

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

RICHARD VON GLAHN, *et al.*,)
)
 Plaintiffs,)
)
 v.) Case No. 26AC-CC00248
)
 CATHERINE HANAWAY, *et al.*,)
)
 Respondents.)

INTERVENORS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR JUDGMENT ON THE PLEADINGS

Intervenors Put Missouri First and the Republican National Committee respectfully move this Court dismiss Plaintiffs' Petition in this matter, or in the alternative for judgment on the pleadings. Plaintiffs' claims are barred in the following respects:

- A. Plaintiffs' claims are barred as a matter of law by *Maggard v. State*, --- S.W.3d ---, 2026 WL 1361506 (Mo. banc May 12, 2026).
- B. Plaintiffs' claims are improper claim-splitting and must be filed in their existing suit between the parties, *Von Glahn v. Hoskins*, No. 25AC-CC07128 ("*Von Glahn I*").

I. Plaintiffs' claims are barred by *Maggard*.

Plaintiffs' Petition states their claims in three counts and a single prayer for relief. Those counts are:

- I. That the Secretary of State has not issued a certificate of insufficiency under Section 116.200, RSMo. even though he has "unlawfully" determined the petition is insufficient;
- II. That "HB 1 is not the law"; and

III. That several sections of RSMo. Chapter 116 are unconstitutional as applied to Plaintiffs.

The single prayer for relief seeks (1) declarations that the Secretary has “violated his statutory obligation to issue a certificate under Section 116.160” and four sections of Chapter 116 are unconstitutional as applied to Plaintiffs, and (2) injunctions ordering the Secretary to “immediately issue a certificate... so that Plaintiff von Glahn may seek immediate judicial review” and enjoining Defendants from “taking any further steps to implement or mandate the use of HB 1” until a certificate is issued and judicial review thereof is complete. Petition at *28.¹

These claims were each addressed and ruled on in *Maggard*. Defendants and Intervenors are therefore entitled to judgment on the pleadings or, in the alternative, dismissal of each of these claims.

Maggard found identical facts and rejected identical claims. “Nothing in article III, sections 49, 52(a), or 52(b) provides the filing of a referendum petition alone automatically suspends” HB 1. 2026 WL 1361506 at *3. Both Chapter 116 and article IV, section 14 of the Missouri Constitution “task[] the [S]ecretary with the certification process.” *Id.* at *4. That process is “detailed” and provides the Secretary with options: relying on the circulator’s affidavit, sampling, and/or referring all signatures to local election authorities (LEAs) for verification. *Id.* He also “has authority not to count signatures ‘which are, in his opinion, forged or fraudulent signatures.’” *Id.* (quoting § 116.140). The Secretary has a statutory deadline to issue a certificate of sufficiency or insufficiency. *Id.* (citing § 116.150.3). Then, *and only then*, does the judicial review process begin. *Id.* (citing § 116.200).

¹ Plaintiffs also seek their attorney’s fees. *Id.*

The statutes governing the Secretary's duties are *discretionary*, giving him sufficient time – and a deadline – to review signatures to his satisfaction. As Plaintiffs themselves acknowledge, “Plaintiff von Glahn has an absolute statutory right to challenge Defendant Hoskins’ determination as to the sufficiency of the Referendum but can do so only once Secretary Hoskins has issued the required certificate.” Petition ¶105. But Plaintiffs’ claims that the Secretary has “unlawfully” determined their petition is insufficient point only to public statements that the Secretary has identified *one* potential basis for insufficiency.² See Petition at *17-18. Nor does the Petition identify any statutory duty the Secretary has failed to meet³; it only alleges the Secretary has not met the Plaintiffs’ expectations. The Secretary has not “unlawfully” withheld a certification, and he still has several weeks until his deadline. § 116.150.3, RSMo.

Plaintiffs’ Count I therefore fails to state a claim as a matter of law and is also barred by *Maggard*. Likewise, the Court lacks any authority to order the Secretary to “immediately issue a certificate regarding the sufficiency of HB 1... so that Plaintiff von Glahn may seek immediate judicial review.” See Petition at *28. The undisputed facts show that the Secretary is complying with Chapter 116, so Defendants and Intervenors are entitled to dismissal as a matter of law, or in the alternative, judgment on the pleadings.

Plaintiffs *need* this Court to impose an artificial deadline above and

² Plaintiffs apparently have not considered the possibility that the Secretary’s review might identify other bases of insufficiency in addition to those already known. All such bases would be included in a certificate of insufficiency, and nothing in statute requires the Secretary to cease his review upon the first finding of possible insufficiency.

³ If the duties imagined by Plaintiffs were mandatory or ministerial, Plaintiffs could have filed for mandamus. *Cf. State ex rel. Fitz-James v. Bailey*, 670 S.W.3d 1, 4 (Mo. banc 2023).

beyond what the statute requires because without it, Plaintiffs stand on the exact same facts as *Maggard*. Without the Secretary's determination of validity, the Supreme Court found it was "impossible to say... whether HB 1 went into effect on December 11 or whether HB 1 was referred to the people..." *Id.* at *8. Unless the Plaintiffs succeed in their baseless claim to rush the Secretary's review before the deadline, this Court is in the exact same position as the *Maggard* court and must reach the same conclusion. Here, that means rejecting Plaintiffs' Count II seeking a declaration that "HB 1 is not the law" and ordering Defendants to cease implementation or use of HB 1 until a vote. *See Maggard*, at *6 (discussing different secretaries' historical discretion to make assumptions about petitions).

Nor does it make any part of Chapter 116 unconstitutional. *Maggard* plainly holds that Chapter 116 is consistent with the people's right of referendum: the Secretary's "assumption the referendum petition filed on December 9 was not 'legal, sufficient, and timely' does not affect the right of referendum in article III, sections 49, 52(a), and 52(b)..." *Maggard*, at *7. *Id.* at *7. Plaintiffs cite no authority for finding a statute unconstitutional in this context, so this claim for declaratory relief must be dismissed as well.

II. Plaintiffs have impermissibly split their claims.

"A single cause of action may not be split and filed or tried piecemeal." *Steinbach v. Maxion Wheels Sedalia LLC*, 637 S.W.3d 493, 502 (Mo. App. W.D. 2021) (quoting *G.B. v. Crossroads Acad.-Cent. St.*, 618 S.W.3d 581, 591 (Mo. App. W.D. 2020)). A cause of action is single and may not be split if either: (1) the "separate actions brought arise out of the same act, contract or transaction;" or (2) "the parties, subject matter and evidence necessary to sustain the claim are the same in both actions." *Id.* "The term 'transaction' is broadly interpreted to mean 'the aggregate of all the circumstances which

constitute the foundation for a claim,’ and ‘also includes all of the facts and circumstances out of which an injury arose.’” *Id.* “Whether a plaintiff is seeking to improperly split a cause of action depends on the ‘ultimate facts’ underlying separate claims, not on the ‘evidentiary details.’” *Id.* (quoting *HFC Invs., LLC v. Valley View State Bank*, 361 S.W.3d 450, 457 (Mo. App. W.D. 2012)). “[R]es judicata requires the presence of four identities: 1) identity of the thing sued for; 2) identity of the cause of action; 3) identity of the persons and parties to the action; and 4) identity of the quality of the person for or against whom the claim is made.” *Id.* at 501-02 (citation and quotation omitted).

In *Steinbach*, an employee was found to have impermissibly split her claims. Though she filed two charges of discrimination covering two distinct periods, her claims arose from a single transaction and course of conduct: her employment by the defendant. *Id.* at 503 (“Though the specific acts of retaliation identified in the first and second charges of discrimination occurred at different times, they all arose from the same employment relationship complained of by Steinbach as discriminatory and hostile, and from the same efforts by Steinbach to report her employer’s discriminatory conduct.”). The Western District upheld the *Steinbach* trial court’s finding that the claims arose from the “the same facts and circumstances” *even though* some of the claims in the second suit arose after the filing of the first. *Id.* at 503-04.

Plaintiffs in this case are the same as those in *Von Glahn v. Hoskins*, No. 25AC-CC07128 (“*Von Glahn I*”), presently pending before Judge Limbaugh. Secretary of State Hoskins is the defendant in *Von Glahn I* and a defendant here.⁴ Intervenor Put Missouri First is a party to both suits. The identity of the

⁴ Attorney General Hanaway is also a defendant here, although she is only alleged to have expressed her legal opinions regarding HB1 and Plaintiffs do not seek any relief against her. *See* Petition at *28.

parties between *Von Glahn I* and this case is not seriously in dispute.

Likewise, “the identity of the thing sued for” and the cause of action is are the same in both cases. *Von Glahn I* and this case are suits seeking to force the Secretary of State to review Plaintiffs’ Referendum at Plaintiffs’ preferred speed and using Plaintiffs’ preferred procedure. *Von Glahn I* sought to micromanage the Secretary at the sample sheet phase, accusing him of violating Section 116.332.2, RSMo. and the Sunshine Law. *See* *Petition in 25AC-CC07128* at *9-10. This case seeks to meddle in the Secretary’s duties later in the process by forcing him to make determinations before his statutory deadlines. *See* *Petition* at *28; *but see Maggard*, 2026 WL 1361506 at *4.

Just like the plaintiff in *Steinbach*, both claims arise from the same continuing course of events: Plaintiff von Glahn’s filing of the Referendum and the Secretary’s statutory review thereof. That Plaintiffs’ two cases seek to interfere with the Secretary’s duties at different stages of the process is irrelevant. “[W]hen a defendant is accused of ... acts which though occurring over a period of time were substantially of the same sort and similarly motivated ... [t]he events constitute but one transaction or a connected series.” *Steinbach*, 637 S.W.3d at 504 (quoting RESTATEMENT (SECOND) OF JUDGMENTS § 24). At bottom, the claims in both *Von Glahn I* and this case are that the Secretary is interfering with Plaintiffs’ rights in the referendum under article III, section 52.

Plaintiffs are therefore engaged in impermissible claim-splitting. This cause must be dismissed, leaving Plaintiffs to pursue all related claims in *Von Glahn I*. *See Steinbach*, 637 S.W.3d at 504 (noting plaintiff could have amended her petition to add new claims as they arose).

WHEREFORE, Intervenors Put Missouri First and the Republican National Committee respectfully request this Court dismiss the present action,

or in the alternative grant them judgment on the pleadings, and for such other relief as this Court deems appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via the Court's electronic filing system on June 9, 2026 on all parties of record.

/s/ Marc H. Ellinger