

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI EX REL. JASON KANDER, MISSOURI SECRETARY OF STATE,
Relator,

v.

THE HONORABLE DANIEL R. GREEN, CIRCUIT JUDGE,
Respondent.

DOCKET NUMBER WD78471

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: June 9, 2015

ORIGINAL PROCEEDING FOR REMEDIAL WRIT OF PROHIBITION

JUDGES

Writ Division: Mitchell, P.J., and Howard and Hardwick, JJ. **CONCURRING.**

ATTORNEYS

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**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI EX REL. JASON)
KANDER, MISSOURI SECRETARY OF)
STATE,)**

Relator,)

v.)

**THE HONORABLE DANIEL R. GREEN,)
CIRCUIT JUDGE,)**

Respondent.)

**OPINION FILED:
June 9, 2015**

WD78471 ORIGINAL PROCEEDING FOR REMEDIAL WRIT OF PROHIBITION

Before Writ Division Judges: Karen King Mitchell, Presiding Judge, and Victor C. Howard and Lisa White Hardwick, Judges

Relator, the Missouri Secretary of State, seeks a writ prohibiting Respondent, the Honorable Daniel Green, Circuit Judge for Cole County, from ordering the Secretary to respond to numerous discovery requests in the underlying action. We issued a preliminary writ. Because the requested discovery is not relevant to the issues involved in the case, we make our writ permanent with the exception of two interrogatories that do not fall within the Secretary's objections.

PRELIMINARY WRIT MADE ABSOLUTE WITH EXCEPTIONS.

Writ Division holds:

1. Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action.
2. The Secretary must produce a ballot summary for all proposed initiative petitions prior to the gathering of signatures for the petition. The Secretary's summary statement cannot exceed 100 words, must be written in the form of a question, and cannot use language

that is intentionally argumentative or that is likely to create prejudice either for or against the proposed measure.

3. A citizen who is dissatisfied with the summary statement may file suit in the Circuit Court of Cole County and argue that the summary statement is insufficient or unfair.
4. The question of whether the summary statement is insufficient or unfair can be determined by reviewing the language of the summary statement and comparing it to the contents of the initiative petition. The opinions of the drafters of the statement are irrelevant to this determination.
5. Because the Secretary's opinion of the subject matter of the initiative petition is irrelevant to the determination of whether the language of the summary statement is insufficient or unfair, discovery into the Secretary's beliefs is not reasonably calculated to lead to the discovery of admissible evidence. Prohibition is therefore appropriate to stop the trial court from enforcing its order that the Secretary respond to all discovery requests.

Opinion by: Karen King Mitchell, Presiding Judge

June 9, 2015

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.