

IN THE CIRCUIT COURT FOR COLE COUNTY
STATE OF MISSOURI

FERNANDO BERMUDEZ,
GREGORY FLETCHER,
CARA MENGWASSER,
JOSEPH C. WELLING,
JOHN PAYNE,
and all those similarly situated,

Plaintiffs,

Case No.

vs.

DENNY HOSKINS,
in his official capacity as
Missouri Secretary of State,

Serve: Denny Hoskins
600 West Main Street
Jefferson City, MO 65101

Defendant.

PETITION FOR DAMAGES

Plaintiffs, for their petition for damages against Denny Hoskins, in his official capacity as Missouri Secretary of State, allege:

1. Fernando Bermudez is a Missouri voter registered to vote in the City of St. Louis, the place he resides. Bermudez is a lawyer with past class action experience.

2. Gregory Fletcher is a Missouri voter registered to vote in the St. Louis County, the place he resides. Fletcher is a retired CPA.

3. Cara Mengwasser is a Missouri voter registered to vote in St. Louis County, the place she resides. Mengwasser is a paralegal working for a law firm handling medical malpractice cases.

4. Joseph C. Welling is a Missouri voter registered to vote in the City of St. Louis, the place he resides. Welling is a lawyer licensed in Missouri and Arizona and an adjunct professor of law.

5. John Payne is a Missouri voter registered to vote in the City of St. Louis, the place he resides. Payne is a small business owner.

6. Denny Hoskins is the duly elected and serving Secretary of State of the State of Missouri.

7. This action is a statutory tort brought on behalf of the named plaintiffs and all other similarly-situated Missouri registered voters under the authority of Section 28.200, RSMo. Section 28.200 states:

If the secretary of state shall at any time neglect or refuse to perform any of the duties enjoined on him by law, he shall pay to the person aggrieved a sum not less than one hundred dollars nor more than five hundred dollars, to be recovered by civil action.

8. The duties enjoined on the Secretary of State by law include the diligent administration of the People's reserved power "to approve or reject by referendum any act of the general assembly ..." *Missouri Constitution, Art. III, § 49*. The scope of the Secretary of State's duties with regard to referenda are detailed at length in Chapter 116, RSMo.

9. The duties enjoined on the Secretary of State by law include compliance with the limitations stated in Section 1.185, RSMo., which states:

2. In any civil action in a state or federal court, no public official ... has any authority to compromise or settle an action, consent to any condition, or agree to any order in connection therewith if the compromise, settlement, condition, or order nullifies, suspends, enjoins, alters, or conflicts with any provision of chapters 115 to 128.

3. Any compromise, settlement, condition, or order to which a public official agrees that conflicts with subsection 2 of this section is void and has no legal effect.

10. The Secretary of State is a "public official" as defined in Section 1.185.1.

11. Chapter 128, RSMo., referenced in Section 1.185.2, contains the provisions of Missouri law that establish and define the districts of Missouri's representatives to the United States Congress.

12. The Secretary of State is thus statutorily enjoined from agreeing to any order in any court that "nullifies, suspends, enjoins, alters, or conflicts with any provision" of Missouri statutes relating to congressional districts.

13. The duties enjoined on the Secretary of State by law include compliance with the decisions of the Missouri Supreme Court relating to elections, including those relating to the boundaries of Missouri's congressional districts.

14. In 2022, the Missouri General Assembly established the boundaries of Missouri's congressional districts based on the 2020 Decennial Census. The 2022 districts are set out in Sections 128.461 to 128.479, RSMo.

15. In a special session in 2025, the Missouri General Assembly purported to revise the boundaries of Missouri's congressional districts. The purported revision of the congressional districts was an act of the

General Assembly. The purported congressional district map resulting from this 2025 act is referred to as the “HB1 Map”.

16. Some Missouri voters were unhappy with the General Assembly’s purported mid-decade revision of Missouri’s congressional districts. Exercising their rights under the Missouri Constitution, over 330,000 self-identified Missouri registered voters, including plaintiffs, signed petitions to place on the ballot a referendum on the validity of the HB1 Map (the “Referendum”) for approval or disapproval by Missouri voters.

17. 162,171 of the petition signatures for the Referendum were verified by Missouri local election authorities as the valid signatures of Missouri registered voters.

18. Under Missouri law, the Secretary of State has a specified set of functions relating to referenda and referenda petitions. These functions include determining whether a referendum and its petitions comply with the state’s requirements for such documents. See Sections 116.150, 116.332, RSMo.

19. Section 116.150 states:

1. After the secretary of state makes a determination on the sufficiency of the petition and if the secretary of state finds it sufficient, the secretary of state shall issue a certificate setting forth that the petition contains a sufficient number of valid signatures to comply with the Constitution of Missouri and with this chapter.

2. The secretary of state shall issue a certificate only for a petition approved pursuant to section 116.332. If the secretary of state finds the petition insufficient, the secretary of state shall issue a certificate stating the reason for the insufficiency.

20. On the last date available to him, Hoskins issued a certificate stating that the Referendum was insufficient and refused to place the Referendum on the next general election ballot. In his certificate, Hoskins did not dispute that the petitions submitted supporting the Referendum had a sufficient number of signature to be placed on the ballot. Instead Hoskins declared that acts of the General Assembly relating to congressional districts were not subject to the People's referendum power.

21. The Secretary of State has no power under Missouri law to declare the scope of the People's referendum power or that such power does not extend to acts about congressional districts.

22. Although Section 116.150.2 requires the Secretary of State to issue a certificate stating the reasons why a petition is insufficient if the

Secretary of State should find it insufficient, Hoskins did not issue such a certificate when he declared the petitions for the Referendum insufficient. Instead, Hoskins attempted to incorporate by reference a legal memorandum prepared by the Attorney General of the State of Missouri stating her analysis of why the referendum power supposedly did not extend to acts of the General Assembly relating to congressional districts.

23. The conclusion that the referendum power did not extend to acts of the General Assembly relating to congressional districts is contrary to century-old established practice in Missouri, a practice recognized by the Missouri Supreme Court in several opinions over the years.

24. Before Hoskins declared that the petitions were insufficient, the Missouri Supreme Court rendered its decision in *Maggard v. State of Missouri*, 733 S.W.3d 411 (Mo. 2026), in which it explained that the sufficiency of the Referendum's petition herein would depend on whether the number of signatures on the petition satisfied the requirements of the Missouri Constitution. When Hoskins did not dispute the sufficiency of the number of signatures on the petitions, he no longer had a lawful basis under Missouri law on which to declare the petitions insufficient.

25. Hoskins violated the law when he held that the petitions for the Referendum were insufficient to submit the Referendum to a vote after having not found that the signatures on the petitions failed to satisfy the requirements of the Missouri Constitution.

26. Because a petition sufficient to require a vote of the People on the Referendum was submitted to the Secretary of State before the HB1 Map became effective, the HB1 Map never became effective notwithstanding the passage of time between the submission of the petition and Hoskins taking action on the petition.

27. Notwithstanding that the HB1 Map was never effective, Hoskins caused the Missouri congressional primary election held August 4, 2026 to use the HB1 Map.

28. The organizers of the Referendum petition drive, Richard von Glahn and the organization People Not Politicians, challenged Hoskins's decision not to place the Referendum on the ballot.

29. The Missouri Supreme Court agreed with von Glahn, held that the HB1 Map was never effective, and ordered Hoskins and all those acting in concert with Hoskins to proceed with the November general election using the congressional district maps enacted in 2022.

30. Despite the decision of the Missouri Supreme Court, Hoskins told local election authorities throughout Missouri to use the HB1 Map in the November general election. In so doing, Hoskins violated the duties enjoined on him by law.

31. Hoskins contended that continued use of the HB1 Map, which had never been in effect, was required because the use of different congressional district maps for the primary and general elections would create chaos and deny Missouri voters their rights under the U.S. Constitution.

32. The Missouri Supreme Court held that any chaos caused by the use of different maps for the primary and general elections was caused by Hoskins's own lack of diligence in performing his duties in reviewing the Referendum petitions.

33. Hoskins participated as a defendant in a collusive lawsuit in federal court in St. Louis in an effort to circumvent the decision of the Missouri Supreme Court. In the federal lawsuit, Hoskins immediately voluntarily entered his appearance as a defendant and consented to a TRO prohibiting Hoskins from using any congressional district map other than the HB1 Map that the Missouri Supreme Court had ordered him not to use.

34. By agreeing to the federal district court TRO, Hoskins violated the duty enjoined on him by Section 1.185, RSMo.

35. The federal district court TRO to which Hoskins agreed was void for several reasons. It was void because the district court lacked subject matter jurisdiction due to the absence of a case or controversy between Hoskins and the plaintiffs. It was void because Section 1.185.3, RSMo., states that it “is void and has no legal effect.”

36. The United States Supreme Court stayed the federal district court TRO

37. The Missouri Supreme Court found Hoskins in contempt of court for his actions in telling local election authorities to use the HB1 Map contrary to the controlling decision of the Missouri Supreme Court. Hoskins purged himself of contempt by sending a subsequent communication to local election authorities telling them to use the 2022 congressional district map in the upcoming general election.

38. Plaintiffs, as Missouri registered voters who signed the Referendum petition, have a special and particular interest in having the Referendum that they supported presented to the People for a vote.

39. Hoskins's neglect or refusal to perform the duties imposed on him by law with regard to the Referendum, as described above, aggrieved all plaintiffs, and the absent member of the class, in their exercise of the rights granted by the Missouri Constitution.

40. Each plaintiff was thereby damaged.

41. The plaintiffs' interests in having a vote on the Referendum are more concrete and particularized than the interests of Missouri registered voters generally or Missouri citizens generally. Plaintiffs exercised their state constitutional right to collective action with other registered Missouri voters who shared their concern about the HB1 Map.

42. The right to petition the government to place an act of the General Assembly on the ballot to be voted on by the People of the State of Missouri is a sufficiently strong right, well-established under the Missouri Constitution, that plaintiffs have all been sufficiently injured by Hoskins's illegal and contumacious actions to deny them this right to entitle plaintiffs (and the members of the class described below) to recover statutory damages under Section 28.200.

43. Plaintiffs are part of a class of Missouri registered voters, all of whom signed the Referendum petition. The class excludes all persons who

are not Missouri citizens as of the date of filing of this petition. This class is so numerous — its membership is approximately 162,000 persons — that joinder of all members in a case is impracticable.

44. The requirements for a class action under Rule 52.08 include demonstrating that there are questions of law or fact common to the class members and their claims. Here the question of law and fact applicable to each class member's claim are essentially identical. Hoskins's neglect or refusal to perform his duties relating to the Referendum affected each and every class members the same way.

45. The requirements for a class action under Rule 52.08 include that the claims or defenses of the representative parties be typical of those of the class. Here they are not merely typical but identical.

46. Plaintiffs are individuals with strong personalities and beliefs on the issues in this case who will fairly and adequately protect the interests of the class. Plaintiffs have retained counsel to represent the class who are experienced in class action and election litigation, and able to take these claims successfully to trial.

47. The proposed class action satisfies the requirements of Rule 52.08(b)(1). Because the claims of all class members relate to the same

neglect and refusal by Hoskins, separate actions by individual class members could establish incompatible standards of conduct for Hoskins.

48. The proposed class action satisfies the requirements of Rule 52.08(b)(3). Because the questions of law and of fact commons to the class members predominate over any questions affecting only individual members, a class action here is superior to other available methods for fairly and efficiently resolving the controversy. Moreover, given that Section 28.200 provides for statutory damages of only \$100 to \$500 per individual class member, it would be uneconomical for members of the class to pursue these claims in individual actions.

49. Given the nature of the claims and of Hoskins's anticipated defenses, and given that the name and address of each and every member of the class, at least as of the date the petition was submitted, are readily available from the petition itself, there are unlikely to be any significant difficulties in managing the class action.

50. Consequently, all of the requirements for bringing a class action under Rule 52.08 are satisfied and these claims are properly certified as a class action with one or more of the plaintiffs as class representatives.

WHEREFORE, plaintiffs Fernando Bermudez, Gregory Fletcher, Cara Mengwasser, Joseph C. Welling, and John Payne, request that the court:

- (a) Certify this case as a class action, with the members of the class defined as (1) all Missouri registered voters who signed the “People Not Politicians” petition to require a vote on the referendum on whether 2025 Missouri House Bill 1 should be law, and (2) whose signatures were verified by the Missouri Secretary of State or Local Election Authorities, or both, and (3) are citizens of the State of Missouri on the date this petition is filed; and
- (b) Appoint some or all of the plaintiffs as class representatives; and
- (c) Appoint Jacobson Press P.C. as class counsel; and
- (d) Enter judgment in favor of plaintiffs and the approximately 162,000 other verified Missouri registered voters who signed the petition (and who are citizens of the State of Missouri on the date this petition is filed) and against defendant Denny Hoskins, in his capacity as Secretary of State of the State of

Missouri, in the sum of \$500 per class member, for a total judgment of approximately \$80 million, more or less; and

(e) Award Jacobson Press P.C. reasonable attorney fees based on a percentage of the total judgment recovered for the plaintiffs and class; and

(f) Award the class and its counsel their costs and expenses of this action; and

(g) Award the named plaintiffs and class representatives reasonable incentive awards to compensate them for their efforts serving the class; and

(h) Grant plaintiffs and the class such further and additional relief as to which they may be entitled.

JACOBSON PRESS P.C.

By: /s/ Joe D. Jacobson

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