

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION ONE**

GREG WILEY, AND JULIA	)	No. ED102019
MITTELSTADT, INDIVIDUALLY AND	)	
ON BEHALF OF ALL OTHERS	)	
SIMILARLY SITUATED,	)	
	)	
Plaintiffs/Appellants	)	Appeal from the Circuit Court of
	)	the City of St. Louis
vs.	)	
	)	Honorable David L. Dowd
GREGORY F.X. DALY, COLLECTOR	)	
OF REVENUE FOR THE CITY OF	)	
SAINT LOUIS, ET AL,	)	
	)	Filed: October 20, 2015
Defendants/Respondents.	)	

Greg Wiley and Julia Mittelstadt appeal the trial court’s judgment in favor of Gregory F.X. Daly, as the Collector of Revenue for the City of St. Louis, and M. Jane Schweitzer, as the Circuit Clerk for the City of St. Louis, on their petition for declaratory relief and reimbursement of court costs paid to Collector in property tax delinquency suits. Appellants assert that the trial court erred in: (1) dismissing Mittelstadt as a plaintiff based on the voluntary payment doctrine; (2) dismissing Appellants’ claim that payment of court costs to Respondents violates Article X, Section 22(a) of the Missouri Constitution (the Hancock Amendment); (3) entering summary judgment in favor of Respondents on Wiley’s remaining claims for declaratory relief and a refund of unlawfully collected court costs; and (4) denying class certification.

**AFFIRMED IN PART, REVERSED IN PART, VACATED IN PART, DISMISSED IN PART, AND REMANDED.**

**DIVISION ONE HOLDS:** (1) The trial court erred in dismissing Mittelstadt’s claims under the voluntary payment doctrine. The legislative intent of §514.270 is to enable citizens to challenge unauthorized court costs and obtain a refund; there is no requirement to pay under protest. (2) The trial court did not err in dismissing Appellants’ claim based on the Hancock Amendment. Court costs are imposed by state statutes and do not constitute a local tax within the meaning of the Amendment. (3) The trial court did not err in granting Respondents’ motion for summary judgment in that Appellants must challenge their court costs in their underlying delinquency cases pursuant to the exclusive remedy provided by §514.270 and not through the present declaratory judgment action. However, the trial court erred in reaching the merits of Appellants’ challenge and deeming the costs lawful. That determination is vacated and left to the court in Appellants’ underlying delinquency cases. The trial court also erred in deeming lawful Collector’s practice of withholding property tax “paid” receipts pending Appellants’ payment of court costs yet to be assessed by Circuit Clerk. That particular judgment is reversed and

remanded for entry of declaratory judgment and corresponding injunctive relief in favor of Appellants. (4) Appellants' point IV is dismissed for non-satisfaction of appellate briefing requirements under Rule 84.04.

Opinion by: Lisa S. Van Amburg, C.J.  
Lawrence E. Mooney, P.J. and Clifford H. Ahrens, Senior J. concur.

Attorney for Appellant: Jonathan Beck

Attorney for Respondents: Nancy R. Kistler  
Christine Lynn-Luszczek Hodzic (co-counsel)  
Stephen J. Kovac

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**