dispute if their appeal was not successful. **(RP 157)**.

B. Pleaded Allegations.

Appellants' case failed on its pleadings. Appellants' Complaint sought a declaration that the Independence County Quorum Court acted unlawfully, and in violation of the Arkansas Constitution, when they voted to not hold elections using hand marked, hand counted paper ballots. **(RP 11)** at ¶ 2. Appellants sought a declaration that Arkansas Code Annotated § 14-14-918(b) is unconstitutional. **(RP 11)** at ¶ 3.

Appellant Norris is a resident of Independence County, Arkansas. **(RP 11)** at ¶ 4. Appellant AVIII is an Arkansas Corporation that heavily funded and contributed to the paper ballot initiated ordinance repealed by Ordinance No. 2025-27, **(RP 119-120)**. Appellant REIA is an Arkansas ballot question committee that sponsored the ballot initiative that was successful in proposing a paper ballot initiative in Independence County, which was subsequently repealed by Ordinance No. 2025-27, **(RP 119-120)**. **(RP 11)** at ¶ 6.

Appellee Independence County, Arkansas, was named below separately and through its County Clerk, Appellee Tracey Mitchell, **(RP 11)** at ¶¶ 7-8, its election commissioners Appellees Wendy Henderson, Jennifer Emery, and Frances Haigwood, **(RP 12)** at ¶9–¶12, and some of its Quorum Court Justices of the Peace, Appellees Tim Stewart, Johnny McMullin, Brent Henderson, Brad Covington, Kenny Hurley, Tammy Pearce, Johnathan Abbott, Dennis Stephens, and Cliff Barnett **(RP 12-14)** at ¶13–¶21. The Quorum Court officials were also sued in their individual capacities for monetary damages.

In November 2024, the voters of Independence County passed a countywide ordinance requiring all elections in the county to be conducted by hand marked and hand counted paper ballots. **(RP 14)** at ¶ 24. That ordinance was passed pursuant to Arkansas Constitution Article 5, § 1. **(RP 14)** at ¶ 25. In December 2025, the Quorum Court passed Ordinance 2025-27, **(RP 119-120)**, which repealed the November 2024 initiated ordinance. **(RP 14)** at ¶ 26. Appellants pleaded that ordinance was illegal because it was passed pursuant to Arkansas Code Annotated § 14-14-

918(b), but that statute allegedly conflicts with Arkansas Constitution Article 5, § 1's "Amendment and Repeal" clause. (RP 14-15).

In Count III, Appellants added further factual allegations. They pleaded that the members of the Quorum Court schemed to deprive the citizenry of their constitutional right to pass an initiated ordinance by waiting more than a year to take action, voting to repeal the initiated ordinance only two months before early voting, waiting until it was too late for the members of the Quorum Court to draw an opponent in the current election, and using an unconstitutional state statute, Arkansas Code Annotated § 14-14-918(b), to deprive Norris and others of their right to self-legislate. (RP 17-18). In Count III, Appellants sought both compensatory and punitive damages against the members of the Quorum Court for their passage of Ordinance 2025-27. (RP 18).

C. Ordinance 2025-27

The allegedly unconstitutional ordinance, Ordinance 2025-27, is in the record, although Appellants did not attach it to their Complaint. (RP 119-120). That ordinance recited that AVIII's and REIA's November 2024 petition for an initiated ordinance was successful and became law in

Independence County on November 18, 2024. **(RP 119)**. In light of the decision in *Evans v. Harrison*, 2025 Ark. 164, the Quorum Court determined that the 2024 Independence County initiated petition was also filed outside the deadline in the Arkansas Constitution for filing a petition for an initiated ordinance. **(RP 119)**.

Much like this Court held in *Evans*, the Independence County Quorum Court recited it could not turn a blind eye to the glaring constitutional violation in the November 2024 initiated ordinance. **(RP 119)**. The Quorum Court then followed its stated loyalty to the Arkansas Constitution, and exercised its authority under Arkansas Code Annotated § 14-14-918(b) to repeal the November 2024 initiated ordinance. **(RP 119-120)**. That action, and its compliance with Article 5, § 1 of the Arkansas Constitution, animated the pleading, and alleged claims, below.

D. Argument at the February 18, 2026, Hearing

At the outset of the hearing, the Circuit Court noted there were a lot of problems with the case. **(RT 5)**. The Circuit Court began the February hearing by asking about service of process. **(RT 5)**. Separate Appellees Hurley and Abbott preserved and did not abandon their insufficiency of

service arguments at that hearing. (RT 6). The Circuit Court then heard arguments about subject-matter jurisdiction in light of Act 975 of 2025. (RT 6).

Appellants argued Act 975 was unconstitutional because it violated Amendment 80, § 6, by moving a Circuit Court's original jurisdiction over certain matters to the Arkansas Court of Appeals. (RT 6-7). Appellees responded that the balance of Amendment 80 authorized the legislature's reassignment of jurisdiction from circuit courts to the Arkansas Court of Appeals. (RT 8-11).

After the Court announced its ruling, (RT 11-12), Appellants further argued that Act 975 did not apply to their case because they only sought to make an as-applied challenge to the constitutionality of Arkansas Code Annotated § 14-14-918(b), (RT 12). That argument was adjudicated in the order on appeal. (RP 154). The Court considered Appellants' case as a challenge to all of Arkansas Code Annotated § 14-14-918(b)'s applications under the Arkansas Constitution, bringing that challenge within Rule 1-2(a)'s ambit. (RP 154-155).

Appellants expressly stated they were pursuing an appeal to the Supreme Court instead of pleading further in the Court of Appeals or elsewhere, risking dismissal with prejudice if this appeal is affirmed. **(RT 14-15)**. Appellants echoed that position in their notice of appeal. **(RP 157)**.

IV.

ARGUMENT

I. The Circuit Court correctly dismissed Appellants' Complaint

The Circuit Court's dismissal of Appellant's complaint should be affirmed. Its dismissal was due to lacking subject-matter jurisdiction. That conclusion was right: the Arkansas Constitution empowered the General Assembly to amend certain rules and establish the jurisdiction of all courts. ARK. CONST. amend. 80, §§ 9 & 10. The General Assembly did so in Act 975 of 2025, amending Arkansas Supreme Court Rule 1-2(a) and Arkansas Code Annotated § 16-13-201(a) to reassign certain exclusive jurisdiction to the Arkansas Court of Appeals. Appellants defied that rule and statute by filing suit in Circuit Court to declare Ordinance 2025-27 and Arkansas Code Annotated § 14-14-918(b) unconstitutional.

The Circuit Court's dismissal should be affirmed for many alternate reasons. All of the Appellants, especially AVIII and REIA, lack standing to assert any of their purported claims. Those claims have not been properly asserted against Hurley and Abbott individually due to insufficiency of process, insufficiency of service of process, lacking personal

jurisdiction, and improper venue. As to all of the County Appellees, Appellants' claims failed to plead causes that overcome the Quorum Court Appellees' immunity from damages, and failed to plead a claim for relief. The Circuit Court's dismissal should be affirmed.

One preliminary point. The Circuit Court considered Appellants' case as a challenge to all of Arkansas Code Annotated § 14-14-918(b)'s applications under the Arkansas Constitution, bringing that challenge within Rule 1-2(a)'s ambit. **(RP 154-155)**. Appellants appear to concur with that analysis in their opening brief, abandoning the argument they made below. *Appellants' Brief*, at 5 n.1 (noting their "case in the circuit court dispositively hinges on the constitutionality of ARK. CODE ANN. § 14-14-918(b)"). There is thus no dispute on appeal that Act 975 applies to Appellant's Complaint.

A. Constitutionality of Act 975 of 2025

Act 975 of 2025 is constitutional. Appellants did not sufficiently preserve below the arguments they attempt to pursue on appeal. Even if they had preserved those arguments, Act 975 complies with Amendment

80. The Circuit Court thus correctly held it lacked subject matter jurisdiction.

1. Preservation

It was incumbent on Appellants to specifically articulate their arguments below before pursuing them on appeal. *Gould v. Gould*, 2023 Ark. App. 118, at 10, 662 S.W.3d 676, 684. They were also required to secure a specific ruling on those arguments as well before pursuing them here. *Baker v. Baker*, 2013 Ark. App. 543, 429 S.W.3d 389. Although Appellants made some challenges below by motion, **(RP 93)**, and orally at the hearing, **(RT 6-7, 12)**, to the alleged unconstitutionality of Act 975, they did not articulate all of the challenges they pursue on appeal, and did not secure rulings on them.

Appellants' Amendment 80, §§ 3 & 4 rules of pleading, practice and procedure, and superintending control arguments, *Appellant's Brief*, at 8, and *Marbury v. Madison* points were not presented below. As such, some of the arguments on appeal were not properly preserved for appeal. Appellants also made no challenge below or on appeal to Arkansas Code Annotated § 16-13-201(a), which is part of Act 975. A significant piece of

Act 975—Arkansas Code Annotated § 16-13-201(a)—is thus not addressed by Appellants' nascent constitutional challenge.

2. **Standard of review**

Appellants defied this Court's rules by failing to state the applicable standard of review in their brief. ARK. SUP CT. R. 4-2(a)(7). Subject matter jurisdiction is the power of a court to hear and determine a controversy between the parties. *Redwine v. Coursey*, 2021 Ark. App. 417, at 4, 635 S.W.3d 520, 522. A Court's subject matter jurisdiction presents an issue of law, which is reviewed *de novo*.

When considering the meaning of our Constitution and a statute, this Court starts with the plain language of the law. The "task is to read the laws as they are written, and interpret them in accordance with established principles of constitutional construction." *State v. Oldner*, 361 Ark. 316, 326, 206 S.W.3d 818, 821–22 (2005).

"The basic rule of statutory construction, to which all other interpretive guides must yield, is to give effect to the intent of the legislature." *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 634, 803 S.W.2d 923, 924 (1991). If there is some ambiguity in the law, then this

Court resorts to the canons of statutory construction, first by "reconcil[ing] provisions to make them consistent, harmonious, and sensible in an effort to give effect to every part." *State Office of Child Support Enf't v. Morgan*, 364 Ark. 358, 364, 219 S.W.3d 175, 179 (2005). "[N]o word is left void, superfluous or insignificant." *Ward v. Doss*, 361 Ark. 153, 159, 205 S.W.3d 767, 770 (2005).

This Court defers to a circuit court's interpretation of law unless it is shown to be clearly wrong. *Oldner*, 361 Ark. at 326, 206 S.W.3d at 822; *Fewell v. Pickens*, 346 Ark. 246, 254, 57 S.W.3d 144, 149 (2001). Importantly, "[n]either rules of construction nor rules of interpretation may be used to defeat the clear and certain meaning of a constitutional provision." *Oldner*, 361 Ark. at 326, 206 S.W.3d at 822. Against these standards, the Circuit Court's dismissal should be affirmed.

3. Act 975 is consistent with Amendment 80 to the Arkansas Constitution

This appeal presents a narrow primary issue: did Arkansas Constitutional Amendment 80, §§ 9 & 10 empower the General Assembly to pass Act 975 of 2025? If so, then ARK. SUP. CT. R. 1-2(a) and ARK. CODE ANN. § 16-13-201(a) redefined the Court of Appeals's jurisdiction, depriving

the Circuit Court of subject matter jurisdiction below. Amendment 80, §§ 9 & 10 clearly granted the General Assembly authority to amend our courts' rules establishing their jurisdiction. Nothing in Amendment 80, §§ 2, 4, 5, or 6 compels a contrary conclusion.

Appellants' challenge to Act 975 of 2025 ignores §§ 9 and 10. The Arkansas Constitution of 1874 created three distinct "departments" of government, prohibiting one department from exercising the power of another "except in the instances hereinafter expressly directed or permitted." ARK. CONST. art. 4, § 2. Even at its 1874 inception, our Constitution recognized circumstances where it might delegate power from one branch of government to another.

The original power of the circuit court in Article 7, § 11 vested it with "the exclusive jurisdiction" of all civil and criminal cases. That language was repealed by Senate Joint Resolution 9 of 1999, which proposed Amendment 80 to the electors, and was subsequently approved, effective July 2001. Article 19, § 22 of the Constitution empowered the General Assembly to propose Amendment 80 to the voters. It did so, repealing parts of Article 7 and significantly revising Arkansas' judicial system. Our Constitution has been subject to amendment from its inception.

Amendment 80, § 6 did not repeat the "exclusive jurisdiction" of our circuit courts from repealed Article 7, § 11. Instead, it established Circuit Courts as "the trial courts of original jurisdiction of all justiciable matters **not otherwise assigned pursuant to this Constitution**." ARK. CONST. amend. 80, § 6 (emphasis added). Amendment 80's omission of the previous "exclusive jurisdiction" language, and qualification of the Circuit Court's jurisdiction as "otherwise assigned" underscore that jurisdiction became subject to modification in July 2001.

Amendment 80 included newly defined jurisdiction for the Court of Appeals in Article 5, with "appellate jurisdiction as the Supreme Court shall by rule determine." ARK. CONST. amend. 80, § 5. Amendment 80 then added two sections, §§ 9 & 10, which empowered the General Assembly to modify the judiciary's jurisdictional rules.

> Any rules **promulgated by the Supreme Court pursuant to Sections 5**, 6(B), [. . .] of this Amendment **may be annulled or amended**, in whole or in part, by a two-thirds (2/3) vote of the members of each house of the General Assembly.

ARK. CONST. amend. 80, § 9 (emphases added). Section 5 of Amendment 80 defined the Court of Appeals's jurisdiction in its entirety, giving it "appellate jurisdiction as the Supreme Court shall by rule determine."

Under § 9, the Supreme Court's rules defining the Court of Appeals's jurisdiction were expressly subject to amendment or annulment by the General Assembly.

Amendment 80 § 6(B), which was also made subject to amendment in Amendment 80, § 9, defined the Judges of a Circuit Court's jurisdiction to divide their court into subject matter divisions. Amendment 80, § 9 thus made those Courts' administrative case plans subject to amendment by the General Assembly.

Amendment 80 then left no doubt about the General Assembly's power to assign the jurisdiction of all courts in § 10.

> The General Assembly shall have the power to establish jurisdiction of all courts and venue of all actions therein, unless otherwise provided in this Constitution[.]

ARK. CONST. amend. 80, § 10. Appellants ignored §§ 9 and 10 below and on appeal. Appellants' arguments cannot survive a reasonable reading of Amendment 80, §§ 9 & 10.

Arkansas Supreme Court Rule 1-2(a) previously defined the jurisdiction of the Supreme Court and the appellate jurisdiction of the Court of Appeals. ARK. SUP. CT. R. 1-2(a) (prior to Nov. 1, 2025). Rule 1-2

determines the appellate jurisdiction of the Court of Appeals pursuant to Amendment 80, § 5, and is subject to amendment under Amendment 80, § 9.

When the General Assembly passed Act 975 of 2025, it did so pursuant to §§ 9 and 10, creating exclusive original jurisdiction over certain constitutional challenges in the Court of Appeals. The only fair reading of those sections empowers the General Assembly to amend Supreme Court Rule 1-2, pass Arkansas Code Annotated § 16-13-201(a), and amend the jurisdiction of our courts, including the jurisdiction of the Court of Appeals and Circuit Courts. Any different construction renders §§ 9 and 10 meaningless. The Circuit Court therefore correctly concluded it lacked subject matter jurisdiction.

Instead of explaining why §§ 9 and 10 are inapplicable to Act 975, Appellants argue Act 975 violates Amendment 80, § 6(a), which establishes circuit courts as "the trial courts of original jurisdiction of all justiciable matters **not otherwise assigned pursuant to this Constitution**." (emphasis added). In making this argument, Appellants ask this Court to focus exclusively on the word "all" and to treat it as synonymous with

"exclusive." That reading improperly isolates a single word while rendering the balance of that section meaningless.

Amendment 80, § 6(a) must be read in its entirety, including the qualifying language recognizing the circuit court's original jurisdiction may be assigned to another court "pursuant to [the Arkansas] Constitution." Section 6(a) does not grant circuit courts exclusive trial court jurisdiction over all matters without qualification; it instead establishes the circuit court as the default court of original jurisdiction unless such jurisdiction is otherwise assigned.

This Court has interpreted a similar (pre-Amendment 80) constitutional provision to empower the legislature to assign a trial court's jurisdiction. In *Hutton v. Savage*, this Court considered whether the legislature could assign jurisdiction to probate courts over certain juvenile matters. There, this Court considered whether vesting such authority in the legislature violated Article 7, § 34 of the Arkansas Constitution. *Hutton*, 298 Ark. 256, 769 S.W.2d 394 (1989).

Article 7, § 34, provided that probate courts had "**exclusive** original jurisdiction in matters relative to the probate of wills, the estates of deceased persons, executors, administrators, guardians, and persons of

unsound mind and their estates, as is now vested in courts of probate, **or may be hereafter prescribed by law**." *Id.* at 267, 769 S.W.2d 394, 400 (1989) (emphases added). Despite the provision's use of the word "exclusive," this Court recognized that the qualifying language "or may be hereafter prescribed by law" allowed the legislature to modify the jurisdiction of the probate courts. *Id.*

This Court correctly held that constitutional language carried its plain meaning. "[J]urisdiction which may be vested in the probate courts can be altered by act of the legislature." *Id.* Accordingly, this Court concluded that the qualifying language gave "the legislature [. . .] the power to enlarge upon the jurisdiction of the probate courts of this state," and that the legislature "was within [its] power" to enact a measure transferring certain juvenile matters there. *Id.* at 268, 769 S.W.2d 394 (1989). This precedent was long established at the time Amendment 80 was proposed to the voters by the General Assembly.

Hutton's same reasoning applies here. Amendment 80, § 6(a) contains its own qualifying clause, stating circuit courts possess original jurisdiction over all justiciable matters "not otherwise assigned pursuant

to this Constitution." That language contemplates jurisdiction over certain matters may be assigned elsewhere.

Amendment 80 contains authority for the legislature to reassign that original jurisdiction. Section 10 grants the legislature the "power to establish jurisdiction of all courts." Because Act 975 is enacted pursuant to Amendment 80, § 10, the jurisdictional assignment made by Act 975 is made "pursuant to this Constitution" within the meaning of Amendment 80, § 6(a). Just as this Court recognized that the legislature had the power to reassign the original jurisdiction of the probate court in *Hutton*, this Court should uphold Act 975 as a valid exercise of constitutional, legislative authority.

The above construction does not violate the tripartite separation of powers contemplated by Amendment 80. The Arkansas Constitution divides state governmental powers among three distinct departments: the legislature, the executive, and the judicial branches; prohibiting any one branch from exercising powers belonging to another except where expressly permitted. See ARK. CONST. art. 4, §§ 1, 2. This Court has explained the specific powers of these branches:

> [t]he legislative branch of the state government [having] the power and responsibility to proclaim the law through statutory enactments[;] [t]he judicial branch [having] the power and responsibility to interpret the legislative enactments[; and] [t]he executive branch [having] the power and responsibility to enforce the laws as enacted and interpreted by the other two branches.

McCarty v. Arkansas State Plant Board, 2021 Ark. 105, at 3, 622 S.W.3d 162, 164.

Arkansas courts have consistently treated the separation-of-powers doctrine as fundamental to our state's government. *See Spradlin v. Arkansas Ethics Com'n* 314 Ark. 108, 858 S.W.2d 684 (1993). The foundational principle of separation of powers "should not be violated or abridged." *Arkansas State Bd. of Election Com'rs v. Pulaski County Election Com'n*, 2014 Ark. 236, at 13–14, 437 S.W.3d 80, 88.

Appellants argue that Act 975, which assigns original jurisdiction over certain constitutional challenges to the Arkansas Court of Appeals, violates the separation-of-powers doctrine. Specifically, Appellants contend that Act 975 somehow deprives our courts of the power to decide a judicial question. To plead a separation-of-power violation, Appellants must demonstrate two things: First, that the General Assembly, through Act 975, exercised power vested exclusively in the judicial branch. Second,

that the Constitution does not expressly permit the legislature to act in that manner. ARK. CONST. art. 4, § 2. Appellants' pleading falls short of those standards.

Act 975 does not deprive the judiciary of the power to decide a judicial question. The Act does not remove jurisdiction over facial constitutional challenges from the judicial branch, nor does it dictate how courts must resolve such claims. Instead, the Act determines which court exercises original jurisdiction over constitutional challenges to all of a law's applications. The legislature is not adjudicating judicial questions through Act 975; instead, it is allocating jurisdiction pursuant to an express constitutional grant of authority.

Act 975 reassigns original jurisdiction over facial constitutional challenges, and challenges to all applications of a statute in violation of the Constitution, to the Arkansas Court of Appeals. Act 975 thus re-establishes certain "subject-matter" jurisdiction. That jurisdiction "comes from the Arkansas Constitution or constitutionally authorized statutes or court rules." *Cherokee Nation Business, LLC v. Gulfside Casino Partnership*, 2023 Ark. 153, at 6, 676 S.W.3d 368, 372.

The General Assembly did not empower itself to exercise judicial power in Act 975. It only established, through an expressly authorized means, a reassignment of jurisdiction from circuit courts to the Arkansas Court of Appeals over certain types of challenges.

Appellants claim for the first time on appeal that Act 975 constitutes an impermissible rule of procedure conflicting with previous Rule 1-2, and thus the prior version of Rule 1-2 must control. ARK. CONST. amend. 80, § 3. The issue of a Court's jurisdiction, however, is substantive law.

This Court has recognized the legislature may enact "substantive rules of law," which is "[t]he part of the law that creates, defines, and regulates the rights, duties, and powers of parties." *See Edwards v. Thomas*, 2021 Ark. 140, at 4, 625 S.W.3d 226, 229 *(citing Johnson v. Rockwell Automation, Inc.*, 2009 Ark. 241, at 8, 308 S.W.3d 135, 141). Conversely, the judiciary may enact "procedural laws" which are "[t]he rules that prescribe the steps for having a right or duty judicially enforced, as opposed to the law that defines the specific rights or duties themselves." *Id.* (*citing Summerville v. Thrower*, 369 Ark. 231, 237, 253 S.W3d 415, 419-20 (2007)).

Jurisdiction is a substantive matter. The Reporter's Notes to the Arkansas Rules of Civil Procedure recognize jurisdiction is not procedural. The Reporter's note to Rule 82 states the rules "are intended to be procedural only and do not affect any substantive issues such as venue and jurisdiction," and that determining whether jurisdiction is proper or not, "depends upon substantive law." ARK. R. CIV. P. 82. This Court's caselaw echoes that point. *See Clark v. Johnson Regional Medical Center*, 2010 Ark. 115, at 12, 362 S.W.3d 311, 318.

Jurisdiction is a substantive matter, so it may be reassigned by constitutionally authorized statutes enacted by the legislature. Here, the legislature passed Act 975 as a constitutional exercise of the legislature's authority under Amendment 80, §§ 9 & 10; not an invasion of the judiciary's rules of pleadings, practice, and procedure.

Even if establishing jurisdiction is viewed as a power exclusively reserved to the judiciary, Act 975 does not violate the separation-of-powers doctrine. Article 4, § 2 includes an exception for one department to carry out a function otherwise reserved to another when that department is acting pursuant to express permission or authorization. Our constitution

"expressly permits" the legislative branch the power to establish jurisdiction. ARK. CONST. amend. 80, § 10 ("The General Assembly shall have the power to establish jurisdiction of all courts [. . .] unless otherwise provided in this Constitution"). The power to establish jurisdiction of a court is thus expressly conferred to the legislative department.

This Court has recognized that Amendment 80, § 10 expressly vests power in the General Assembly. This Court, and the Court of Appeals, has upheld the legislature's authority to establish venue. *See Clark v. Johnson Regional Medical Center*, 2010 Ark. 115, 362 S.W.3d 311; *see also Hurt-Hoover Investments, LLC v. Fulmer*, 2014 Ark. App. 197, 433 S.W.3d 917. This Court has also recognized that Amendment 80, which has been described as "the modern foundation of the Arkansas judiciary," expressly confers power to the legislature in §§ 9 and 10. *Martin v. Humphrey*, 2018 Ark. 295, at 22-23, 558 S.W.3d 370, 383 (Womack, J., dissenting). Any other construction, such as the one proffered by Appellants, renders §§ 9 and 10 meaningless.

Act 975 neither transferred judicial power to another branch nor restricted the judiciary's authority to interpret the Constitution. Instead,

it merely reassigned jurisdiction within the judicial branch. Jurisdiction is a substantive matter, moreover, that may be defined by statute. Amendment 80, § 10 expressly grants the General Assembly the power to establish the jurisdiction of courts. Act 975 was passed by that authority, as a constitutional exercise of legislative authority rather than an encroachment upon the powers of the judiciary. Appellants' barely developed argument to the contrary is wrong.

Appellants' passing citation to *Marbury v. Madison*, 5 U.S. 137 (1803), adds only hollow rhetorical flourish. *Marbury* held that Congress could not expand the federal judiciary's jurisdiction because Article III of the United States Constitution did not allow Congress power to amend that article. Amendment 80, however, includes that express power for the General Assembly in §§ 9 and 10.

B. Appellants lack standing to challenge the December 2025 Ordinance

If this Court determines Act 975 exceeded the legislature's authority, then it should still affirm the Circuit Court's dismissal of Appellants' complaint for other reasons, as this Court "will affirm the court's ruling if it is correct for any reason." *Alexander v. Chapman*, 299 Ark. 126, 130,

771 S.W.2d 744, 746 (1989); *Monsanto Co. v. Ark. State Plant Bd.*, 2021 Ark. 103, at 9, 622 S.W.3d 166, 170–71. Most obviously, the Appellants lacked standing to pursue the claims they purported to file below. Appellants' claims were properly dismissed due to their insufficient standing.

1. Standard of review

The question of standing is a matter of law this Court reviews *de novo*. *Bibbs v. Cmt. Bank of Benton*, 375 Ark. 150, 156, 289 S.W.3d 393, 397 (2008). When reviewing dismissals for failure to state a claim, this Court reviews the pleaded facts in the light most favorable to the plaintiff, liberally construing all inferences in his favor. *Biedenharn v. Thicksten*, 361 Ark. 438, 441, 206 S.W.3d 837, 839–840 (2005). The standard of review then diverges. Some cases apply an abuse of discretion standard. *Born v. Hosto & Buchan, PLLC*, 2010 Ark. 292, 372 S.W.3d 324. Others apply a *de novo* standard. *Wood v. Ark. Parole Bd.*, 2022 Ark. 30, at 3, 639 S.W.3d 340, 343; *Faulkner v. Ark. Children's Hosp.*, 347 Ark. 941, 69 S.W.3d 393 (2002).

2. Appellants pleaded no standing

Standing is a prerequisite to pursing a claim in Court.

> Over the years, our cases have established that the irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an "injury in fact" - an invasion of a legally protected interest which is (a) concrete and particularized, and (b) "actual or imminent, not 'conjectural' or 'hypothetical[.]'" Second, there must be a causal connection between the injury and the conduct complained of–the injury has to be "fairly . . . trace[able] to the challenged action of the defendant, and not . . . the result [of] the independent action of some third party not before the court." Third, it must be "likely" as opposed to merely "speculative," that the injury will be "redressed by a favorable decision."

Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992) (citations omitted). Arkansas has a similar rule for standing, namely that a party has an interest which has been adversely affected or rights which have been invaded. *Summit Mall Company, LLC v. Lemond*, 355 Ark. 190, 132 S.W.3d 725 (2003). Standing is not jurisdictional in Arkansas. *Chubb Lloyds Insurance Company v. Miller County District Court*, 2010 Ark. 119, 361 S.W.3d 809. But otherwise, state-law standing is similar to the federal standard.

None of the Appellants have an interest adversely affected or rights which have been invaded by the December 2025 ordinance. Norris is a

resident of Independence County, Arkansas. (RP 11). As such, he may have some interest in the form of his ability to vote. He has not identified a specific constitutional injury to him, however, by being allowed to vote using a machine instead of by paper ballot. Appellants have no vested constitutional right in the "manner" of voting. *Thurston v. League of Women Voters of Arkansas,* 2024 Ark. 90, at 6, 687 S.W.3d 805, 811. AVIII is neither a voter in Independence County nor is it the sponsor of the 2024 initiated ordinance. (RP 11). It thus lacks an injury in fact or a concrete or imminent injury to any legal right under the 2025 ordinance.

REIA was the sponsor of the successful 2024 paper ballot initiated ordinance. (RP 11). Its success in that petition drive demonstrates it lacks standing to challenge the Quorum Court's repeal of that initiated ordinance. REIA has no injury in fact or a concrete or imminent injury to any legal right under the 2025 ordinance. As such, neither AVIII nor REIA have standing to assert the claims they allege in this matter. Norris also lacks standing as he has suffered no injury to his right to vote. None of the Appellants alleged the deprivation of a constitutional right pursuant

to the Quorum Court's 2025 ordinance. Appellants thus lacked standing, as these Appellees argued below.

C. The Motion to Dismiss was well taken on other grounds argued below

Multiple other bases argued below present additional reasons to affirm the dismissal of Appellants' complaint. *Alexander v. Chapman*, 299 Ark. 126, 130, 771 S.W.2d 744, 746 (1989); *Monsanto Co. v. Ark. State Plant Bd.*, 2021 Ark. 103, at 9, 622 S.W.3d 166, 170–71.

1. Standard of review

The standard of review for dismissals due to the failure to state a claim upon which relief can be granted is unsettled. Some cases apply an abuse of discretion standard. *Born v. Hosto & Buchan, PLLC*, 2010 Ark. 292, 372 S.W.3d 324. Others apply a *de novo* standard. *Wood v. Ark. Parole Bd.*, 2022 Ark. 30, at 3, 639 S.W.3d 340, 343; *Faulkner v. Ark. Children's Hosp.*, 347 Ark. 941, 69 S.W.3d 393 (2002). Dismissals due to lacking personal jurisdiction are reviewed *de novo*, provided the dismissal is confined to a review of the complaint. *Lawson v. Simmons Sporting Goods, Inc.*, 2019 Ark. 84, 569 S.W.3d 865. When seeking damages against a public official subject to statutory and constitutional immunity,

a plaintiff must plead sufficient facts to demonstrate an exception to that immunity. *Ark. Dep't of Human Servs. v. Fort Smith School District*, 2015 Ark. 81, at 5–10, 455 S.W.3d 294, 298–301. These standards also support dismissal of Appellants' Complaint.

2. Appellants case below suffered from many fatal defects

A. The Complaint's claims for damages are barred by statutory and sovereign immunity

Appellees are entitled to immunity for their official actions taken as members of the Independence County Quorum Court. This Court has debated recently whether immunity presents an issue of subject matter jurisdiction. *Boyle Ventures, LLC v. City of Fayetteville*, 2025 Ark. 71, 711 S.W.3d 280. Regardless, these Appellees are entitled to immunity because their actions at issue—passing a County ordinance in 2025—followed an Arkansas state statute, ARK. CODE ANN. § 14-14-918(b). Arkansas's sovereign immunity precedent took a sharp turn towards immunity in *Board of Trustees of the University of Arkansas v. Andrews*, 2018 Ark. 12, 535 S.W.3d 616. By seeking monetary relief from officials for actions taken in their official capacities, Appellants' claims fall

squarely within sovereign immunity precedent. *Steinbuch v. University of Arkansas*, 2019 Ark. 356, 589 S.W.3d 350.

Appellants did not plead any conduct overcoming Arkansas's statutory immunity for these Appellees.

> (a) It is declared to be the public policy of the State of Arkansas that all **counties**, [. . .] **and all other political subdivisions of the state** and any of their boards, commissions, agencies, authorities, or other governing bodies shall be immune from liability and from suit for damages except to the extent that they may be covered by liability insurance.
>
> (b) No tort action shall lie against any such political subdivision because of the acts of its agents and employees.

ARK. CODE ANN. § 21-9-301 (emphases added).

> (a) Except as otherwise provided by this subchapter, no member of any board, commission, agency, authority, or other governing body of any governmental entity [. . .] shall be held personally liable for damages resulting from:
>
> (1) Any negligent act or omission of an employee of the nonprofit corporation or governmental entity; or
>
> (2) Any negligent act or omission of another director or member of the governing body of the governmental entity.
>
> (b) [. . . .] Nothing in this subsection shall be deemed to grant immunity to any person causing damage by his or her malicious, willful, wanton, or grossly negligent act.

ARK. CODE ANN. § 16-120-702. This Court has made clear that these

statutes apply to immunize government officials "performing their official duties for [the County] at the time of their alleged acts of negligence." *Cousins v. Dennis*, 298 Ark. 310, 312, 767 S.W.2d 296, 297 (1989); *Deitsch v Tillery,* 309 Ark. 401, 833 S.W.2d 760 (1992) (affirming dismissal of civil rights claims).

Acting pursuant to a presumptively valid state statute is not a basis for imposing individual liability on any county official. This is equally true when there is no apparent conflict between the statute and the Arkansas constitution.

> When determining whether State employees and officers are entitled to statutory immunity, we have traditionally been guided by the standard used for qualified immunity claims in federal civil rights actions. [. . .]
>
> Public officials are entitled to qualified immunity from damages under Section 1983 unless they transgress "clearly established statutory or constitutional rights of which a reasonable person would have known." "Qualified immunity gives government officials breathing room to make reasonable but mistaken judgments, and protects all but the plainly incompetent or those who knowingly violate the law." Banks is entitled to qualified immunity unless (1) the facts alleged, construed in a light most favorable to Jones, establish a violation of a constitutional or statutory right, and (2) the right was clearly established at the time of the alleged violation such that a reasonable official would have known that his actions were unlawful.

Banks v. Jones, 2019 Ark. 204, at 5–6, 575 S.W.3d 111, 115–116 (quotations omitted). This Court went on to find a public official entitled to qualified immunity in *Banks*.

Similarly, the County Judge at issue in *Blevins v. Hudson*, was entitled to immunity for actions taken in his official capacity. "[Q]ualified immunity shields government employees from liability when they are performing discretionary duties 'insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" *Blevins*, 2016 Ark. 150, at 7–8, 489 S.W.3d 165, 169–170.

Appellants failed to plead any clearly established statutory or constitutional right to which they were deprived by these Appellees, and certainly no right which these Appellees would have had reasonable notice about before voting in favor of the December 2025 ordinance. As pleaded, the Complaint fails to overcome these Appellees' entitlement to statutory and qualified immunity. The order of dismissal should be affirmed for this independent reason.

B. Insufficiency of service of process

Norris, AVIII, and REIA filed their purported complaint on February 6, 2026, naming 14 Defendants. **(RP 10)**. Yet they never served Hurley and Abbott, despite being put on notice of that defect. Hurley's and Abbott's subsequent motion to dismiss by the County Attorney did not waive their initially asserted defense of insufficiency of service of process. ARK. R. CIV. P. 12(h)(1). That is an independent reason to affirm dismissal of the Complaint as to Hurley and Abbott.

C. Insufficiency of process

The summonses issued to Hurley and Abbot do not strictly comply with Rule 4 of the Arkansas Rules of Civil Procedure. ARK. R. CIV. P. 12(b)(4). Compliance with the technical requirements of Rule 4 must be exact. *Smith v. Sidney Moncrief, Pontiac, Buick, GMC Co.*, 353 Ark. 701, 709, 120 S.W.3d 525, 530 (2003). A failure to serve an invalid summons within Rule 4's time-line prevents a summons from being corrected at a later time. *Shotzman v. Berumen*, 363 Ark. 215, 213 S.W.3d 13 (2005). More specifically, Hurley and Abbott are not named in the caption of the Summons, as mandated by Arkansas law, although the issued summons do not appear in the record on appeal. *Compare Smith*, 353 Ark. at 709,

120 S.W.3d at 530, *with Nucor Corp. v. Kilman*, 358 Ark. 107, 186 S.W.3d 720 (2004). ARK R. CIV. P 4(b)(1). The name on the summons for Kenneth Hurley, **(RP 30)**, moreover, differs from any named party in the Complaint, Kenny Hurley, **(RP 13)**, which is also a defect. *Shotzman*, 363 Ark. at 224, 213 S.W.3d at 17.

D. Lack of personal jurisdiction

The defects in the process, service of process, and other defects in Appellants' case detailed in the motion to dismiss below deprived the Circuit Court of personal jurisdiction over Hurley and Abbott. Ark. R. Civ. P. 12(b)(2); *Searcy Steel Company v. Mercantile Bank of Jonesboro*, 19 Ark. App. 220, 719 S.W.2d 277 (1986).

E. Improper venue

The defects in the process, service of process, and other defects in Appellants' case detailed in the motion to dismiss below also deprived the Circuit Court of a proper venue to adjudicate any claims against Hurley and Abbott. ARK. R. CIV. P. 12(b)(3); *Gailey v. Allstate Ins. Co.*, 362 Ark. 568, 210 S.W.3d 40 (2005).

F. Appellants' Complaint failed to plead a claim for relief under Arkansas law

Appellants' purported claims rest upon an inaccurate and selective reading of the Arkansas Constitution. Their case below challenged the Quorum Court's power to enact an ordinance repealing a 2024 initiated ordinance pursuant to ARK. CODE ANN. § 14-14-918(b). Appellants' theory turns on the absence of an express prohibition for quorum courts to repeal an initiated ordinance in Article 5, § 1.

> **Amendment and Repeal**. No measure approved by a vote of the people shall be amended or repealed by the General Assembly or by any city council, except upon a yea and nay vote on roll call of two-thirds of all the members elected to each house of the General Assembly, or of the city council, as the case may be.

ARK. CONST. art. 5, § 1.

The absence of an express prohibition for quorum courts, however, does not conflict with § 14-14-918(b). To the contrary, when read in *toto*, Article 5, § 1 also states "[g]eneral laws shall be enacted providing for the exercise of the initiative and referendum **as to counties**." ARK. CONST. art. 5, § 1 (emphasis added). Arkansas Code Annotated § 14-14-918(b) follows that express authority, as a general law setting a standard for counties. That statute reflects the General Assembly's constitutionally granted

authority to enact general laws for the exercise of initiative and referendum petitions at the county level.

Arkansas Constitutional Amendment 55 further reinforces that construction. "A county acting through its Quorum Court may exercise local legislative authority **not denied** by the Constitution or by law." ARK. CONST. amend. 55, § 1 (emphasis added). Article 5, § 1 contains no prohibition for a quorum court to repeal an initiated ordinance. That silence, when read together with Amendment 55, § 1, confirms our Constitution's authorization for quorum courts to repeal an initiated ordinance.

The above reasonable construction also confirms the General Assembly's authority to pass ARK. CODE ANN. § 14-14-918(b). That general law modified quorum courts' constitutional authority to repeal initiated ordinances, requiring a two-thirds vote. In this case, the Independence County Quorum Court followed that law. As such, Ordinance 2025-27 is valid and complies with Arkansas' Constitution and statutes.

The crux of Appellants' case is that the Arkansas Constitution confers some sort of fundamental right to never have a quorum court

repeal an ordinance initiated by the people. That argument again defies the plain language of Article 5, § 1.

> **Local for Municipalities and Counties**. The initiative and referendum powers of the people are hereby further reserved to the legal voters of each municipality and county as to all local, special and municipal legislation of every character in and for their respective municipalities and counties, but no local legislation shall be enacted contrary to the Constitution or any general law of the State, and any general law shall have the effect of repealing any local legislation which is in conflict therewith.
>
> Municipalities may provide for the exercise of the initiative and referendum as to their local legislation. **General laws shall be enacted providing for the exercise of the initiative and referendum as to counties**.

ARK. CONST. art. 5, § 1 (emphasis added). Our Constitution specifically empowered the General Assembly to pass laws like Arkansas Code Annotated § 14-14-918(b).

There is also no vested constitutional right in the manner of voting. *Thurston v. League of Women Voters of Arkansas,* 2024 Ark. 90, at 6, 687 S.W.3d 805, 811. The 2024 paper ballot petition, as pleaded, was successful and resulted in that potential ordinance being placed on the ballot. Appellants have pleaded no violations of any legal right.

Appellants have no constitutional right to self-legislate implicated by Ordinance 2025-27 and ARK. CODE ANN. § 14-14-918(b). As pleaded,

Appellants' initiated ordinance became law in 2024. **(RP 14)**. It was then repealed by Ordinance 2025-27 on December 12, 2025. **(RP 14, 119-120)**. ARK. CODE ANN. § 14-14-918(b) empowered that repeal of a measure approved by the electors, requiring a two-thirds vote of the Quorum Court. Appellants received their right to self-legislate under Article 5, § 1. Ordinance 2025-27 then repealed the 2024 paper-ballot initiated ordinance. **(RP 119-120)**.

This repeal was a reaction to the Quorum Court's realization that the 2024 initiated ordinance violated Article 5, § 1.

> In municipalities and counties the time for filing an initiative petition shall not be fixed at **less than sixty days nor more than ninety days before the election at which it is to be voted upon**.

ARK. CONST. art. 5, § 1 (emphasis added). Although there is no legal requirement for the Quorum Court to state the reasons for repealing an initiated ordinance, it did so here. The timeliness issue was not litigated in *Mitchell v. Norris*, 2024 Ark. 148, 698 S.W.3d 361, but the Independence County Quorum Court reacted to the realization that the 2024 paper ballot initiative was filed outside the deadline in Article 5, §1, by passing its December 2025 ordinance repealing the 2024 initiated ordinance. **(RP 119-120)**.

This was due, in part, to the October 30, 2025, decision in *Evans v. Harrison*, 2025 Ark. 164, 721 S.W.3d 753, which highlighted the untimeliness of the petition for hand-marked, hand-counted paper ballots in Cleburne County, Arkansas. (RP 119-120). The 2024 Independence County paper ballot initiative was similarly filed outside of the deadlines mandated by the Arkansas Constitution.

The Arkansas Constitution specifically empowered the General Assembly to pass general laws for the exercise of the initiative and referendum process as to counties. Later in Article 5, § 1, the Constitution prohibits the General Assembly and any city council from repealing an initiated measure without a two-thirds vote. ARK. CONST. art. 5, § 1. This section has been recently construed by this Court to mean what it says, including empowering the Arkansas General Assembly to amend any constitutional amendment initiated by the electors by a two-thirds, super-majority vote. *State v. Good Day Farm Arkansas, LLC*, 2025 Ark. 207; *Martin v. Hass*, 2018 Ark. 283, 556 S.W.3d 509.

Appellants seek to rewrite the Arkansas Constitution, inserting a period after the word "repealed." But no such period exists, and a plain reading of Article 5, § 1's "Amendment and Repeal" section produces only

one reasonable conclusion: that section applies only to the General Assembly or any city council. Appellants also ignore the plain language of Amendment 55, § 1, which empowered quorum courts with all legislative authority "not denied by the Constitution or by law." ARK. CONST. amend. 55, § 1. The Complaint below was properly dismissed as it rested upon an impermissible effort to rewrite the Constitution.

There is no conflict between these two constitutional provisions. Even if this Court perceives some conflict, the canons of statutory construction easily harmonize that perceived conflict. *State v. Good Day Farm Arkansas, LLC*, 2025 Ark. 207, at 11. The more specific constitutional provision empowering quorum courts controls over the absence of any reference to "any quorum court" in Article 5, § 1's amendment and repeal language.

Arkansas Code Annotated § 14-14-918(b) fits within this Constitutional framework. Article 5, § 1 provided the General Assembly with authority to pass general laws. It did so. Prior to the 1977 statute, quorum courts in Arkansas needed only a simple majority vote to repeal

an initiated ordinance. After that statute was passed, quorum courts required a two-thirds super-majority to repeal an initiated ordinance.

The December 2025 ordinance at issue was passed by a two-thirds super-majority of all justices on the Independence County Quorum Court. **(RP 119-120)**. That ordinance was passed pursuant to Arkansas Code Annotated § 14-14-918(b) and Amendment 55, § 1 of the Arkansas Constitution. Nothing in that Ordinance, in § 14-14-918(b), or in Amendment 55, § 1, conflicts with Article 5, § 1 of the Arkansas Constitution. As such, all of Appellants' claims must fail as a matter of law.

The arguments pursued by Appellants in support of their Complaint are similar to the ones rejected by this Court in *Blackburn v. Lonoke County Board of Election Commissioners*, 2022 Ark. 176, 652 S.W.3d 574, which affirmed the dismissal of an election challenge for failure to state a claim.

> [W]e have stated that statutes are presumed to be constitutional, and this court resolves all doubts in favor of constitutionality. The party challenging a statute's constitutionality has the burden of proving that it is unconstitutional. There are two primary ways to challenge the constitutionality of a statute: (1) an as-applied challenge, in which the court assesses the merits of the challenge by considering the facts of the particular case in front of the court,

> not hypothetical facts in other situations; and (2) a facial challenge, which seeks to invalidate the statute.

Id. at 6–7, 652 S.W.3d at 579–580 (citations omitted). This Court then affirmed the dismissal because "he has identified no specific constitutional provision—state or federal—that was violated." *Id.* at 8–9, 652 S.W.3d at 581. Appellants' Complaint suffers from the same defect. The Quorum Court's passage of Ordinance 2025-27 did not violate any specific constitutional provision. The Circuit Court's dismissal should be affirmed for Appellants' failure to plead any claim for relief.

At the February 18, 2026, hearing, the Circuit Court dismissed the Appellants' case "without prejudice." **(RP 152-156)**. This Court has recognized that, "[g]enerally, when a complaint has been dismissed without prejudice, a party may either appeal the dismissal or elect to plead further." *Griffin v. Arkansas Board of Corrections*, 2025 Ark. 81, at 4–5, 711 S.W.3d 784, 788. This is a "choice," and "[i]f the party chooses the first course, and the appeal is affirmed, then the dismissal converts to a dismissal with prejudice. This is the general rule." *Id.* As such, when affirming the Circuit Court this Court should dismiss Appellant's Complaint with prejudice.

V.

REQUEST FOR RELIEF

The Circuit Court's order of dismissal should be affirmed, (RP 152-156), with Appellants' case dismissed with prejudice. Appellants seek to rewrite the Arkansas Constitution contrary to its express terms. The Circuit Court correctly rejected that effort, holding it lacked subject matter jurisdiction pursuant to Act of Arkansas 975 of 2025, which was passed pursuant to the General Assembly's authority in Amendment 80, §§ 9 & 10. Appellants also failed to preserve below arguments they assert on appeal, which is a further reason to affirm. Appellants further ignored Arkansas Code Annotated § 16-13-201(a) below and again on appeal, which was an integral part of Act 975, promulgated pursuant to Amendment 80, § 10.

Even if this Court finds Act 975 unconstitutional, it should affirm the dismissal of Appellants' complaint for other reasons. Appellants failed to plead their standing to sue, failed to plead around the Quorum Court members' immunity from suits for damages, and failed to plead a claim upon which relief could be granted. As to separate Appellees Abbott and

Hurley, Appellants failed to issue and serve valid process, depriving the Circuit Court of personal jurisdiction over them and a proper venue to assert claims against them. As the Circuit Court noted below, this case has a lot of problems. **(RT 5)**. The dismissal of Appellants' Complaint should be affirmed as a dismissal with prejudice.

Respectfully submitted,

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COUNTY ATTORNEY

and

Barrett S. Moore (2009118)
BLAIR & STROUD

By: /s/ Barrett S. Moore
Attorney for Appellees

VI.

CERTIFICATE OF SERVICE

I certify that I served the foregoing appellees' brief by emailing an electronic attachment and by filing it using the electronic e-flex filing system, which will serve notice of its filing on Clinton W. Lancaster, CLINT LANCASTER & CO, LLC, 900 S. Shackleford Road, ste 300, Little Rock, AR 72211, *clint@clintlancaster.com*; Noah P. Watson, DEPUTY SOLICITOR GENERAL, 101 W. Capitol Avenue, Little Rock, AR 72201, *noah.watson@arkansasag.gov*, and Honorable Tim Weaver, P.O. Box 1361, Melbourne, AR 72556, *ar16thjudicial_4@yahoo.com*, on the 26th day of March, 2026.

/s/ Barrett S. Moore
Barrett S. Moore (2009118)
Attorney for Appellees

VII.

CERTIFICATION OF COMPLIANCE WITH ADMINISTRATIVE ORDER 19, ADMINISTRATIVE ORDER 21 SEC. 9, AND WITH WORD COUNT LIMITATIONS

The undersigned certifies that this brief complies with Administrative Order No. 19 because it does not contain confidential information within it as defined by that Order.

This brief complies with Administrative Order 21, Section 9 because it does not contain hyperlinks to external papers or websites.

This brief complies with the word count limitations of Supreme Court Rule 4–2(d) because it was prepared using Corel WordPerfect 2020 which notes that the jurisdictional statement, statement of the case and facts, argument, and request for relief collectively contain 8,479 words, which is less than 8,600 words.

/s/ Barrett S. Moore
Barrett S. Moore
Attorney for Appellees