

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

OSAGE RIVER GAMING AND)
CONVENTION and JOHN HANCOCK,)

Plaintiffs,)

vs.)

Case No.: _____

JOHN R. ASHCROFT)
in his official capacity as)
Missouri Secretary of State,)

Serve:)
Capitol Building, Room 208)
Jefferson City, MO 65101)

Defendant.)

PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Plaintiffs Osage River Gaming and Convention and John Hancock allege for their petition for declaratory judgment and injunctive relief:

PARTIES

1. Plaintiff Osage River Gaming and Convention (“Osage”) is a Missouri non-profit corporation in good standing and is registered with the Missouri Ethics Commission as a campaign committee. It exists, in part, for the purpose of promoting an initiative petition 2024-165 relating to an Osage River gambling boat license, attached hereto as **Exhibit 1** (the “Initiative Petition”).

2. Plaintiff John Hancock is a citizen, legal voter, resident, and taxpayer of the State of Missouri. Plaintiff John Hancock signed and is a proponent of the Initiative Petition.

3. Defendant John R. Ashcroft is the duly elected Secretary of State (the “Secretary”) for Missouri and is sued in his official capacity pursuant to § 116.200.1, RSMo.

JURISDICTION AND VENUE

4. Plaintiffs bring this action pursuant to § 116.200.1, RSMo, allowing any citizen to challenge the Secretary's sufficiency determination, §§ 527.010 and 526.010, RSMo, and Rules 87 and 92, which permit this Court to issue declaratory judgments and enter injunctions.

5. Venue is proper in this Court pursuant to § 116.200.1, RSMo.

ALLEGATIONS COMMON TO ALL COUNTS

6. Plaintiff Osage was a primary funder and proponent organization for the Initiative Petition.

7. On or about October 11, 2023, a sample form for the Initiative Petition was filed with Defendant Secretary, pursuant to § 116.332, RSMo.

8. On or about November 28, 2023, Defendant Secretary approved the form of the Initiative Petition and certified for circulation the official ballot title for the Initiative Petition.

9. On May 5, 2024, Plaintiff Osage's attorney submitted 67 boxes of initiative petition signature pages for the Initiative Petition, and in so doing, filed with Defendant Secretary an Initiative Petition bearing signatures of legal voters from the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth Congressional Districts, pursuant to § 116.100, RSMo.

10. The Initiative Petition contained a sufficient number of valid signatures from legal voters from the First, Second, Third, Fourth, Fifth, and Seventh Congressional Districts.

11. The submitted signature pages included signed and notarized circulator's affidavits.

12. The submitted signature pages included the properly designated county for the signatures on such pages.

13. The submitted signature pages were in full compliance with Chapter 116, RSMo.

14. The Secretary, with assistance from local election authorities then engaged in a process to determine if the Initiative Petition contained sufficient signatures to qualify for the ballot. *See* Art. III, Sec. 50.

15. On August 13, 2024, Defendant Secretary, acting pursuant to § 116.150, RSMo, made a determination on the sufficiency of the Initiative Petition and issued a certificate of insufficiency for the Initiative Petition for lack of a sufficient number of signatures in the Second Congressional District, attached hereto as **Exhibit 2**.

16. The Secretary determined that the Initiative Petition contained a sufficient number of signatures in the First, Third, Fourth, Fifth, and Seventh Congressional Districts but not a sufficient number in the Second, Sixth, and Eighth Congressional Districts.

17. Plaintiffs have brought this challenge within ten (10) days of Defendant Secretary's August 13, 2024 Certificate of Insufficiency of the Initiative Petition as required under § 116.200.3, RSMo.

18. The only contested district in this matter is the Second Congressional District. The Secretary's Certificate of Insufficiency provides that the Second Congressional District was insufficient because it required an additional 2,031 signatures from legal voters in order to qualify.

**THE INITIATIVE PETITION CONTAINED A SUFFICIENT NUMBER
OF VALID SIGNATURES TO QUALIFY FOR PLACEMENT ON THE
NOVEMBER 5, 2024 GENERAL ELECTION BALLOT**

19. Article III, Section 50, in relevant part, requires that initiative petitions proposing amendments to the constitution must be signed by “eight percent of the legal voters in each of two-thirds of the congressional districts in the state[.]”

20. Missouri has eight congressional districts, which requires that proponents of a constitutional amendment must secure the requisite number of signatures from legal voters in six congressional districts.

21. Article III, Section 53 provides that “[t]he total vote for governor at the general election last preceding the filing of any initiative or referendum petition shall be used to determine the number of legal voters necessary to sign the petition.”

22. After receiving the signed petition pages, Defendant Secretary sent copies or electronic scans of the petition pages to the various local election authorities to verify that the persons whose names are listed as signers of the Initiative Petition were legal voters.

23. The Secretary requested that the verification be of each signature rather than by random sampling pursuant to Chapter 116, RSMo.

24. The local election authorities returned certifications to the Secretary with respect to the number of signers of the Initiative Petition.

25. Thereafter, Defendant Secretary determined that at least eight percent (8%) of the legal voters with respect to the First, Third, Fourth, Fifth, and Seventh Congressional Districts had signed the Initiative Petition.

26. Consequently, no issue exists with respect to the requisite number of signatures of legal voters having been secured for the First, Third, Fourth, Fifth, and Seventh Congressional Districts.

27. The Secretary determined that the signatures of 36,099 legal voters from the Second Congressional District were required to sign the Initiative Petition to constitute 8% of the legal voters in this district.

28. The Secretary determined that the Initiative Petitions submitted to him contained valid signatures of 34,068 legal voters in the Second Congressional District. As a result, the Secretary determined that the requisite number of Initiative Petition signatures of legal voters from the Second Congressional District fell short by 2,031.

29. A sufficient number of valid signatures on the Initiative Petition of legal voters from the Second Congressional District were submitted to exceed the number required by the Missouri Constitution for that District.

30. Because the Initiative Petition contained the requisite number of sufficient signatures of legal voters from five other congressional districts and the Secretary incorrectly determined that an insufficient number of valid signatures were submitted on the Initiative Petition for legal voters from the Second Congressional District, the Initiative Petition must be certified as sufficient and ordered to be placed on the official ballot for the general election to be held on November 5, 2024.

31. The Secretary and/or the local election authorities failed to count valid signatures on the Initiative Petition of many legal voters that should have been counted with respect to the Second Congressional District.

32. Section 116.130.1, RSMo, requires that each election authority “count as valid only the signatures of persons registered as voters in the county named in the circulator’s affidavit.”

33. On information and belief, the Secretary and/or the local election authorities improperly failed to count valid signatures of legal voters on the Initiative Petition that are attributable to or should have been counted with respect to the Second Congressional District because of at least the following improper determinations: (1) that it was the signature of a person not registered to vote when in fact the person was registered to vote in the county listed on the

Initiative Petition; (2) that the voter listed the wrong name when in fact the person listed an acceptable form of their name; (3) that the voter listed a wrong address when in fact the address was correct, or (4) that the voter's signature was signature was not generally in a form similar to that found on the voter rolls when in fact the signatures are authentic signatures of registered voters as they appear on the voter rolls. These determinations were wrong.

34. When the additional valid signatures on the Initiative Petition of legal voters attributable to the Second Congressional District are properly counted, there are more than the requisite 36,099 valid signatures of legal voters for the Second Congressional District.

35. With the inclusion of the additional valid signatures, the Initiative Petition is sufficient and should be certified to be on the November 5, 2024 general election ballot.

36. Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that the Court:

A. Determine that there were a sufficient number of valid signatures of legal voters on the Initiative Petition attributable to the Second Congressional District to meet the Secretary-calculated required number of 36,099 signatures for that District;

B. Determine that because the requisite number of valid signatures on the Initiative Petition attributable to the Second Congressional District were submitted, all of the requirements for placement of the Initiative Petition upon the November 5, 2024 general election ballot have been met;

C. Order that the Secretary of State certify to local election authorities that the Initiative Petition be placed on the November 5, 2024 general election ballot;

D. Grant such interim or preliminary relief for Plaintiffs as may be reasonable or necessary;

E. Grant to Plaintiffs such other and further relief as this Court deems just and proper.

Respectfully submitted,

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