IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

PEOPLE NOT POLITICIANS *et al.*	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	Case No. 25AC-CC08724
MISSOURI SECRETARY OF STATE DENNY HOSKINS,	)	
	)	
Defendant.	)	

SUGGESTIONS IN OPPOSITION TO DEFENDANT'S MOTION TO QUASH OR IN THE ALTERNATIVE, PROTECTIVE ORDER

The Court should deny Defendant's Motion to Quash or in the Alternative, Protective Order. Plaintiffs' limited requests for depositions — of the individual who signed Defendant's interrogatory answers and of a corporate representative are neither unprecedented nor unreasonable. They are merely Plaintiffs' attempts to ascertain the factual underpinnings of the statements in the challenged ballot summary.

The Secretary makes three arguments, all of which are unavailing. He first asserts that depositions are unnecessary because Plaintiffs are being afforded "full relief" due to his newly amended answer. That's factually and legally incorrect. The Secretary next argues that discovery is unnecessary and there are no objective facts to discover here, even though the statements in the summary can be objectively proved accurate or not. Finally, if none of that works, the Secretary asks for a protective order, barring Plaintiffs from asking even the most basic questions in a deposition of (1) the person who signed the Secretary's

interrogatory answers and (2) a corporate designee. Surely, the individual who signed the interrogatories and a corporate designee (who is obligated to have knowledge of the topics listed in the deposition notice) will be able to provide the basic facts upon which the summary statement is based. Barring Plaintiffs from asking those questions would be an abuse of discretion.

I. The Secretary is wrong that discovery is categorically prohibited in ballot title litigation.

The Secretary overreads and misapplies *State ex rel. Humane Society v. Beetem,* and *State ex rel. Kander v. Green,* to argue that discovery is categorically prohibited in ballot title litigation. In *State ex rel. Kander v. Green* , 317 S.W. 3d 669 (Mo. App. 2010), the Court expressly declined to impose a total ban on discovery in ballot-title cases, observing that while evidence may be "rarely" necessary, discovery is not categorically barred. *Green,* 317 S.W.3d at 852. Further, in cases where insufficiency of the summary statement is at issue (like it is here) discovery may be necessary to determine whether the measure is accurately described in the summary statement. *See State ex rel. Humane Society of Missouri v. Beetem*, 317 S.W.3d 669, 673 (Mo. App. 2010).

II. The Secretary's admissions demonstrate *why* Plaintiffs need depositions in this case.

The Secretary's hopes that this case will go quietly into the night because he made a few admissions in an amended answer are misplaced. In accordance

with the directions in Section 116.190, Plaintiffs challenged *all* parts of the summary statement that they found insufficient and unfair.

The summary statement reads:

> Do the people of the state of Missouri approve the act of the General Assembly entitled "House Bill No. 1 (2025 Second Extraordinary Session)," which repeals Missouri's existing gerrymandered congressional plan that protects incumbent politicians, and replaces it with new congressional boundaries that keep more cities and counties intact, are more compact, and better reflects statewide voting patterns?

Plaintiffs allege that the summary statement is insufficient and unfair because it (1) claims the existing map (the 2022 map) is "gerrymandered"; (2) claims the existing map (the 2022 map) protects incumbent politicians; (3) claims the map in HB 1 keeps more cities and counties intact; (4) claims the new map in HB 1 is more compact; and (5) claims the new map in HB 1 better reflects statewide voting patterns. Pet. ¶¶ 25-36.

As described in more detail in Plaintiffs' Suggestions in Opposition to Defendant's Motion for Judgment,[1] Defendant admits only that two of the five statements Plaintiffs challenge are unfair or insufficient. Defendant's nominal admissions are inadequate to accord Plaintiffs full and complete relief on Count I.

And the parts of the summary statement the Secretary admits are unfair and insufficient are not surprising. They all relate to the existing 2022

[1] Plaintiffs incorporate by reference their Suggestions in Opposition to Defendant's Motion for Judgment. Rule 55.12.

congressional map. Plaintiffs agree that it is unfair and insufficient to say the 2022 map is a gerrymander and protects incumbents. But, with his admissions the Secretary apparently seeks to entice this Court to remand back to the Secretary or to itself rewrite *other* portions of the ballot title regarding the *existing map*. That would be erroneous for two reasons. First, Plaintiffs do not challenge that statement that the 2022 map is the existing map. The Court may not rewrite a portion of the summary statement that is not at issue. § 116.190.4, RSMo (The trial court is to consider the issues raised in the plaintiff's petition and render a "decision certify[ing] the summary statement portion of the official ballot title to the secretary of state.").

Second, the statement that the 2022 map is the existing and in effect map—which the people would replace only if they voted yes on the referendum on House Bill 1— is the only part of the summary statement that is not unfair and insufficient. It is without doubt that House Bill 1 is *not* currently in effect and that only a vote of the people would put it into effect. When referendum signatures are submitted, as they have been here, the bill upon which the referendum is requested does not go into effect. *Stickler v. Ashcroft,* 539 S.W.3d 702, 713 (Mo. App. 2017) (quoting *State ex rel. Moore v. Toberman,* 250 S.W.2d 701, 706 (Mo. banc 1952)(cleaned up). (The "purpose of referendum is to suspend or annual a law which has not gone into effect and to provide the people with a means of giving expression to a legislative proposition, and require their approval before it become operative as law."). As such, the 2022 map, as the Secretary states, is the

existing map, and the voters are being asked to decide whether to enact, in the first instance, the map in House Bill 1. *See Stickler,* 539 S.W.3d at 712 (The Missouri Constitution "plainly contemplate[s] that referendum questions will be framed in the affirmative, asking voters whether they wish to approve a particular measure.").

The Secretary continues to defend some statements in the summary—those that describe the map proposed in House Bill 1. Plaintiffs challenge those statements and must create a record before this Court, *with facts,* sufficient for this Court to find those statements unfair and insufficient. If Defendant wants to admit that the statements about the House Bill 1 map are also unfair and insufficient, that might obviate Plaintiffs' need for depositions. But, as of now, Plaintiffs need to conduct depositions to ascertain the factual underpinnings of the statements that the map in House Bill 1 keeps more cities and counties intact, is more compact, and better reflects statewide voting patterns.

III. The facts underlying the summary statement are relevant and central to whether the summary is accurate

The central issue before this Court is whether the summary statement is accurate. It is of course the case that voters cannot be presented with a summary statement that is inaccurate. *Fitz-James v. Ashcroft,* 678 S.W.3d 194, 208 (Mo. App. 2023). And as the Secretary points out, this Court's determination as to the sufficiency of the summary statement is a decision as to whether the summary accurately describes the measure. Mot. to Quash at 9.

But to prove a statement is inaccurate, as is Plaintiffs' burden here, there must be facts. The Secretary argues that when this Court evaluates the language of the summary statement, it should not consider the subjective intent of the drafter. Mot. to Quash at 9. Plaintiffs agree. There is nothing subjective about what Plaintiffs are seeking. Potentially, the Secretary is confusing the words "subjective" and "objective." Subjective means "modified or affected by personal views, experience, or background."[2] In contrast, objective means "expressing or dealing with facts or conditions as perceived without distortion by personal feelings, prejudices, or interpretations."[3]

There is nothing *subjective* about the statements in the summary. They're all factual in nature. And they're either accurate or not. Even accepting Defendant's admissions in his Amended Answer, there are still three objective, factual statements in the summary that Plaintiffs have challenged that the Secretary has not admitted are unfair or insufficient. The summary says that House Bill 1 "replaces [the 2022 map] with new congressional boundaries that keep more cities and counties intact, are more compact, and better reflects statewide voting patterns." Whether these statements are accurate, as they must be in order for a summary statement to be fair and sufficient, is a purely factual question that cannot be answered by looking at the dictionary.

[2] https://www.merriam-webster.com/dictionary/objective
[3] https://www.merriam-webster.com/dictionary/subjective

No matter how "educated and skilled in the English language" this Court is, it is impossible to know whether the congressional boundaries in House Bill 1 keep more cities and counties intact, are more compact, or reflect statewide voting patterns without *facts*. So it must be that the Secretary relied on facts to write the summary statement. What those facts are, or even if there are no facts, are both well within the strike zone of what Plaintiffs are entitled to discover. Moreover, what those facts are, if any such exist, are relevant to the question of the accuracy of the summary statement.

The Secretary appears to admit as much in his Motion to Quash. He says that these three statements "can be objectively tested for accuracy (or inaccuracy)" and then cites *Faatz v. Ashcroft,* 685 S.W.3d 388 (Mo. banc 2024) as support that compactness is objectively decided. Mot. to Quash at 10. So, there are two options—either the Secretary's summary of HB 1 is objectively accurate (as he appears to argue based on his Amended Answer) and Plaintiffs are entitled to learn the facts upon which he relied, *or* they are inaccurate and Plaintiffs need facts to prove them so. Either way, Plaintiffs' deposition requests have nothing to do with the Secretary's subjective intent, but everything to do with discovering the facts to support (or not) the statements he made (and has not disavowed) in the summary.

Rather than being irrelevant, the underlying factual information supporting the statements in the summary are the *most relevant* pieces of information. If the Secretary would like to amend his Answer again to admit that

these statements are inaccurate, that's one thing. But, as it stands now, there is a live dispute as to the fairness and sufficiency of half of the summary statement.

The Secretary asserts that an analysis of the sufficiency of a summary statement involves nothing more than a comparison of the summary to the referred measure. If that is the case, the Secretary is either willfully ignoring this long-held precedent or there are facts to support the statements that House Bill 1 creates congressional districts that, as compared to the existing map from 2022, keep more cities and counties intact, are more compact, and better reflect statewide voting patterns.

These facts, however, cannot possibly come solely from a review of the measure. House Bill 1 is a list of voting districts represented by letters and numbers. It is impossible to ascertain, for example, whether it is accurate to say that House Bill 1 better reflects statewide voting patterns by comparing the measure to the summary. It may be stating the obvious, but House Bill 1 contains no statewide voting patterns (whatever those are). This must mean the Secretary got his facts elsewhere. Those facts are relevant to the question before the Court—is what the summary statement says accurate? The Secretary could admit that each and every statement Plaintiffs challenge is unfair or insufficient. He chose, however, to admit those statements, about which he does not care, are unfair or insufficient, while trying to preserve his statements concerning the map drawn by House Bill 1. The accuracy of those statements cannot be ascertained without discovery and trial.

IV. The Director of Elections signed the interrogatories, so a deposition of her is likely to lead to the discovery of admissible evidence.

The Secretary also claims that the Director of Elections, Chrissy Peters, should not be deposed because she takes no part in the preparation of the summary statements. Mot. to Quash at 11; Aff. of Chrissy Peters. Plaintiffs are entitled to test this assertion, particulary when Chrissy Peters previously signed the interrogatory answers in this matter. Jt. Stip. Ex. B. The Secretary is trying to have it both ways. Either Ms. Peters has the knowledge and information necessary to verify the interrogatory answers on behalf of the Secretary or she doesn't. Regardless of which it is, Plaintiffs are entitled to discover such information in a deposition.

V. The Secretary's request for a protective order is without merit.

The Secretary's request for a protective order boils down to: (1) his regret over agreeing not to offer evidence and (2) unwarranted insinuations that Plaintiffs' counsel intends to engage in discovery for untoward purposes.

The agreement between the parties arose because the Secretary refused to provide meaningful answers to written discovery. Rather than pursue Plaintiffs' Motion to Compel (which was never noticed for hearing or argued[4]), Plaintiffs

[4] The Secretary claims Plaintiffs did not honor the agreement because the Motion to Compel remains on file. Mot. to Quash at 13. There is no local rule or custom requiring formal withdrawal of a motion. It is understood that if a motion is not noticed for hearing (which this one was not), then the party that filed the motion does not intend to pursue it (which Plaintiffs have not).

and the Secretary agreed that if the Secretary were to not submit evidence to the Court, Plaintiffs would not pursue responses to written discovery. There was *no* agreement not to take depositions. If that is something Defendant wanted as part of the agreement, Defendant should have asked.

Regardless, even if there was some understanding on the Secretary's part that there would be no depositions, circumstances changed. Secretary Hoskins made a public statement directly contradicting his counsels' in-court, on-the-record admissions that the summary statement is unfair and insufficient.[5]

Since Defendant has made contradictory statements in public and the Amended Answer is not verified, Plaintiffs are entitled to a deposition to ascertain, under

[5] https://x.com/DLHoskins/status/2009853579784278180

oath, whether those admissions are reliable and what it is the Secretary really contests about Plaintiffs' petition..

Defendant provides no support for the supposition that Plaintiffs intend to use discovery in this case for any other purpose rather than trial. At several times in the emails, which Defendants helpfully attached to their motion, Plaintiffs make clear that discovery in this matter is for the purpose of making a record. Mot. to Quash Ex. D.

Moreover, it is meritless for Defendant to claim that discovery taken in this matter would even be useful in either case Defendants point to. In *People Not Politicians v. Hoskins,* No. 25AC-CC07128, evidence has been closed, trial has been completed, and the case held in abeyance. In fact, the intervenor in that case attempted to conduct discovery and Plaintiffs engaged in extensive motion practice and even filed a writ in order to stop such warrantless and unnecessary discovery. And *Missouri General Assembly v. von Glahn,* is a closed case. Judge Bluestone dismissed the State's (including the Secretary) lawsuit. The only party attempting to reopen that litigation is the Secretary. In any event, discovery wouldn't be useful in that case either, as briefing has been fully submitted on all motions.

VI. Conclusion

For the foregoing reasons, the Court should deny the Secretary's Motion to Quash or in the Alternative, for Protective Order and grant Plaintiffs any other such relief as the Court deems just and proper.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically via the Missouri Case.net e-filing system, which notified all counsel of record on this 30th day of January, 2026.

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