

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

PEOPLE NOT POLICIANS;)
RICHARD VON GLAHN,)
Plaintiffs,)

v.)

Case No. 25AC-CC08724

DENNY HOSKINS, in his official)
Capacity as the Missouri Secretary)
of State)
Defendant.)

**SECRETARY’S REPLY TO PLAINTIFFS’ SUGGESTIONS IN
OPPOSITION TO SECRETARY’S MOTION FOR JUDGMENT**

The Secretary and Plaintiffs agree that, as drafted, the summary statement is invalid. In the aftermath of *Nicholson v. State*, No. SC101308 (Mo. banc Jan. 23, 2026), the Court is free to determine the course this litigation should take given the established fact that the summary statement does not meet the requirements under 116.334 and 116.190. The Secretary has requested that this Court take one of two pathways. First, this Court issue a partial judgment and order requesting the parties to submit summary statements for the Court’s consideration. Second that the Court issue a partial judgment and order requesting that the Secretary provide this Court with a revised summary statement that is fair and sufficient for the Court’s consideration. The Secretary also requested that this Court solicit briefing

from the parties on the statement or competing statements to guide this Court's rewrite. The Court may also request a hearing on the proposed language to guide its ultimate determination.

Plaintiffs suggest that the Secretary's Motion is inapt because it does not expressly invoke a specific rule of civil procedure. However, in Missouri, substance reigns over form. *See, e.g., Worley v. Worley*, 19 S.W.3d 127, 129 (Mo. banc 2000) ("A pleading is judged by its subject matter—not its caption."); *Skaggs Chiropractic, L.L.C. v. Ford*, 564 S.W.3d 633, 641 n.3 ("In general, citation of a specific rule is not required for consideration of the allegations of a motion . . ."). In substance, the Secretary has requested a partial summary judgment and an order. Given the unique circumstances, there are going to be some ill fits. However, these awkward circumstances were created by Plaintiffs' repeated attempts to inhibit efficient resolution and force a contest where the Secretary admitted willingness to rewrite and now consents to move to the relief stage.

Plaintiffs misunderstand the current state of ballot title challenges. The Court is free to determine which course it takes to inform its final judgment. *Omohundro*, No. WD 88567, 2026 WL 233297 at *2 n.3 (Mo. App. W.D. Jan. 29, 2026). Where the circumstances require it and the statement is found unfair and insufficient, the Court may "ask parties to submit proposed revised summary statement language." *Id.* "Whether phrased as a proposed judgment

or a revised summary statement, the trial court *then* decides whether or not to certify such language *and renders its final judgment* for the purpose of appeal.” *Id.* (emphasis added). In other words, the Court may ask parties to submit revised summary statements and utilize those statements—and any subsequent briefing or arguments—to inform its ultimate judgment.

The Court may even elect to follow the procedures that were in place at the beginning of this litigation to arrive at the language it ultimately certifies. *See id.* (“Section 116.190.4 functions *substantively the same* with or without SB 22: the trial court is required to find either that the Secretary’s certified summary is sufficient and fair or certify its own rewritten summary statement.” (emphasis added)). Section 116.190 no longer mandates a “mechanism explicitly allowing the Secretary to revise the summary statement.” *Id.* But courts are permitted to use this mechanism. *See id.*¹

Either approach remedies Plaintiffs’ concern that the Court needs to hear “evidence to evaluate the fairness and sufficiency of any proposed

¹ Plaintiffs suggest that *Cures Without Cloning v. Pund*, 259 S.W.3d 76 (Mo. App. W.D. 2008) prohibits a remand to the Secretary for modification. But the holding of *Cures Without Cloning* was that the courts cannot certify only the fair and sufficient parts of the statement and remand to the Secretary to remedy and certify the unfair or insufficient elements. *Id.* at 83. In other words, the Court must be the entity responsible for certifying the final language, not the Secretary. Thus, the Court may request the Secretary offer proposed revisions, but the Court is not required to accept these revisions, the Court must ensure fairness and sufficiency. *See Omohundro*, No. WD 88567, 2026 WL 233297 at *2 n.3 (Mo. App. W.D. Jan. 29, 2026).

revisions.” The Court cannot hear evidence to guide proposed revisions unless those revisions are first presented to the Court. Consequently, the Court, at its discretion, may hear evidence on proposed revisions once the Secretary or the parties have prepared revisions.

Plaintiffs’ suggestion that the Court must make a determination on the fairness and sufficiency of each word of the summary statement in order to rewrite the statement is inaccurate. Plaintiffs have challenged the *entire* summary statement. *See* Pet. at ¶¶ 21, 22, 24, 36, 37. Although they now attempt to back-pedal and challenge “nearly every aspect,” Plaintiffs made no attempt to limit their pleadings. Suggestions in Opp’n to Def. Mot. for Judgment at p. 5. Plaintiffs also gloss over the Secretary’s admission that “as written the summary statement is unfair.” Am. Answer ¶ 37; *see also, id.* ¶ 36. In other words, the Secretary has admitted that a rewrite is necessary to ensure fairness. The legislature’s intent that “the circuit court” should “have authority to reject the Secretary’s summary statements to the extent that the statements are not fair and sufficient,” *Fitz-James v. Ashcroft*, 678 S.W.3d 194, 214 (Mo. App. W.D. 2023), is intended to protect the Secretary and preserve the separation of powers. Here, the Secretary has consented to the Court’s procedure for a more full-scale rewrite. *Supra* at 1.

In order to best move forward in this litigation, the Secretary has requested that this Court either (1) request that each party submit summary

statements for the Court's consideration or (2) request that the Secretary submit a redrafted summary statement for the Court's consideration. In either event, the Secretary requests that the Court solicit briefing from the parties and schedule a hearing on the proposed language. This will allow the Court to issue a fully informed final judgment.

Date: February 4, 2026

Respectfully submitted,

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