IN THE CIRCUIT COURT FOR COLE COUNTY, MISSOURI

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

SUGGESTIONS IN OPPOSITION TO DEFENDANT'S "MOTION FOR JUDGMENT IN FAVOR OF PLAINTIFFS ON COUNT I"

The Court should deny the Secretary's "Motion for Judgment in Favor of Plaintiffs on Count I." The Secretary's Motion reflects a fundamental misunderstanding of how ballot title litigation and judgments work in Missouri.

The Secretary moved to amend his answer to admit certain of Plaintiffs' allegations. After initially denying some of the facts in the Petition, and without explaining whether his initial responses were correct, he now admits facts establishing Plaintiffs' standing and that certain language in the summary statement he drafted is inherently argumentative and likely to create bias or prejudice. But the Secretary continues to deny Plaintiffs' allegations that other parts of the ballot summary statement are unfair and insufficient. *See* Am. Ans. ¶¶ 22, 24, 28-36, 40. Plaintiffs are entitled to offer evidence concerning those parts of the ballot title and obtain a judgment revising them.

Thus, while Plaintiffs do not oppose the Secretary's motion to amend his answer, he is simply wrong that the amended answer entitles Plaintiffs to "full

relief" on Count I, and allows the Court to enter such relief without a full record on the allegations of the Petition. Missouri law is clear that Plaintiffs can challenge *all* aspects of the summary statement with which they disagree, and that the courts are authorized (and, indeed, obligated) to revise *any* part of a summary that is unfair or insufficient. *See Fitz-James v. Ashcroft*, 678 S.W.3d 194, 214 (Mo. App. 2023); *Cures Without Cloning v. Pund*, 259 S.W.3d 76, 83 (Mo. App. 2008). Missouri law is also clear that a court order is not a "judgment" unless it "'fully resolves at least one claim in a lawsuit and establishes all the rights and liabilities of the parties with respect to that claim.'" *Wilson v. City of St. Louis*, 600 S.W.3d 763, 768 (Mo. banc 2020) (quoting *State ex rel. Henderson v. Asel*, 566 S.W.3d 596, 598 (Mo. banc 2019)).

Because the Secretary continues to contest that portions of the ballot summary Plaintiffs want rewritten are unfair and insufficient, the Court is incapable of entering an order fully resolving Count I or establishing all of Plaintiffs' rights. His motion should be denied and this matter should be adjudicated at trial.

ARGUMENT

I. The Secretary's Motion is Procedurally Defective

As a threshold matter, there is no procedural basis for the Secretary's motion. The Secretary cites no Supreme Court Rule that authorizes his request. Nor does he recite any legal standard applicable to his request. That is because there is none.

Rule 55.27(a) authorizes a party to move for dismissal of a claim on a variety of bases. The Secretary does not cite that rule and does not seek dismissal of the Petition for any of the reasons identified in Rule 55.27(a)(1)-(11). Alternatively, Rule 55.27(b) authorizes a party to seek judgment on the pleadings. Setting aside that it is strange for a defendant to seek entry of judgment in the plaintiff's favor, the Secretary does not cite that rule or the legal standards applicable to such motions either. As explained below, that is undoubtedly because the facts and law do not support entry of a "judgment" in Plaintiffs' favor on Count I on the present record.

Ultimately, the Secretary's motion is procedurally improper. Plaintiffs are entitled to a trial to prove their claims. That the Secretary would prefer to avoid depositions and not defend his summary statement does not authorize this Court to enter a "judgment" resolving fewer than all of the issues Plaintiffs have raised.

II. The Secretary's Admissions in the Amended Answer Do Not Fully Resolve Count I

A. Plaintiffs Are Entitled to Challenge the Entirety of the Ballot Summary

On January 23, 2026, the Supreme Court of Missouri invalidated Senate Bill 22 and the amendments that bill made to Section 116.190, RSMo. *See Nicholson v. State*, No. SC101308 (Jan. 23, 2026). As a result, Plaintiffs' claims and this lawsuit are governed by the version of Section 116.190 that was in effect prior to August 28, 2025.

When a plaintiff challenges a ballot title, "[t]he petition shall state the reason or reasons why the summary statement portion of the official ballot title is insufficient or unfair and shall request a different summary statement portion of the official ballot title." § 116.190.3, RSMo. Plaintiffs did that. They identified numerous parts of the ballot title they believe are unfair and insufficient. *See* Pet. ¶¶ 21-40. They also requested a new ballot title.[1] *Id.* ¶ 41. 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." § 116.190.4, RSMo.

As the Court of Appeals explained nearly two decades ago, "Section 116.190 allows the trial court to correct ***any*** insufficient or unfair language of the ballot title and to certify the corrected official ballot title to the secretary of state." *Cures Without Cloning*, 259 S.W.3d at 83 (emphasis added). And it explained just a few years ago: "[T]he legislature intended for the circuit court to have authority to reject the Secretary's summary statements ***to the extent*** that the statements are not fair and sufficient, to consider alternative language, and to certify a different summary statement than the one initially prepared by the Secretary." *Fitz-James*,

[1] Plaintiffs filed this lawsuit before the Supreme Court invalidated the 2025 amendments to Section 116.190. As a result, Plaintiffs prayed for the Court to remand the matter to the Secretary for revisions, as the now-invalid version of Section 116.190 required. As explained below, however, there is no longer any legal basis for the Court to remand the summary statement to the Secretary and the Court itself must certify a new, legally compliant summary statement. The Secretary's suggestion that the Court can voluntarily choose to remand the matter to him is incorrect.

678 S.W.3d at 214 (emphasis added). "Thus, if the circuit court correctly concludes that all of the language is not fair and sufficient, then the circuit court is authorized to rewrite the entire summary statement." *Id.*

Here, Plaintiffs have challenged nearly every aspect of the Secretary's ballot summary. As explained below, the Secretary now admits a few words of the summary are improper but he continues to contest that other phrases Plaintiffs challenged are problematic. Section 116.190, *Cures Without Cloning*, and *Fitz-James* conclusively establish that Plaintiffs are allowed to challenge any aspect of the summary statement they believe is unfair and insufficient and the Court is obligated to consider all of those challenges and revise all aspects of the summary statement that are legally deficient. Therefore, the fact that the pleadings now establish that the Secretary has conceded *some* of the facts, it does not create a sufficient record for the court to rule on *all* of Plaintiffs' claims. The Secretary cannot deprive Plaintiffs of their right to a trial on the fairness and sufficiency of the entire ballot summary by simply stipulating that a few portions are defective.

B. <u>The Secretary Does Not Concede that Multiple Statements in the Ballot Summary are Legally Defective</u>

The ballot summary in question 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?

Pet. ¶ 16.

Plaintiffs challenged most of the components of the ballot summary. *Id.* ¶¶ 21-40. The Secretary now admits that use of the word "gerrymandered" and the reference to protecting "incumbent politicians" is inherently argumentative. Am. Ans. ¶¶ 26-27. But he continues to deny that it is inaccurate, unfair, and insufficient to describe House Bill 1 as enacting "new congressional boundaries that keep more cities and counties intact." Am. Ans. ¶ 31. He also continues to deny that the summary inaccurately describes House Bill 1 as enacting new congressional districts that "are more compact" and "better reflect[] statewide voting patterns." *Id.* ¶ 33.

The following chart identifies the allegations in Plaintiffs' Petition concerning the unfairness and insufficiency of the summary and the Secretary's responses:

Plaintiffs' Allegation	Answer	Amended Answer
21. The summary statement for 2026-R004 uses language which is intentionally argumentative and likely to create prejudice for the measure.	Deny	Admit
22. The summary statement for 2026-R004 is not a true and impartial statement of the purposes of the measure.	Deny	Deny
23. House Bill 1 is just a list of voting districts	The Secretary admits only that House Bill 1	The Secretary admits only that House Bill 1 contains

separated into congressional districts. The Secretary's summary statement does not reflect this.	contains a list of voting districts separated into congressional districts. The Secretary denies any remaining allegations in Paragraph 23	a list of voting districts separated into congressional districts. The Secretary denies any remaining allegations in Paragraph 23
24. Instead, the summary is an inaccurate, insufficient, biased, and unfair political description and campaign for House Bill 1.	Deny	Deny
26. The word "gerrymandered" is biased, intentionally argumentative, and likely to create prejudice for approving House Bill 1.	Deny	The Secretary admits that the term "gerrymandered" can be viewed as politically charged. In this instance, the Secretary admits that the use of the word "gerrymandered" is argumentative and likely to create prejudice or bias for the measure. The Secretary denies any remaining allegations in Paragraph 26.
27. It is also biased, intentionally argumentative, and likely to create prejudice to describe the 2022 congressional plan replaced by House Bill 1 as "protect[ing] incumbent politicians."	The Secretary admits that the summary statement contains the phrase "protects incumbent politicians." The Secretary denies any remaining allegations in Paragraph 27.	The Secretary admits that the summary statement contains the phrase "protects incumbent politicians." The Secretary also admits that, as written, the phrase "protects incumbent politicians" is argumentative and likely to create prejudice. The Secretary denies any remaining allegations in Paragraph 27.
28. The summary statement for 2026-R004	Deny	Deny

is unfair and insufficient because it implies that the new congressional boundaries enacted in House Bill 1 will not create gerrymandered districts and will not protect incumbents. This is not accurate.		
29. The new congressional boundaries enacted by House Bill 1 are gerrymandered districts.	Deny	Deny
30. The new congressional boundaries enacted by House Bill 1 protect incumbents.	Deny	Deny
31. It is inaccurate, unfair, and insufficient to describe House Bill 1 as enacting "new congressional boundaries that keep more cities and counties intact."	The Secretary admits that the summary statement contains the phrase "new congressional boundaries that keep more cities and counties intact." The Secretary denies any remaining allegations in Paragraph 31	The Secretary admits that the summary statement contains the phrase "new congressional boundaries that keep more cities and counties intact." The Secretary denies any remaining allegations in Paragraph 31
32. House Bill 1 divides municipalities in new ways and across new congressional districts, compared to the congressional district boundaries adopted in 2022.	The Secretary admits that HB1 made some changes to congressional district boundaries adopted in 2022 but denies that fact makes the Secretary's summary statement inaccurate, unfair, or insufficient. The Secretary denies any remaining allegations in Paragraph 32.	The Secretary admits that HB1 made some changes to congressional district boundaries adopted in 2022 but denies that fact makes the Secretary's summary statement inaccurate, unfair, or insufficient. The Secretary denies any remaining allegations in Paragraph 32.

33. The summary statement inaccurately describes House Bill 1 as enacting new congressional districts that "are more compact" and "better reflect[] statewide voting patterns." This is unfair and insufficient.	The Secretary admits that the summary statement contains the phrases "are more compact" and "better reflects statewide voting patterns." The Secretary denies any remaining allegations in Paragraph 33.	The Secretary admits that the summary statement contains the phrases "are more compact" and "better reflects statewide voting patterns." The Secretary denies any remaining allegations in Paragraph 33.
34. House Bill 1's districts are not "more compact" than the 2022 congressional districts/	Deny	Deny
35. House Bill 1's districts do not "better reflect[] statewide voting patterns" as compared to the 2022 congressional districts.	Deny	Deny
36. The Secretary did not do his job. A summary statement should be a neutral and fair summary of what the measure does. The summary statement for 2026-R004 is not.	Deny	Deny
37. The Secretary's summary for 2026-R004 is unfair and insufficient.	Deny	The Secretary admits that, as written, the summary for 2026-R004 is unfair. The Secretary denies all remaining allegations in Paragraph 37.
40. The Secretary drafted and certified a summary statement for 2026-R004 in violation of Section 116.334, RSMo.	The Secretary admits to drafting and certifying a summary statement for 2026-R004 but denies that the statement is in violation of Section	The Secretary admits to drafting and certifying a summary statement for 2026-R004 but denies that the statement is in violation of Section 116.334, RSMo. The

	116.334, RSMo. The Secretary denies any remaining allegations in Paragraph 40.	Secretary denies any remaining allegations in Paragraph 40.

As the foregoing chart illustrates, Plaintiffs challenge multiple aspects of the ballot summary that the Secretary maintains are fair and sufficient. Thus, a trial is needed to determine whether those portions of the ballot title are fair and sufficient and whether the Court must revise them. Whether this Court agrees or disagrees, Plaintiffs are entitled to make a record on these issues for the Court of Appeals to review.

It is unclear whether the Secretary believes that the two aspects of the ballot summary he concedes are unfair should be removed entirely, or whether he believes they should be rephrased in some way. If he intends to argue the Court should adopt alternative language to replace those phrases, then the Court will likely need evidence to evaluate the fairness and sufficiency of any proposed revisions. And, even assuming the Secretary intends to suggest those aspects should be stricken entirely, the ballot summary would read as follows:

> 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 congressional plan and replaces it with new congressional boundaries that keep more cities and counties intact, are more compact, and better reflects statewide voting patterns?

That summary would still be unfair and insufficient.[2] Plaintiffs claim the new congressional boundaries do not "keep more cities and counties intact." Pet. ¶¶ 31-32. They claim the new congressional boundaries are not more compact. *Id.* ¶¶ 33-34. They claim the new congressional boundaries do not better reflect statewide voting patterns. *Id.* ¶¶ 33, 35. A trial is needed to determine whether Plaintiffs are correct, and whether/how those aspects of the summary statement should be revised. *See Cures Without Cloning*, 259 S.W.3d at 83; *Fitz-James*, 678 S.W.3d at 214.

III. The Court Cannot Enter a "Judgment" on Count I, Let Alone a Final Judgment that Would be Appealable

There is a related problem with the Secretary's Motion – his admissions do not allow the Court to enter a "judgment" on Count I. At the last hearing, Plaintiffs emphasized—and the Court seemed to agree—that it was important to develop a factual record that would enable the Court of Appeals to evaluate any appeal arising out of this case. It is likewise necessary to enter a final judgment that actually *can* be appealed.

For the Court of Appeals to have jurisdiction over any resulting appeal, "the judgment entered by the circuit court and appealed by the parties must [be]

[2] The only aspect of the Secretary's summary Plaintiffs believe is correct is the statement that approving House Bill 1 would repeal and replace Missouri's *existing* congressional plan (*i.e.*, the 2022 map). Contrary to the Secretary's public statements, his ballot summary correctly states that the 2022 congressional plan is the "existing" (*i.e.*, currently operative) plan, as the map proposed in House Bill 1 has been suspended as a result of Plaintiffs submitting signatures on their referendum petition.

a 'final judgment' as that phrase is used in section 512.020(5)." *Wilson*, 600 S.W.3d at 765. The first step in that analysis—and where the Secretary's Motion falters—is that an order must *actually be* a "judgment." *Id.* at 771; *Taylor v. Curators of Univ. of Missouri*, 602 S.W.3d 851, 855–56 (Mo. App. 2020) ("*Before* analyzing the second step in the 'final judgment' formula . . . , we must analyze the first step—whether the trial court's dismissal ruling constitutes a 'judgment.'"). A "judgment" "must ***fully*** resolve at least one claim in a lawsuit and establish ***all the rights and liabilities*** of the parties with respect to that claim." *Wilson*, 600 S.W.3d at 771 (emphasis added). Where a plaintiff requests multiple forms of relief with respect to a given claim, an order that resolves only some of the requests for relief is not a final, appealable judgment. *Rhodes v. Mo. Highways & Transp. Comm'n*, 718 S.W.3d 419, 423 (Mo. banc 2025).

The Secretary purports to ask for entry of a "judgment" in Plaintiffs' favor on Count I. But, as discussed above, Plaintiffs sought relief in the form of a declaration that nearly all of the ballot summary language is unfair and insufficient and a revised summary that fixes those issues. The Secretary contests that Plaintiffs are entitled to such relief on multiple portions of the summary statement challenged in the Petition. Accordingly, the Secretary is not asking the Court to enter a ruling that will "fully resolve" Plaintiffs' claim or that will

establish "all the rights and liabilities" of the parties. In other words, he is not asking for a "judgment" at all.[3] The Court should deny his Motion on that basis.

IV. The Secretary's Admissions Do Not Deprive the Court of Jurisdiction Over this Matter

The Secretary contends that—as a result of his admissions that certain aspects of the ballot summary are inherently argumentative—"Plaintiffs no longer have standing to pursue their challenge to the summary statement as drafted." Mot. at 9. He then immediately asserts that his admissions actually render the case moot. *Id*. Standing and mootness are different issues. And the Secretary is wrong, whichever doctrine he meant to invoke.

The underpinning of the Secretary's assertions is that his admissions entitle Plaintiffs to "full relief." He repeats this assertion throughout the motions he recently filed, as if invoking these words enough times has talismanic power to render Plaintiffs' claims non-justiciable. He is wrong. The most fundamental problem is that the Secretary's admissions do not entitle Plaintiffs to ***full*** relief on Count I, for all the reasons discussed above. His admissions undoubtedly entitle Plaintiffs to ***some*** relief and take certain issues out of dispute for purposes of trial. But Plaintiffs continue to challenge multiple aspects of his unfair and insufficient ballot summary. They are entitled to have the Court

[3] Ironically, the Secretary contends that if the Court were to address the portions of the ballot summary he has refused to concede are unfair and insufficient, the Court would be rendering an improper advisory opinion. It is actually the Secretary asking for a non-final, unappealable advisory opinion.

rewrite those aspects of the summary. The Secretary does not get to avoid trial on those aspects of the summary by admitting Plaintiffs are right about some of their other challenges. Plaintiffs have standing and this case is not moot.

V. There is No Legal Basis for Remanding the Statement to the Secretary

Finally, the Secretary acknowledges that the back-and-forth revision process in the 2025 amendments to Section 116.190 were invalidated by the Supreme Court's decision in *Nicholson*. He nonetheless asserts that the Court remains free to follow the remand process. Mot. at 11-12. That is wrong, as well-established case law makes clear.

The now-operative version of Section 116.190 does not direct circuit courts to remand legally defective summary statements to the Secretary for revision. Instead, it directs courts to "certify the summary statement portion of the official ballot title to the secretary of state," which the Secretary must, in turn, certify to local election authorities. § 116.190.4, RSMo. By contrast, the statute gives courts options if a fiscal note summary is deemed defective. With fiscal note summaries, the court can "either certify the fiscal note or the fiscal note summary portion of the official ballot title to the secretary of state or remand the fiscal note or the fiscal note summary to the auditor for preparation of a new fiscal note or fiscal note summary." *Id.* That difference in language matters.

The Court of Appeals agrees. Well before the enactment of Senate Bill 22, Secretaries of State tried to tell courts they should "remand" ballot summaries

found to be defective to the Secretary for revisions. But "there is no provision for a remand of the summary statement under these circumstances." *Cures Without Cloning*, 259 S.W.3d at 83. "Section 116.190.4 gives the court discretion to *remand a fiscal note or fiscal note summary to the State Auditor* to correct deficiencies, but the statute ***does not authorize*** remand of any portion of the ballot title to the Secretary for modification." *Id.* (emphasis added).

The now-operative version of Section 116.190 is the same as the version considered by the court in *Cures Without Cloning*. There is no discretion, authority, or basis to give the Secretary a do-over. It is the role of the Court to revise any and all portions of the summary it determines are unfair and insufficient. Because the Secretary does not concede Plaintiffs are legally entitled to all revisions they seek, a trial remains necessary.

CONCLUSION

For the foregoing reasons, the Court should deny the Secretary's motion for entry of judgment in Plaintiffs' favor.

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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