

IN THE ARKANSAS SUPREME COURT

BRYAN NORRIS, *et al.*,)
Appellants,)
v.) Case No CV-26-116
INDEPENDENCE COUNTY,)
ARKANSAS, *et al.*, Appellees.)

**APPELLEES’ RESPONSE TO MOTION
TO STRIKE THE COUNTY APPELLEES’ RESPONSE**

Separate Appellees* Independence County, Arkansas; Tracey Mitchell, Wendy Henry, Jennifer Emery, and Frances Haigwood, in their official capacities; and Tim Stewart, Johnny McMullin, Brent Henderson, Brad Covington, Cliff Barnett, Tammy Pearce, Kenny Hurley, Jonathan Abbott, and Dennis Stephens, individually and in their official capacities, respond that the Appellants’ motion to strike their February 25, 2026 response, should be denied, ARK. SUP. CT. R. 2-1:

1. Appellants have shifted their position in this three-day old proceeding. In their initial filing, Appellants filed a four-page “motion to

* The Arkansas Attorney General was granted leave to intervene below and filed an answer in intervention before the record was lodged on appeal. Appellants failed to include those filings in the record they lodged on Monday. As such, this Court should order the record supplemented to include those filings. ARK. R. APP. P.-CIV. 6(e).

expedite, for an injunction, and alternative petition for a writ of certiorari.” In support of that motion they filed a separate, ten-page “brief in support/memorandum of authorities.” In total, Appellants filed fourteen pages with their initial filing.

2. Separate Appellees considered Appellants’ apparent violation of Supreme Court Rule 2-1(h) in the fourteen pages they filed in that motion and brief.

Except as otherwise provided in these rules, a **motion**, petition, or response, **including the memorandum of authorities and supporting brief**, if any, but excluding any exhibits, shall not exceed ten 8” x 11” double-spaced, typewritten pages[.]

ARK. SUP. CT. R. 2-1(h) (emphases added). On its face, Appellants’ motion and brief exceeded this page limit by four pages.

3. Appellants’ decision to include a request for an original action to issue an injunction, however, and alternative petition for a writ of *certiorari*, modified the combined page limit to fifteen pages.

Proceedings for an extraordinary writ such as prohibition, mandamus, and certiorari are commenced by filing a petition in the Supreme Court.

[. . .]

Absent leave of court for good cause shown, no petition or response shall exceed fifteen pages excluding any addendum.

ARK. SUP. CT. R. 6-1(a) & (e). Under Rule 6-1(e), Appellants' motion and petition were not over-length. Separate Appellees thus did not raise that issue in their response.

4. The same is true of separate Appellees' 15-page response to Appellants' 14 pages of filings. Appellants' decision to include a petition for a writ of *certiorari* in their initial filing triggered Rule 6-1(e)'s page limit: "fifteen pages excluding any addendum" for a "response." If Rule 6-1(e) does not apply to the instant motion and petition, then Appellants' initial filing violated Supreme Court Rule 2-1(h) and should be stricken.**

5. In any event, the motion to strike should be denied. Separate Appellees complied with Rule 6-1(e) in their response, as their response and incorporated memorandum of authorities did not exceed 15 pages.

6. The affidavit of Barbara Henson was filed as an exhibit or addenda, so it did not count against the 15 page limit under Rule 6-1(e).

7. Separate Appellees did not secure an affidavit from Barbara Henson lightly. Although counsel is mindful of the general rules of appellate procedure confining this Court's review on appeal to the record, and review of a request for an extraordinary writ to the record, Appellants

** "Hoist with his own petard; and 't shall go hard." William Shakespeare, *Hamlet* p.183, Act 3, Scene 4, line 230 (1604).

curiously included a separate claim for an injunction in their initial filings. *Motion*, at p. 3 ¶ 10; *Brief in Support*, at pp. 3–7 & 9–10. More curiously, in the cover sheet Appellants indicated this was a “Facial Constitutional Challenge” and not filed as a civil appeal or as a petition for a writ of *certiorari*.

8. These positions differed from the positions Appellants took last week in Circuit Court. **(RT 14-15); (RP 157)**. There, Appellants stated unequivocally at the hearing and in their notice of appeal that they were only pursuing a direct appeal, with severe consequences following affirmance. Appellants’ new requests for an immediate injunction enjoining the implementation of Act 975, apparently as a filing of original jurisdiction with this Court; and alternatively for the issuance of a writ of *certiorari*, including reassignment to the Court of Appeals as an original action if the Circuit Court’s jurisdictional analysis was valid, appeared to end-run Appellants’ own decision last week to pursue a direct appeal alone.

9. In light of these shifting positions, and Appellants’ apparent effort to file an original action with this Court, it seemed to separate Appellees that Appellants sought relief from this Court to immediately enjoin the implementation of Ordinance 2025-27. Barbara Henson’s

affidavit was secured on Monday in response to those concerns. Henson was present last week prepared to testify when the Circuit Court concluded it had no jurisdiction. The practical effect of the new extraordinary relief Appellants seek—and the impossibility posed by that relief—warranted a response with proof. As such, Henson’s affidavit was an appropriate response to Appellants’ new, curious positions taken in their initial filing with this Court which departed from their positions taken last week.

10. If this Court is considering enjoining the manner of voting in the current election in Independence County without further proceedings, then it deserves a more fulsome picture of the practicalities of that extraordinary request.

WHEREFORE, Appellees Independence County, Arkansas; Tracey Mitchell, Wendy Henry, Jennifer Emery, and Frances Haigwood, in their official capacities; and Tim Stewart, Johnny McMullin, Brent Henderson, Brad Covington, Cliff Barnett, Tammy Pearce, Kenny Hurley, Jonathan Abbott, and Dennis Stephens, individually and in their official capacities, respond that Appellants’ motion to strike should be denied.

Respectfully Submitted,

Appellees Independence County, Arkansas; Tracey Mitchell, Wendy Henry, Jennifer Emery, and Frances Haigwood, in their official capacities; and Tim Stewart, Johnny McMullin, Brent Henderson, Brad Covington, Cliff Barnett, Tammy Pearce, Kenny Hurley, Jonathan Abbott, and Dennis Stephens, individually and in their official capacities,

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Respectfully Submitted,

Appellees Kenny Hurley and Johnathan Abbott, individually,

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CERTIFICATE OF SERVICE

I served a copy of the forgoing document on February 25, 2026, by emailing it and filing it using the contexte e-filing system, which will serve notice of its filing on all counsel of record, addressed to the following persons:

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