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IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

RICHARD VON GLAHN, Plaintiff, v. DENNY HOSKINS, in his official capacity, Defendant.	)	Case No. 26AC-CC00440

PLAINTIFF'S SUGGESTIONS IN OPPOSITION TO MOTION TO INTERVENE

This case is about one thing: whether Secretary Hoskins lawfully refused to certify a referendum petition. It is not about whether HB 1 is good policy, whether HB 1 should be the law, or whether the Republican Party would prefer that voters never get to exercise their constitutional right to decide the question.

The Western District recently made clear ballot certification proceedings are not open forums for policy opponents to insert themselves as parties. That principle controls here. Proposed intervenors Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee (collectively, the "Republican Party") seek to intervene to (1) support the Secretary of State's position with "me too" briefing and (2) object to the referendum on policy grounds. Neither is permissible.

The Republican Party's stated interest is preserving the partisan advantage it associates with HB 1's congressional maps—not any legally protectable interest

in whether the Secretary's certificate of insufficiency is lawful. That is not good enough. The Court should deny the Republican Party's Motion to Intervene.

I. THE COURT OF APPEALS HAS ALREADY DECIDED THIS ISSUE—AND DECIDED IT AGAINST INTERVENTION

1. Just six months ago, the Western District decided *Toder v. Hoskins,* 730 S.W.3d 129 (Mo. App. 2026). The facts are essentially identical. A citizen challenged the Secretary of State's handling of a ballot measure. Rebecca Uccello moved to intervene, claiming she worked for an advocacy organization, intended to campaign against the measure, and had a daughter whose scholarship might be affected if it passed.

2. Like the Republican Party, Uccello thus relied on organizational and campaign-related concerns rather than a direct legal interest in the Secretary's underlying decision.

3. The Court of Appeals reversed and held that the trial court ***abused its discretion*** by allowing permissive intervention. Why? Because Uccello had "not established that she has any defense beyond the Secretary"—her arguments were simply "consistent and in support of" what the Secretary was already arguing. 730 S.W.3d at 138-139.

4. This is not new law. In *Prentzler v. Carnahan*, 366 S.W.3d 557 (Mo. App. 2012), the Western District similarly denied intervention to signatories and financial supporters of an initiative petition. Its reasoning was blunt: "[o]pening intervention of right to citizens solely because they have a differing political view

Electronically Filed - COLE CIRCUIT - August 09, 2026 - 04:25 PM

as to the ballot initiative would open the floodgates to oppressive intervention, and no public policy would be served." *Id.* at 564. *Toder* applied that principle. So should this Court.

II. PERMISSIVE INTERVENTION DOES NOT WORK HERE

5. Rule 52.12(b)(2) allows intervention only when the applicant has a "claim or defense" that shares "a question of law or fact in common" with the main action. The Republican Party wants to defend the Secretary's refusal to certify. But that is exactly what the Secretary is already doing.

6. The Supreme Court has also been clear: "[p]roposed intervenors are not entitled to permissive intervention if they simply will reassert the same defenses." *Johnson v. State*, 366 S.W.3d 11, 21 (Mo. banc 2012). That is what the Republican Party wants to do here. The Secretary says the referendum is unconstitutional. The Republican Party agrees. It has nothing new to add.

7. The *Toder* court put it well: "Uccello's claim is essentially that she has an interest in the proposed amendment itself, not in the fairness and sufficiency of the Secretary's title summary, which is the issue in this case." 730 S.W.3d at 138.

8. The same is true here. The Republican Party cares about defeating the referendum—that is a political question. This Court is being asked a legal question: did the Secretary correctly apply Section 116.200? Those are different things.

Electronically Filed - COLE CIRCUIT - August 09, 2026 - 04:25 PM

9. The Republican Party's own Motion characterizes its interests as "political, operational, and mission-specific," and admits it seeks to prevent the referendum from appearing on the ballot because its adoption would adversely affect the political, electoral, and policy environment it wishes to preserve. Mot. ¶ 45.

10. That assertion alone is sufficient to defeat intervention. This is the same type of interest that was deemed insufficient and irrelevant in *Toder*. The Republican Party has *no* interest in whether the Secretary properly applied Chapter 116.

III. INTERVENTION AS OF RIGHT DOES NOT WORK EITHER

11. Intervention as of right under Rule 52.12(a) requires three things: (1) an interest in the subject matter; (2) a risk that the litigation will impair that interest; and (3) inadequate representation by existing parties. *State ex rel. Nixon v. Am. Tobacco Co.*, 34 S.W.3d 122, 127 (Mo. banc 2000). The Republican Party fails on all three.

A. There is no legally protectable interest here

12. The Republican Party claimed interest—having to campaign against the referendum if it makes the ballot—is not a legal interest. It is the ordinary cost of democracy. If that were enough to intervene, every opponent of every ballot measure could intervene in every certification challenge. That is the "floodgates" problem *Prentzler* warned about. 366 S.W.3d at 564.

Electronically Filed - COLE CIRCUIT - August 09, 2026 - 04:25 PM

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13. *Prentzler* rejected intervention by petition signatories and financial supporters because their interests "were not implicated in the underlying litigation." 366 S.W.3d at 562. There, the court explained that its role was "limited to determining whether constitutional procedural requirements have been satisfied." *Id.* That's also true here. This Court must decide whether the Secretary correctly applied Chapter 116. The Republican Party's views about HB 1 are irrelevant.

14. The alleged harm is also speculative. Signature verification is done. The Secretary's only reason for refusing certification is that he thinks the referendum is unconstitutional. Even if this Court disagrees and the referendum goes to voters, voters might reject it. And nobody is forcing the Republican Party to spend money campaigning—that is its choice. Its desire to suppress voters' will is an insufficient interest for purposes of intervention. As *Prentzler* put it, a "mere, consequential, remote or conjectural possibility of being affected" is not enough. 366 S.W.3d at 562; *see also Toder*, 730 S.W.3d at 140.

B. <u>The Secretary is already making every argument the Republican Party would make</u>

15. The Secretary refused to certify this referendum and is defending that decision with help from the Attorney General's Office. He and the Republican Party want the same thing: keep the referendum off the ballot. Whatever legal arguments exist for that position, the Secretary is already making them (or is fully capable of doing so).

16. There is no need to speculate about this. The Republican Party filed a proposed Answer, which includes "Defenses and Affirmative Defenses." Proposed Ans. at 12. Every single substantive issue the Republican Party lists there is already covered by the lengthy Attorney General "Opinion" attached to the Secretary's Certificate of Insufficiency. *Compare id.*, *with* Ex. 5 to Pet.

17. In *Toder*, the court noted Uccello's arguments were "consistent and in support of" the Secretary's—"each was consistent and in support of the other's arguments." 730 S.W.3d at 133. The same would happen here. A proposed intervenor who agrees with the Secretary's constitutional theory adds nothing new.

18. The Republican Party asserts that the Secretary does not adequately represent its interests because the Secretary's interest "is limited to ensuring that [his] procedures were lawful, that [his] officials acted within their statutory authority, and that the integrity of the election process is maintained." Mot. ¶ 44. Those, of course, are the very questions at issue in this case. Nothing else matters.

19. In essence, the Republican Party is concerned that the Secretary *isn't partisan enough* and that Missouri law might actually have to be followed. Missouri courts have long been instructed to "act with . . . a healthy suspicion of the partisan who would use the judiciary to prevent the initiative process from taking its course." *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824, 827 (Mo. banc 1990). Surely the wisdom of that warning rings true here.

Electronically Filed - COLE CIRCUIT - August 09, 2026 - 04:25 PM

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20. Ultimately, a judgment for Plaintiff in this case would not strike down HB 1, draw new districts, or determine the outcome of any election; it merely places the question before voters. The Committees' remedy against the referendum itself is at the ballot box, not through intervention in this certification proceeding.

IV. INTERVENTION WOULD CAUSE DELAY—AND TIME MATTERS HERE

21. This referendum is for November 2026. Ballots must be finalized by September 8, 2026. § 115.125.3, RSMo. The Court needs to resolve this case quickly to protect the people's constitutional right to vote on this referendum. Mo. Const. art. III, § 49.

22. Intervention means more briefing, possible fights over discovery and stipulations, potential requests to change judge, and other procedural complications. All of that takes time—time that could run out the clock on the referendum. The Secretary has already intentionally delayed this fight to the last possible minute. The Court should not allow a procedural maneuver that might extinguish a constitutional right simply by causing delay.

23. Indeed, Plaintiff has asked the Republican Party whether it will stipulate that it will *not* apply for a change of judge if granted intervention. To date, Plaintiff has received no such commitment.

24. This Court undoubtedly recalls that another party—represented by the same counsel representing the Republican Party—was granted intervention

the morning of trial in *People Not Politicians v. Hoskins*, Case No. 25AC-CC07128. It then took a change of judge. That case, which concerned the Secretary's refusal to even process a large number of signatures gathered in support of the referendum, still has not been decided eight months later.

25. Those types of delays absolutely cannot occur here, given the statutory deadline.

26. Here is the bottom line: if the Republican Party's interests exist at all, it can protect those interests at the ballot box. If the referendum is certified, it can campaign against it. It can encourage people to vote against it. It loses nothing by having this Court decide the legal question without its participation. Its remedy is democratic participation, not litigation.

V. IF THE REPUBLICAN PARTY WANTS TO BE HEARD, AMICUS STATUS IS THE RIGHT PATH

27. If the Republican Party has something useful to say (which its Motion indicates is doubtful), it can say it as an amicus curiae. In *Toder*, the plaintiff made this exact argument: "Uccello's intervention was not legally supportable and that her participation as an amicus curiae would be more appropriate." 730 S.W.3d at 132. The Court of Appeals agreed. This Court should reach the same conclusion.

28. Amicus status lets the Court hear additional perspectives without the baggage that comes with full party status—discovery rights, changes of judge,

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briefing schedules, appeal rights, etc. That baggage is especially problematic in a case like this, where delays can effectively kill a constitutional right.

29. After being briefed on *Toder*, that is the path Judge Fretwell took in *Columbia 93 School District v. State of Missouri* (25AC-CC09100). There, the Court denied the Missouri Charter Public Schools Association's Motion to Intervene in a case about authorizing a charter school in Boone County, but allowed the Association to participate as an amicus.

CONCLUSION

The law here is clear. The Court of Appeals has decided two cases making the same point: ballot certification proceedings are not open forums for policy debates. *Toder* holds that granting intervention to a party who just repeats the Secretary's arguments is an abuse of discretion. *Prentzler* holds that a political disagreement about a ballot measure is not a legal interest. This Court should deny intervention and get to the merits.

WHEREFORE, Plaintiff respectfully requests that this Court deny the Motion to Intervene.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2026, I electronically filed the foregoing Plaintiff's Suggestions in Opposition to Motion to Intervene with the Clerk of Court using the Court's e-filing system.

/s/ Alexander C. Barrett

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