

**In the
Supreme Court of the United States**

PEOPLE NOT POLITICIANS AND RICHARD VON GLAHN,

Applicants,

v.

CONGRESSMAN ROBERT ONDER, RICHARD BRATTIN, PATRICIA THOMAS, AND DEBRA
HAVENS,

Respondents,

STATE OF MISSOURI AND DENNY HOSKINS, *in his official capacity as Missouri
Secretary of State,*

Respondents,

APPENDIX TO OPPOSITION TO APPLICATION FOR STAY

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONGRESSMAN ROBERT “BOB”
ONDER et al.,

Plaintiffs,

v.

STATE OF MISSOURI and DENNY
HOSKINS,

Defendants.

Case No. 4:26-cv-01424-SRC

Order

On September 8, 2026, Intervenor-Defendants filed an Emergency Application for Stay, doc. 38, asking this Court to stay its temporary restraining order issued earlier that day, doc. 35. For the reasons discussed below, the Court denies Intervenor-Defendants’ stay application.

I. Discussion

A. 28 U.S.C. § 2284

28 U.S.C. Section 2284(a) does not apply. The statute requires the appointment of a three-judge panel “when an action is filed challenging the constitutionality *of the apportionment of congressional districts*,” *id.* (emphasis added), but Plaintiffs do not contest the constitutionality of the underlying apportionment in the prior congressional district map from 2022, *see generally* doc. 1. Instead, they challenge only that the Secretary of State can, consistent with the United States Constitution, *switch congressional district maps* between the primary and general elections. Doc. 1 at ¶¶ 50–109.

Even if Section 2284(a) applied, the statute explicitly allows a single judge to enter a temporary restraining order. 28 U.S.C. § 2284(b)(3) (“A single judge . . . may grant a temporary

restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted, which order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the district court of three judges of an application for a preliminary injunction.”). The Court’s TRO remains in effect for fourteen days from issuance, and the Court may extend it. *See* doc. 35 at 13 (The Court cites to page numbers as assigned by CM/ECF.); Fed. R. Civ. P. 65(b)(2) (A TRO “expires at the time after entry—not to exceed 14 days—that the court sets, unless before that time the court, for good cause, extends it for a like period . . .”). Section 2284 thus does not bar the relief that the Court issued.

B. *Rooker-Feldman* doctrine

“*Rooker-Feldman* bars suits in federal district court that ‘see[k] what in substance would be appellate review of [a] state judgment.’ *T.M. v. Univ. of Md. Med. Sys. Corp.*, 146 S. Ct. 1739, 1749 (2026) (alterations in original) (quoting *Johnson v. De Grandy*, 512 U.S. 997, 1005–06 (1994)). The doctrine “is confined to . . . cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

The *Rooker-Feldman* doctrine does not apply here. First, Plaintiffs’ Complaint raised issues distinct from that which the Supreme Court of Missouri addressed. The Supreme Court of Missouri expressly limited its decision to a single issue of state law—whether the Missouri Constitution authorizes referenda on the adoption of new congressional district maps. *See von Glahn v. Hoskins*, No. SC101805, 2026 WL 2628846, at *2 n.5 (Mo. Sep. 3, 2026) (en banc). In sharp contrast, Plaintiffs’ Complaint in this Court raised only federal law claims. Doc. 1 at

¶¶ 50–109. Plaintiffs therefore did not ask this Court to “review and reject[]” the judgment of the Supreme Court of Missouri. *Exxon Mobil Corp.*, 544 U.S. at 284.

Second, Plaintiffs are not “state-court losers complaining of injuries caused by state-court judgments.” *Id.* The Plaintiffs here were not parties to and did not participate in the state case, so the *Rooker-Feldman* doctrine does not apply to them. Intervenor-Defendants counter that “evidence of collusion may overcome” the “state-court losers” limitation, citing speculative dicta in a footnote of a bankruptcy-appellate-panel case that itself cited no supporting authority. *See* doc. 38 at 2–3 (citing *In re Skyline Woods Country Club, LLC*, 431 B.R. 830, 837 n.23 (B.A.P. 8th Cir. 2010)). Even if it were a holding, which it isn’t, it doesn’t bind this court. *See In re Watkins*, 461 B.R. 57, 59 n.2 (Bankr. W.D. Mo. 2011) (“[Bankruptcy Appellate Panel] opinions are not binding on the Bankruptcy or District Courts”); *In re Pepmeyer*, 273 B.R. 782, 785 (N.D. Iowa 2002).

C. Abstention doctrines

1. *Younger*

Younger abstention does not require that the Court stay this case. First, as a general rule, “[a]bstention is not in order simply because a pending state-court proceeding involves the same subject matter.” *Sprint Commc’ns, Inc. v. Jacobs*, 571 U.S. 69, 72 (2013) (citation omitted).

Younger abstention applies to bar federal relief in only “three ‘exceptional’ categories,” sometimes called *NOPSI* categories after *New Orleans Public Service, Inc. v. Council of New Orleans*, 491 U.S. 350 (1989) (“*NOPSI*”): (1) “federal-court adjudication of the constitutionality” of a state criminal statute “pending state criminal prosecution”; (2) federal-court adjudication pending a state-initiated civil proceeding “in aid of and closely related to [the State’s] criminal statutes”; and (3) federal-court adjudication “interfering with

pending ‘civil proceedings involving certain orders . . . uniquely in furtherance of the state courts’ ability to perform their judicial functions,” *Sprint Commc’ns*, 571 U.S. at 77–78 (alterations in original) (first citing *Younger v. Harris*, 401 U.S. 37, 53–54 (1971); then quoting *Huffman v. Pursue, Ltd.*, 420 U.S. 592, 604 (1975); and then quoting *NOPSI*, 491 U.S. at 368).

If the case falls into a *NOPSI* category, courts then address three additional factors, called the *Middlesex* factors: whether there is “(1) an ongoing state judicial proceeding that (2) implicates important state interests and (3) provides the federal plaintiff adequate opportunity to raise federal challenges.” *Wassef v. Tibben*, 68 F.4th 1083, 1087 (8th Cir. 2023) (citing *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 432–35 (1982)). Even if the case falls into a *NOPSI* category and meets the *Middlesex* factors, a court may still exercise jurisdiction where an “extraordinary circumstance” counsels against abstention. *Id.* (quoting *Middlesex Cnty. Ethics. Comm.*, 457 U.S. at 435).

This case neither falls into a *NOPSI* category nor meets the *Middlesex* factors, so abstention is inappropriate. First, federal-court adjudication of federal constitutional claims after the issuance of a state-court’s judgment on state-law claims doesn’t fall into any of the three *NOPSI* categories. Intervenor-Defendants don’t explain which category this case falls into, instead skipping straight to the *Middlesex* factors. *See* doc. 33 at 13; doc. 38 at 3. But even if this case fell into a *NOPSI* category, not all *Middlesex* factors counsel in favor of abstention.

To the contrary, two of the three *Middlesex* factors counsel against abstaining here. Von Glahn and People Not Politicians had already exhausted their state-court remedies, and the Supreme Court of Missouri had already issued its judgment and order with an express bar on any post-disposition motions, when Plaintiffs here filed suit. *Compare von Glahn*, 2026 WL 2628846, at *7 (filed on September 3 and further mandating “[n]o Rule 84.17 motions are

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permitted”), *with* doc. 1; *see Huffman*, 420 U.S. at 609 (holding that *Younger* abstention applies where “a losing litigant has not exhausted his state appellate remedies”). Thus, the Supreme Court of Missouri having fully and finally decided the case, no state-court proceedings were ongoing or pending. *See Pending*, *Black's Law Dictionary* (12th ed. 2024) (“Remaining undecided; awaiting decision[.]”); *see also von Glahn*, 2026 WL 2628846, at *7 (entering judgment); *von Glahn v. Hoskins*, No. SC101805 (Sep. 4, 2026) (denying motion for stay pending appeal).

Intervenor-Defendants rely on the then-pending request for Supreme Court review to show the state case was ongoing, but Intervenor-Defendants cite caselaw supporting that “state court proceedings were ongoing *until*” the state supreme court renders its judgment. *Tony Alamo Christian Ministries v. Selig*, 664 F.3d 1245, 1251 (8th Cir. 2012) (emphasis added). And it’s hard to find that a state proceeding is “pending” or “ongoing” when Intervenor-Defendants also argue that the *Rooker-Feldman* doctrine, which applies to “state-court losers complaining” about “state-court judgments rendered before the district court proceedings commenced,” bars this action. *Exxon Mobil Corp.*, 544 U.S. at 284; *see* doc. 33 at 10–11; doc. 38 at 2–3. At bottom, without an ongoing state proceeding, *Younger* abstention is inappropriate.

Even if state proceedings were ongoing, Plaintiffs here did not have the opportunity to raise federal challenges in the state court, as they were not parties to that case. *See* docket, *von Glahn v. Hoskins*, No. SC101805 (Mo. 2026). And Plaintiffs’ legal positions and interests are not “so intertwined” with the state-court parties “that [] *Younger* abstention [is] warranted.” *Womens Servs., P.C. v. Douglas*, 653 F.2d 355, 358, 359 (8th Cir. 1981) (citing *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 928–29 (1975)) (finding *Younger* abstention inappropriate where federal-court plaintiff and state-court defendant differed in identity, control, legal theories, and legal interests).

Because the prerequisites to apply *Younger* don't converge here, the Court must live up to its "virtually unflagging obligation . . . to exercise the jurisdiction given" to it. *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976).

2. Colorado River

"*Colorado River* [abstention] permits federal courts to decline to exercise jurisdiction over cases where 'parallel' state court litigation is pending" *Spectra Commc'ns Grp., LLC v. City of Cameron*, 806 F.3d 1113, 1121 (8th Cir. 2015). A state-court case is "parallel" when it's "substantial[ly] likel[y] that the state proceedings will fully dispose of the claims presented in the federal court." *Id.* (quoting *Cottrell v. Duke*, 737 F.3d 1238, 1245 (8th Cir. 2013)). As described above, the judgment of the Supreme Court of Missouri, by its own terms, resolved only a state-law issue, and Plaintiffs' Complaint here raises only federal-law claims. So no "parallel" state-court case exists in which "the state proceedings will fully dispose of the claims presented in federal court." *Spectra Commc'ns Grp.*, 806 F.3d at 1121. Had the state court decided federal issues, we might be in a different situation; it didn't, so we're not. *Colorado River* abstention does not apply.

D. Anti-Injunction Act

The Anti-Injunction Act provides that "[a] court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." 28 U.S.C. § 2283. But Plaintiffs were not part of the state-court proceedings, and the Supreme Court has made clear that the Anti-Injunction Act does not bar federal courts from granting injunctive relief against executive officials requested by "strangers to [a] state court proceeding" that issued an injunction. *Imperial Cnty. v. Munoz*, 449 U.S. 54, 59 (1980) (quoting *Hale v. Bimco Trading*,

Inc., 306 U.S. 375, 378 (1939)). Otherwise, the state-court injunction would “[bind] the independent suitor in the federal court as though he were a party to the litigation in state court,” a proposition the Supreme Court rejected. *Hale*, 306 U.S. at 378. It is beyond cavil that Plaintiffs did not participate in the state-court proceeding. They sue now in their capacities as primary voters and candidates—capacities that have no overlap with the state-court parties. Doc. 1 at ¶¶ 1–9. They are thus “strangers to the state court proceeding” and cannot be “bound ‘as though [they] were part[ies] to the litigation in the state court’” by the state court’s injunction. *Hale*, 306 U.S. at 378. The Anti-Injunction Act does not bar the relief this Court granted.

E. Public interest and balance of harms

Notably, the Eighth Circuit Court of Appeals has denied Intervenor-Defendants’ motion for a stay pending appeal because that court “either lack[s] jurisdiction over the appeal or, based on the briefing . . . so far, the stay factors have not been met. *Onder v. Missouri*, No. 26-2797 (8th Cir. Sep. 9, 2026); *see Nken v. Holder*, 556 U.S. 418, 425–26 (2009); *see also In re Rutledge*, 956 F.3d 1018, 1026 (8th Cir. 2020) (explaining that the Eighth Circuit “ordinarily lack[s] jurisdiction to hear an interlocutory appeal from the district court’s grant . . . of a TRO”).”

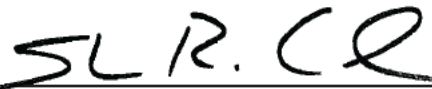
The Court continues to adhere to the balance-of-harms and public-interest analysis from its September 8 Order granting the TRO. Doc. 35 at 5, 11–12. Indeed, staying the TRO now would fly in the face of the *Purcell* interests that the Court discussed in its prior order by further heightening voter confusion, the disincentive to vote, and the chaos into which Missouri’s electoral process was already cast before this Court’s prior order. *See Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006) (per curiam).

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II. Conclusion

Accordingly, the Court denies Intervenor-Defendants' [38] Emergency Application for Stay.

So ordered this 9th day of September 2026.



STEPHEN R. CLARK
CHIEF UNITED STATES DISTRICT JUDGE

IN THE SUPREME COURT OF THE UNITED STATES

PEOPLE NOT POLITICIANS AND RICHARD
VON GLAHN,

Applicants,

v.

Case No. 26A326

CONGRESSMAN ROBERT ONDER, RICHARD
BRATTIN, PATRICIA THOMAS, AND DEBRA
HAVENS,

Respondents,

STATE OF MISSOURI AND DENNY HOSKINS,
*in his official capacity as Missouri
Secretary of State,*

Respondents.

**DECLARATION OF DENNY HOSKINS IN OPPOSITION TO APPLICATION
FOR STAY**

I, Denny Hoskins, declare as follows:

1. I am Missouri’s Secretary of State. That means I am the State’s chief elections officer and responsible for overseeing safe and secure elections in Missouri, including the State’s federal elections. *See* Mo. Const. art. IV, § 14.

2. Missouri’s 2026 General Elections are scheduled for November 3, 2026. *See* Mo. Rev. Stat. § 115.121.1.

3. The date of Missouri’s General Election is mandated by federal law. *See Foster v. Love*, 522 U.S. 67, 73–74 (1997) (holding that State may not run federal general election in conflict with federal timing of 2 U.S.C. § 7).

4. In preparation for the 2026 General Election, Missouri ran its primary to select federal congressional candidates on August 4, 2026. *See* Mo. Rev. Stat.

§ 115.121.2. This election was held based on the federal congressional map, Missouri House Bill 1 (2025) (“HB 1”), that was in place at the time of the election, and the results have been certified. *See* Official Results, State of Missouri – Primary Election, August 04, 2026.¹

5. On September 3, 2026, the Missouri Supreme Court held that the HB 1 congressional map used in the primary is subject to a referendum vote. The court further enjoined the State “from implementing, using, or mandating the use of the congressional redistricting in HB 1 for the November 2026 general election.” *von Glahn v. Hoskins*, No. SC101805, at slip op. 13 (Mo. banc Sept. 3, 2026).

6. Based on substantial evidence, the trial court in that case found it would be “impossible” for Missouri election officials to switch the governing congressional map before the 2026 elections. *von Glahn v. Hoskins*, No. 26AC-CC00440, at ¶¶ 170–71 (Cole Cnty. Cir. Ct. Aug. 19, 2026) (“Trial Court Op.”). The trial court cited concerns about Missouri’s Centralized Voter Registration (“MCVR”) database, which locks and often prevents changes to district lines whenever there are ongoing elections in Missouri. *See id.* ¶ 171. That is true between now and November 3 because special elections are being conducted in different parts of the State. *Id.*

7. The Circuit Court’s also credited the affidavit of Tammy Brown, a longtime and trusted election official in Jackson County. *See id.* ¶ 170. She swore under oath that it would not be feasible for Jackson County’s election officials to

¹ <https://enr.sos.mo.gov/>.

comply with a court order to change the congressional map in advance of the 2026 general election. *See id.*

8. The Missouri Supreme Court was aware of these factual findings, which were extensively briefed and discussed at oral argument. Nevertheless, the Missouri Supreme Court simply ignored them. Moreover, the Missouri Supreme Court provided no guidance or instruction on how Missouri *could* comply with its order.

9. I sought a stay of the Missouri Supreme Court's decision from the U.S. Supreme Court. My application was denied without reasoning. *See Application for Stay, Hoskins v. von Glahn*, No. 26A304 (U.S., filed Sept. 8, 2026) (Kavanaugh, J., in chambers).

10. Also, after the Missouri Supreme Court's decision, I was sued by plaintiffs in this case. Plaintiffs are concerned that the Missouri Supreme Court's order will violate their federal constitutional rights, and I share these concerns.

11. Yesterday afternoon, the U.S. District Court for the Eastern District of Missouri issued a temporary restraining order enjoining me "from implementing, using, publishing, distributing, or mandating the use of any congressional district map other than the HB 1 map for the November 3, 2026 general election." Doc. 35.

12. Yesterday, September 8, is also the state-law deadline for altering ballots ahead of the 2026 General Election. Mo. Rev. Stat. § 115.115.2.

13. All 116 local election authorities are able to comply with the district court's TRO because they previously administered the HB 1 map in the 2026 Primary Election.

14. Additionally, Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20302 (“UOCAVA”), requires absentee ballots to be transmitted to military personnel and overseas Americans no later than 45 days before an election. This year, that deadline is September 19.

15. In fact, the TRO is the only thing which can prevent Missouri from violating UOCAVA. Entering a stay in this case would reinject the profound chaos into Missouri’s election which the State has experienced in the wake of the Missouri Supreme Court’s decision. It is extremely likely that a stay of the TRO would result in a UOCAVA violation.

16. If the TRO were stayed, Missouri would have to comply with the Missouri Supreme Court’s order and run its 2026 General Election on its 2022 congressional map. As Tammy Brown’s affidavit in the state trial court explained, on Missouri’s larger jurisdictions (like Jackson County), changing the map would ordinarily takes 2 weeks. Stipulated Ex. 28 ¶ 7, *von Glahn v. Hoskins*, No. 26AC-CC00440 (Cole Cnty. Cir. Ct. filed Aug. 18, 2026). Tammy Brown expressed the opinion that—if Jackson County election officials worked nights and weekends—that they could complete this process in 7-10 days. *Id.* But even after that, local election authorities would have to then design and test ballots to ensure votes will be counted accurately. *Id.* ¶ 11. This process normally takes about 2 weeks. *Id.* An additional week is usually needed to print ballots. *Id.*

17. Moreover, every 116 local election authorities have their own approach for printing ballots. And they need to start printing ballots in advance of the

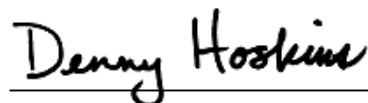
UOCAVA deadline. Although each county is likely to take a different approach, I expect counties to start printing ballots based on the HB 1 map on September 9. With every passing hour, more resources are expended on preparing for the General Election using the HB 1 map. A stay would potentially force counties to waste substantial sums of money in reprinting ballots.

18. If the TRO were to be stayed, it seems highly likely that local election officials would be forced to send mail ballots out after UOCAVA's deadline. Evidence credited by the Circuit Court in the *von Glahn* case suggested it would take at least one month for local election officials to comply with the Missouri Supreme Court's order. That is obviously more than 11 days that election officials currently would have to try to comply with the Missouri Supreme Court's order. It thus seems practically certain that—if the TRO is stayed—Missouri will be forced to violate UOCAVA.

19. In summary, the district court's TRO is the only thing preventing the State from being put in an impossible situation. If the TRO is stayed, I am gravely worried that Missouri would be forced to violate federal law.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 9th day of September, 2026


Secretary of State

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ROBERT “BOB” ONDER, ET AL.,

Plaintiffs,

v.

STATE OF MISSOURI, ET AL.,

Defendants.

Case No. 4:26-cv-01424-SRC

DEFENDANTS’ STATEMENT IN RESPONSE TO THIS COURT’S ORDERS

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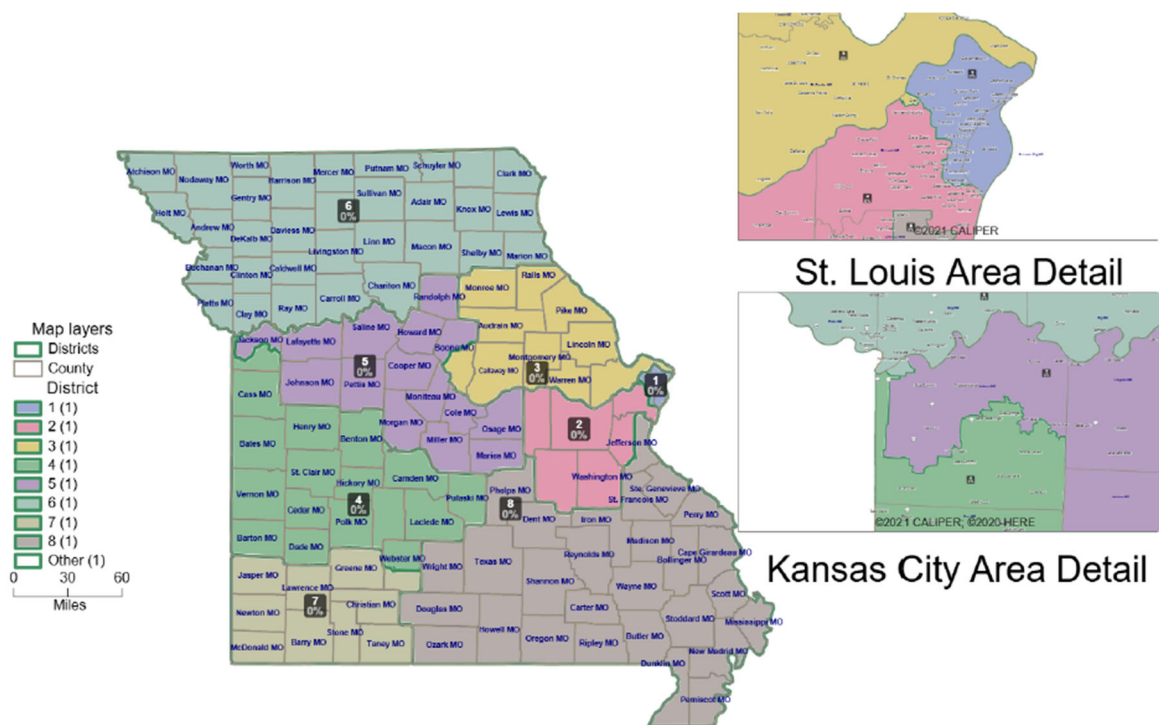
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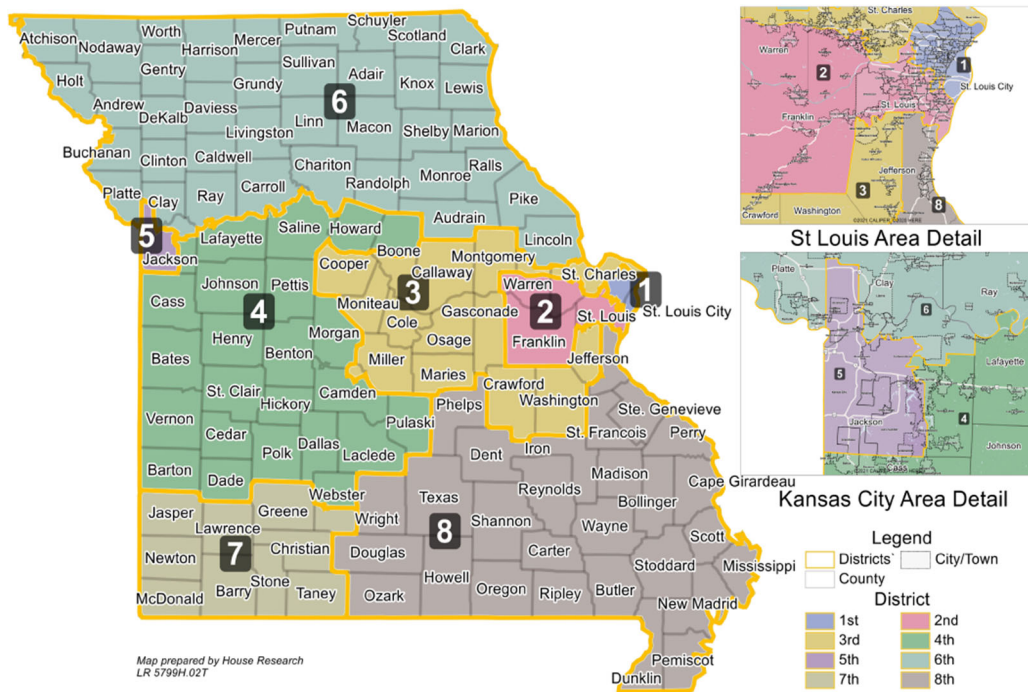
INTRODUCTION AND FACTUAL BACKGROUND

On September 12, 2025, the Missouri General Assembly passed House Bill 1 (“HB 1”), which redistricted the boundaries of Missouri’s eight congressional districts. HB 1 abrogated Missouri’s previous congressional map enacted in 2022. A copy of the two maps is reproduced below:

Missouri’s 2025 Congressional Map



Missouri's 2022 Congressional Map



HB 1 passed overwhelmingly in the Missouri General Assembly and was signed by Governor Kehoe on September 28, 2025. *See* Mo. Senate J. 25–26 (2d Extra. Sess., 103d Gen. Assembly, Sept. 12, 2025); Mo. House J. 37–38 (2d Extra. Sess., 103d Gen. Assembly, Sept. 9, 2025).

In response, Proposed Interveners—People Not Politicians and Richard von Glahn—initiated the referendum petition at issue in this case. Proposed Interveners’ public statements have long emphasized that they merely want a statewide vote on the HB 1 map. But they have also acknowledged a less democratic goal: exploiting the Missouri Constitution’s referendum provisions to suspend the State’s congressional map merely by submitting a referendum *petition* signed by “five percent of the legal voters in each of two-thirds of the congressional districts in the state” (approximately 3.3% of Missouri’s voters). Mo. Const. art. III, §§ 52(a), 52(b); *see also* Jason Rosenbaum, *Missouri’s stack of redistricting lawsuits expected to grow over whether*

new map is in effect, ST. LOUIS PUBLIC RADIO (Dec. 16, 2025) (Von Glahn claimed, “[Secretary Hoskins] has to issue a certificate of sufficiency or insufficiency, and until that point, the law is suspended.”).¹ To be clear, Proposed Interveners’ theory is that state law entitles them to suspend a duly-enacted congressional map for an entire election cycle *without* a referendum vote—even though this has never been attempted before in Missouri history. Also, as far as Missouri is aware, this tactic has never been tried in any other State.

Keenly aware of Proposed Interveners’ objective, the Missouri Secretary of State (alongside the Missouri General Assembly and the State of Missouri) sued Proposed Interveners in this Court last October—seeking an injunction and declaratory relief preventing displacement of the HB 1 map. *See Mo. Gen. Assembly v. Von Glahn*, No. 4:25-CV-1535-ZMB, 2025 WL 3514277, at *2 (E.D. Mo. Dec. 8, 2026). The State argued that the Elections Clause prohibits referenda from proceeding against congressional maps in Missouri. *Id.*

Judge Bluestone dismissed that complaint on two bases. First, he found that Missouri’s claim was not ripe—because Secretary Hoskins could simply reject the referendum on constitutional grounds using Missouri’s certification process for the referendum. *Id.* at *1, *4 n.4 (citing Mo. Rev. Stat. § 116.120). Second, Judge Bluestone found that *Pullman* abstention was appropriate, reasoning that the Missouri Supreme Court could avoid any federal constitutional issue by finding that the Missouri Constitution does *not* authorize referenda against federal congressional plans. *Id.* at *5–6.

On December 9, 2025, the day after Judge Bluestone’s decision, Respondent submitted his referendum petition to the Secretary of State’s office. Compl. ¶ 18. The Attorney General and

¹ <https://www.stlpr.org/government-politics-issues/2025-12-16/missouris-redistricting-lawsuits-whether-new-map-effect>.

Secretary promptly declared that the HB 1 map had gone into effect and would remain in effect—at least until the Secretary certified the referendum as legal. The Missouri Supreme Court subsequently rejected a challenge to that public declaration in *Maggard v. Missouri*—holding that the mere submission of a referendum petition does not freeze a duly enacted congressional map. 733 S.W.3d 411, 419–20 (Mo. banc 2026). The *Maggard* decision also expressly reserved the question whether referenda can proceed against federal congressional maps. *Id.* at 414 n.7.

The Missouri Supreme Court also rejected three other legal challenges to the HB 1 map—including as recently as May 2026. *See Luther v. Hoskins*, 730 S.W.3d 567 (Mo. banc 2026); *Healey v. Missouri*, 732 S.W.3d 827 (Mo. banc 2026); *NAACP v. Kehoe*, 734 S.W.3d 338 (Mo. banc 2026). Because of those decisions, even Democracy Docket—the publication founded by Marc Elias, the Democratic Party’s leading election lawyer—admitted the HB 1 map would likely need to govern Missouri’s elections in 2026. Jen Rice & Yunion Rivas, *Missouri blocks antigerrymander referendum from November ballot in attempt to silence voters*, DEMOCRACY DOCKET (Aug. 4, 2026).²

While all this litigation was unfolding, the Secretary strictly complied with his state-law duties in processing Proposed Interveners’ referendum petition. *See* Mo. Rev. Stat. §§ 116.120–116.150. Within two weeks of the petition’s submission, the Secretary forwarded Proposed Interveners’ referendum petition to Missouri’s 116 local election authorities so that they could begin reviewing the signatures on Respondent’s petition to verify validity. *See id.* § 116.130.1. After the time-intensive signature verification process concluded, Secretary Hoskins then issued a certification decision rejecting the referendum petition on state and federal constitutional grounds

² <https://www.democracymocket.com/news-alerts/missouri-blocks-anti-gerrymander-referendum-from-november-ballot-in-attempt-to-silence-voters/>.

on August 4, 2026—the state-law deadline for issuing a decision. Compl. ¶ 25; *see also* Mo. Rev. Stat. § 116.150.3. That same day, Missouri conducted its 2026 Primary Election under the HB 1 map. Compl. ¶ 21. About 1.2 million Missourians voted in the elections. *Id.* ¶ 22.

Proposed Intervener von Glahn immediately sued in state court. *Id.* ¶ 26. His complaint sought an injunction “reversing Defendant Hoskins’ certification decision,” and an injunction “[r]estrain[ing]” the Secretary “and those acting in concert with him from taking any further steps to implement or mandate the use of HB 1.” Pet. at 8 (prayer for relief), *von Glahn v. Hoskins*, No. 26AC-CC00440 (Cole Cnty. Cir. Ct. Aug. 4, 2026).

The Cole County Circuit Court (Green, J.) rejected Respondent’s challenge on every conceivable ground. It agreed with the Secretary that the Missouri Constitution does not authorize referenda on congressional maps. Judgment ¶¶ 28–70, *von Glahn v. Hoskins*, No. 26AC-CC00440 (Cole Cnty. Cir. Ct. Aug. 19, 2026). It also held that the U.S. Constitution’s Elections Clause forbids changing Missouri’s congressional map based on a referendum petition signed by just “five percent of the legal voters in each of two-thirds of the congressional districts in the state.” *Id.* ¶ 110 (quoting Mo. Const. art. III, § 52(a)). The trial court further held that changing Missouri’s congressional map between a primary and general election would violate Article I, Section 2 of the U.S. Constitution and the Equal Protection Clause of the Fourteenth Amendment. *Id.* ¶¶ 107–22. Finally, the trial court held that *even if* it were wrong on the first three bases for its judgment, it would still decline to change the HB 1 map before the 2026 election in light of the *Hadley* principle—which is Missouri’s equivalent of the *Purcell* principle. *Id.* ¶ 161–63 (citing *Hadley v. Junior Coll. Dist. Of Metro. Kansas City*, 460 S.W.2d 1 (Mo. 1970)).

The Circuit Court’s holdings were also buttressed by several factual findings. It found that “changing the maps at this late juncture is not just ‘impractical,’ it is impossible.” *Id.* ¶ 170. The

Circuit Court also found that, “Candidate filing closed months ago. Over 1.2 million Missourians voted in the August 4 primary. Nominees have been selected. Campaigns for the general election are underway.” *Id.* ¶ 165. Also, the Circuit Court found that “revert[ing] Missouri to the plan the General Assembly repealed in HB 1 . . . would move hundreds of thousands of voters into different districts for the imminent 2026 general election compared to the districts in which they cast their ballots in the August primary elections.” *Id.* ¶ 20. The Circuit Court also found that “[t]hose voters would possess materially less voting power than voters whose districts remained the same.” *Id.* ¶ 146. The court further emphasized that “Plaintiff has not demonstrated how State officials could reverse course and implement some entirely new map, how nominees selected by voters in one set of districts would campaign in different ones, or how voters would make sense of a last-minute overhaul of the districts they just voted in.” *Id.* ¶ 165. In light of these findings, the Circuit Court “decline[d] to order an unprecedented remedy that is impossible to implement.” *Id.* ¶ 171.

Shockingly, the Missouri Supreme Court reversed and directly issued an injunction prohibiting the Secretary—“and all those acting in concert with him”—“from implementing, using, or mandating the use of the congressional redistricting in HB 1.” *Von Glahn v. Hoskins*, No. SC101805, slip op. at 13 (Mo. banc Sept. 3, 2026). Although the court provided no detail on *how* Missouri is to comply with its order, a footnote in the court’s opinion stated that Missouri must use “the congressional redistricting [plan] the General Assembly established in 2022.” *Id.* at 12.

The Missouri Supreme Court’s decision rested solely on state law. Indeed, the court suggested Secretary Hoskins was barred from even considering federal law in his certification decision. *Id.* at 5–6 & 5.³ Addressing state law, the court concluded that the Missouri Constitution

³ Confusingly, the Missouri Supreme Court then cited federal cases for the proposition that the Constitution did not prohibit States from employing referenda. *Id.* at 6. But no one was

clearly authorizes referenda on federal congressional maps. *Id.* at 7–8. And—entirely ignoring the State’s Elections Clause argument—the court concluded that it followed that a referendum petition submitted by around 3.3% of the State’s voters automatically voids a duly enacted congressional map and forces the use of a different map *before* a statewide vote. *Id.* The Missouri Supreme Court also entirely ignored the State’s argument that switching congressional maps between the Primary and General Elections would violate the U.S. Constitution and disenfranchise primary voters. *See* Brief for Sec’y Hoskins at 53–63, *Von Glahn v. Hoskins*, No. SC101805 (Mo. Aug. 27, 2026).

Even more bizarrely, the Missouri Supreme Court entirely ignored the Circuit Court’s finding that changing congressional maps would be “impossible” and force Missouri to violate the federal election calendar. Instead, the court explicitly eschewed any consideration of the “confusion, expense, and practical difficulties” that “may result” from its injunction. *Von Glahn v. Hoskins*, No. SC101805, slip op. at 12 n. 8. Any fallout, the court hinted, was justified by the need to punish Secretary Hoskins for using all allotted time to process the referendum under the state-law deadline. *See id.*

After ignoring the U.S. Constitution, the Missouri Supreme Court is now the first court—*ever*—to enjoin an entire congressional map four weeks after a *completed* primary election. Moreover, federal law requires voting to start in just *13 days*. *See* 52 U.S.C. § 20302. The State has informed the Supreme Court that—absent relief from a federal court—it cannot comply with both the Missouri Supreme Court’s order and the federal election calendar. *See* Application for Stay at 1–6, *Hoskins v. von Glahn*, No. 26A304 (Kavanaugh, J., Sept. 4, 2026). Across the State,

contesting that point in the case. The Missouri Supreme Court’s musings on that point are dictum—especially as the relevant discussion ended with an explicit holding under state law. *Id.* at 8.

Missouri election officials are scrambling to pick up the pieces. There is a public disagreement between election officials on whether it is even *possible* to switch the congressional map. *See, e.g.,* Jack Harvel, *Court ruling raises questions about Missouri primary winners under a different map*, KANSAS CITY STAR (Sept. 4, 2026).⁴ In light of the trial court’s finding that it will be “impossible” for Missouri election officials to change the congressional map, Judgment ¶ 170, *von Glahn*, No. 26AC-CC00440, the Secretary is gravely concerned that Missouri will be unable to conduct lawful congressional elections by November 3. Decl. Hoskins, Appendix, Application for Stay at 1667a–68a, *Hoskins v. von Glahn*, No. 26A304 (Kavanaugh, J., Sept. 4, 2026); *see also* U.S. Const. art. I, § 2, cl. 2 (requiring a congressional election “every second Year”); 2 U.S.C. § 7; 52 U.S.C § 20302(a)(8).

On September 4, just one day after the Missouri Supreme Court’s decision, the Secretary sought an emergency stay from the U.S. Supreme Court. Justice Kavanaugh has ordered Proposed Intervener *von Glahn* to respond by 12:00 EST on Monday, September 7.

Also on September 4, Plaintiffs filed this action. *See generally* Compl. Plaintiffs are two congressional candidates and two Missouri voters. *Id.* ¶¶ 1–10. The congressional candidates will—absent relief—be forced to run in dramatically different districts in the General Election than the Primary Election. The voters will be forced to vote for candidates in the General Election that they had no role in nominating in the Primary Election. Plaintiffs moved for a TRO and preliminary injunction the same day. ECF 2.

On September 5, Defendants filed a statement indicating that they agree that Plaintiffs are entitled to a TRO and preliminary injunction. ECF 11. Defendants take their obligation to defend state laws seriously. But under the extraordinary and unprecedented circumstances in this case,

⁴ <https://www.kansascity.com/news/politics-government/article317133985.html>.

Defendants believe their oath to comply with the U.S. Constitution prevents them from defending the use of a different congressional map for the General Election. *Cf. Nat'l Republican Senatorial Comm. v. FEC*, 146 S. Ct. 2404, 2413 (2026) (federal government concluding U.S. Constitution obliged them to concede that challenged law was unconstitutional).

Also on September 5, Proposed Interveners moved to intervene. ECF 12. Before the motion was filed, Defendants communicated that they take no position on the intervention motion.

On the evening of September 5, this Court issued an order for all parties to brief the applicability of the *Rooker-Feldman* doctrine, whether abstention doctrines apply, and how the State's pending emergency stay application at the Supreme Court could affect this case. ECF 13. The same evening, the Court ordered the parties to file any responses to Proposed Interveners' intervention and dismissal motions. ECF 14.⁵ This filing responds to both of the Court's orders.⁶

STATEMENT

1. Intervention

As Defendants indicated to Proposed Interveners on September 5, they take no position on the motion to intervene.

2. Adversity

Proposed Interveners fundamentally misunderstand the adversity doctrine. Defendants are *legally* adverse to Plaintiffs because Defendants cannot voluntarily provide the relief that they seek—due to the Missouri Supreme Court's state-law order. This case is thus nothing like *Muskraat v. United States*, 219 U.S. 346, 361 (1911) (parties not legally adverse).

⁵ Defendants thank the Court for acting so promptly on a holiday weekend. Missouri is facing unprecedented chaos in trying to run an imminent federal election.

⁶ This filing responds to two orders and is within the combined page limits of this Court's order and the local rules. Defendants are also filing a motion for leave to file excess pages in an abundance of caution.

Notably, this reality makes the parties *more* adverse than many other cases that routinely arise in the federal legal system. To give one recent example, the National Republican Senatorial Committee recently sued the Federal Elections Commission—arguing that a campaign finance statute was unconstitutional. *See Nat’l Republican Senatorial Comm.*, 146 S. Ct. at 2414. The federal government ultimately *agreed* with that position. *Id.* at 2413. Even though the federal government could have committed not to enforcing (and thus not injuring the plaintiffs), the Supreme Court proceeded to decide the case. *See id.* There are many other examples of similar cases where a governmental entity declines to defend a challenged law. *See, e.g., United States v. Windsor*, 570 U.S. 744, 760–61 (2013); *INS v. Chadha*, 462 U.S. 919, 939 (1983); *Seila Law LLC v. CFPB*, 591 U.S. 197, 209 (2020); *Bond v. United States*, 564 U.S. 211, 215–16 (2011). Unless the courts lacked jurisdiction in all those cases, Plaintiffs’ adversity position is wrong.

Proposed Interveners’ observation that Defendants and Plaintiffs agree on many legal questions—but not all, *see infra* at 24–25—is thus beside the point. Defendants are responsible with enforcing *Missouri’s* interest. *Cf. Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 539 (1972). While Defendants are appropriately concerned about their individual citizens—like Plaintiffs Ms. Thomas and Ms. Havens—from losing their federal right to vote, Proposed Interveners cite no precedent suggesting citizens cannot assert their own constitutional rights without the State speaking for them. And Defendants certainly do not represent the partisan interests of Plaintiffs Congressman Onder and Mr. Brattin, who care only about getting elected. Although Defendants and Plaintiff candidates may have overlapping *legal* views, they have distinct interests. *Cf. Trbovich*, 404 U.S. at 539. And again, Proposed Interveners cite no authority suggesting third parties should lose their federal constitutional rights merely because some other party lost on a state-law dispute in state court. Indeed “it would be a curious result if, in the

administration of justice, a person could be denied access to the courts because the Attorney General . . . agreed with the legal arguments asserted by the individual.” *Chadha*, 462 U.S. at 939.

Proposed Interveners also note that Plaintiffs have hired a lawyer involved in litigation at the Missouri Supreme Court. Defendants are unaware of any authority suggesting parties lose their federal rights merely because they hire a lawyer who lost on state-law issues in a separate case. Certainly, nothing in the adversity doctrine supports Proposed Interveners’ contrary insinuation.

One final point bears mentioning here. Aside from its narrow jurisdictional reach, the adversity doctrine also seeks to ensure there is “concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions.” *Windsor*, 570 U.S. at 760 (quoting *Baker v. Carr*, 369 U.S. 186, 204 (1962)). Proposed Interveners will “assure[]” such adversarial presentation. *Id.*; accord *Chadha*, 462 U.S. at 939. That is part of the reason Defendants are not objecting to Proposed Interveners being parties in this case.

3. Abstention Doctrines

Defendants are, frankly, confused by Proposed Interveners’ invocation of abstention doctrines. As a general matter, federal courts apply abstention doctrines narrowly. *See Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 813 (1976) (“Abstention from the exercise of federal jurisdiction is the exception, not the rule.”). The narrow purpose of abstention doctrines is to preserve the right of state courts to decide *state law* questions and *avoid* potential federal constitutional questions. *See England v. La. State Bd. of Med. Examiners*, 375 U.S. 411, 415–16 (1964). But here, Missouri’s state courts already had that opportunity. *See Von Glahn*, No. SC101805, slip op. at 13. Judge Bluestone already abstained last fall when Missouri brought

federal constitutional objections to Proposed Interveners’ referendum. *See Mo. Gen. Assembly*, 2025 WL 3514277, at *5. As he explained, the Missouri Supreme Court could have theoretically concluded—under state law—that referenda cannot proceed against federal congressional maps. *Id.*

The Missouri Supreme Court did not go down the path Judge Bluestone hypothesized when he abstained. Instead, the Missouri Supreme Court issued a conclusive determination of *state law* and *guaranteed* conflicts with the U.S. Constitution. *Von Glahn v. Hoskins*, No. SC101805, slip op. at 13 (Mo. banc Sept. 3, 2026). The Missouri Supreme Court also declined to address federal constitutional objections to its actions. *Id.* at 5–6 & n.5. State court proceedings in *von Glahn v. Hoskins* are now over. The Missouri Supreme Court denied rehearing. *Id.* at 14. It denied the motion for a stay. Order, *Von Glahn v. Hoskins*, No. SC101805 (Mo. banc Sept. 4, 2026). There is nothing more that any state court could do to avoid the necessity of a federal court resolving Plaintiffs’ claims.

Thus, it is clear that no abstention doctrine applies here. *Pullman* abstention does not apply because the Missouri Supreme Court has already issued a final, conclusive ruling on the Missouri Constitution and there is no further possibility that a state court could rely on state law to address Plaintiffs’ federal constitutional objections. There are thus no “available state remedies” Plaintiffs could pursue to vindicate their constitutional rights. *Beavers v. Ark. State Bd. of Dental Examiners*, 151 F.3d 838, 841 (8th Cir. 1998). Judge Bluestone gave Missouri’s courts a chance to avoid Plaintiffs’ constitutional claims; the Missouri Supreme Court conclusively rejected that opportunity. *See Von Glahn*, No. SC101805, slip op. at 13.

Younger abstention does not apply because there is no “parallel, pending state criminal proceeding,” “state civil proceeding[] that [is] akin to criminal prosecution[],” or proceeding “that

implicate[s] a State’s interest in enforcing the orders and judgments of its courts.” *Sprint Commc’ns, Inc. v. Jacobs*, 571 U.S. 69, 72–73 (2013). *Younger* extends “no further” that these three “exceptional circumstances.” *Id.* at 82. But even if *von Glahn v. Hoskins* could somehow be characterized as an enforcement proceeding, abstention would not be appropriate because—in the words of Proposed Interveners’ own cited authority—there are no “ongoing state proceedings” in this case. *Huffman v. Pursue Ltd.*, 420 U.S. 592, 605 (1975). And *Tony Alamo Christian Ministries v. Selig* is not relevant (among many reasons) because—at the time dismissal was warranted—there *were* ongoing state-court proceedings. 664 F.3d 1245, 1251 (8th Cir. 2012).

In any event, *Younger* abstention cannot apply because there is no “adequate opportunity to raise any relevant federal questions in the state proceeding.” Intervener Br. at 9 (quoting *Plouffe v. Ligon*, 606 F.3d 890, 892 (8th Cir. 2010)). The Missouri Supreme Court refused to address Secretary Hoskins’s federal arguments. *Von Glahn*, No. SC101805, slip op. at 5–6 & n.5. It certainly cannot do so at this point.

Finally, *Colorado River* abstention does not apply because there is no pending “parallel” state-court proceeding. Intervener Br. at 5. Once again, the Missouri Supreme Court has issued final judgment on all state-law questions. It denied rehearing. It denied a stay. Only *federal* legal questions are pending before a *federal* court—the U.S. Supreme Court—considering whether to address such questions in a *discretionary* review posture. Defendants are aware of *zero* authority suggesting a pending petition for discretionary relief before the Supreme Court bars a federal district court from considering federal constitutional claims. Rather, the opposite: “The possibility of appellate review by [the Supreme Court] of a state court determination may not be substituted, against a party’s wishes, for his right to litigate his federal claims fully in the federal courts. . . . ‘[A] party has the right to return to the District Court, after obtaining the authoritative state court

construction for which the court abstained, for a final determination of his claim.” *England*, 375 U.S. at 465–66 (citation omitted).

In short, Proposed Interveners’ position seems to boil down to the remarkable contention that individuals should not be allowed to bring federal claims in federal court because a state court issued a final judgment guaranteeing a conflict between federal and state law. Proposed Interveners see potential federal constitutional rulings as an “indirect attempt[] to undermine [a] state court decision[].” Intervener Br. at 6. But what Proposed Interveners are *actually* unhappy about is the Supremacy Clause—which requires state law to give way when it conflicts with federal constitutional rights. U.S. Const. art. VI, cl. 2. The Court thus cannot abstain.

4. *Rooker-Feldman* Doctrine

The *Rooker-Feldman* doctrine does not apply here—for at least two reasons. *First*, the *Rooker-Feldman* doctrine does not apply because Plaintiffs were not parties in the Missouri Supreme Court proceedings. *See Lance v. Dennis*, 546 U.S. 459, 466 (2006). *Rooker-Feldman* is “not simply preclusion by another name.” *Id.* It is straightforward why the *Rooker-Feldman* doctrine does not apply here. It would make no sense to say that individuals lose their right to bring federal constitutional rights in federal court because separate individuals lost state-law arguments in a state court. And under materially identical circumstances to the present case, the Supreme Court so held. *See id.*

In *Lance*, after the Colorado legislature had performed a mid-decade redistricting, the state attorney general sued the secretary of state seeking to require the use of the previous redistricting map. *Id.* at 460. The Colorado Supreme Court construed the Colorado Constitution “to limit congressional redistricting to ‘once per decade’” and “ordered the secretary of state to use the [previous plan].” *Id.* at 460–61 (quoting *People ex rel. Salazar v. Davidson*, 79 P.3d 1221, 1231

(2003) (en banc)). Following the *Salazar* decision, four Coloradans, “unhappy with [the decision,] filed an action in the District Court seeking to require the secretary of state to use the legislature’s [new redistricting] plan.” *Id.* at 461. Those plaintiffs “argued that [the Colorado Constitution], as interpreted by the Colorado Supreme Court, violated the Elections Clause of Article I, § 4, of the U.S. Constitution.” *Id.* The Supreme Court held that the citizen-plaintiffs “were plainly not parties to the underlying state-court proceeding” and were thus “not in a ‘position to ask this Court to review the state court’s judgment.’” *Id.* at 465 (quoting *Johnson v. De Grandy*, 512 U.S. 997, 1006 (1994)). Thus, *Rooker-Feldman* did not bar that federal action. *Id.* at 466. And this was true even though the secretary of state was the defendant in both the original state suit and the federal suit. *See id.* at 460–61 & n.1.

Proposed Intervener’s contrary position would rob many voters and candidates of their right to bring federal claims in federal court after the State lost a case in state court. And such a holding would violate the Due Process Clause, which generally prohibits judgments from extinguishing absent third parties’ claims. *See Taylor v. Sturgell*, 553 U.S. 880, 884–85 (2008).

Second, even if Proposed Interveners’ privity exception held water, no party is asking this Court to reconsider any holding of the Missouri Supreme Court. That court decided *state-law* questions. Even though Secretary of State Hoskins made federal constitutional arguments to that court, the court simply ignored those arguments and declined to rule on them. For example, Secretary Hoskins argued that an order to switch Missouri’s congressional map between the Primary and General Elections would violate the U.S. Constitution. *See* Brief for Sec’y Hoskins at 53–63, *Von Glahn v. Hoskins*, No. SC101805 (Mo. Aug. 27, 2026). The Missouri Supreme Court simply ignored that argument.

Proposed Interveners are thus wrong when they say that Plaintiffs are seeking to re-litigate matters decided by the Missouri Supreme Court. Intervener Br. at 6–7. Frankly, there is no meaningful overlap. The Missouri Supreme Court issued the following holdings: (1) a state-law holding that the Missouri Constitution authorizes referenda against congressional maps; and (2) a state-law holding that Missouri may not use the same congressional map it used during the Primary Election *because of state law*. *Von Glahn*, No. SC101805, slip op. at 11, 13. By contrast, Plaintiffs ask the Court to decide only *federal* questions: (1) whether the Elections Clause prohibits displacing the HB 1 congressional map, Compl. ¶¶ 50–73, and (2) whether Missouri would violate the U.S. Constitution if it uses a different congressional map for the General Election than it used during the Primary Election, *id.* ¶¶ 74–109. If the Court drew Venn Diagrams, the circles would not even touch.

5. *Purcell* Principle

Proposed Interveners’ position here is, frankly, astounding. They obtained a state-court judgment to change Missouri’s governing congressional map *after* the 2026 Primary Election and a couple weeks before the start of voting in the 2026 General Election. Because of their efforts, Missouri is facing unprecedented and catastrophic harms as it will imminently be forced to violate the federal election calendar, *see* 52 U.S.C. § 20302; Decl. Hoskins, Appendix, Application for Stay at 1667a–68a, *Hoskins v. von Glahn*, No. 26A304 (Kavanaugh, J., Sept. 4, 2026), and election officials are scrambling to figure out whether it is even possible to comply with the Missouri Supreme Court’s order. Indeed, a state trial court found it would be “impossible” to switch congressional maps, Judgment ¶ 170, *von Glahn*, No. 26AC-CC00440—a finding the Missouri Supreme Court simply ignored. Proposed Interveners’ invocation of *Purcell* is thus equivalent to an arsonist objecting that a water hose would prevent him from continuing to burn down a house.

Unsurprisingly, the Supreme Court rejected an invocation of *Purcell* in virtually identical circumstances. In *Malliotakis v. Williams*, New York state courts relied on *state law* to change a congressional map several months before an upcoming primary election. 146 S. Ct. 809, 810–11 (2026). A candidate believed this state-law ruling violated her federal law rights. So she sought relief from the Supreme Court—which granted a stay. *Id.* at 809. The Supreme Court granted relief even though New York invoked *Purcell* and argued it was too late for a federal court to switch back a rule that a state court had just changed. *See id.* at 811. But as Justice Alito’s concurrence explained, the Court’s “stay, far from causing disruption or upsetting legitimate expectations, eliminates much of the uncertainty and confusion that would exist if the [New York] Independent Redistricting Commission proceeded to draw a new district that this Court would likely strike down if the cases reached us in time.” *Id.* at 811.

This case is far easier than *Malliotakis*. There, New York’s Primary Election was scheduled to begin four months after the Court granted the stay. *See id.* at 816 (Sotomayor, J., dissenting from grant of stay). The Supreme Court has recognized that a state court changing a congressional map before a Primary—as occurred in *Malliotakis*—is disruptive. *Id.* at 810–11 (Alito, J., concurring in grant of stay). Certainly changing a map after the Primary is far worse. And here, voting for the 2026 General Election begins in just 13 days—three-and-a-half months less time than existed before the Primary Election in New York.

6. The Anti-Injunction Act

The Anti-Injunction Act does not bar Plaintiffs’ suit because Plaintiffs are not asking for an injunction against any pending state court proceeding. They are asking for an injunction against Missouri changing its congressional map and putting Proposed Interveners’ referendum on the ballot. Compl. at 26 (prayer for relief). They are not asking for an injunction that interferes with

any “step[] taken or which may be taken in the state court or by its officers.” Intervener Br. at 10 (quoting *Hill v. Martin*, 296 U.S. 393, 403 (1935)). Once again, there is no pending state court proceeding that could possibly be interfered with.

7. Res Judicata and Collateral Estoppel

Proposed Interveners are simply wrong when they claim the Missouri Supreme Court decided Plaintiffs’ federal constitutional claims. To the contrary, that court (wrongly) suggested that federal claims were not before it because state law only allowed Secretary Hoskins to consider state law in rejecting the referendum. *Von Glahn*, No. SC101805, slip op. at 5–6 & n.5.

The Missouri Supreme Court did proceed to discuss a proposed clear-statement rule. But the Missouri Supreme Court was discussing a potential *state-law* clear statement rule, and it found any such rule satisfied. *Id.* at 7–8. The Missouri Supreme Court could not have been addressing a proposed federal Elections Clause clear statement rule. Indeed, that court did not even *mention* the State’s primary proposed federal legal authority—*United States v. Gradwell*, 243 U.S. 476 (1917). And whatever *state-law* clear statement rules entail, federal-law clear statement rules have their own requirements. One of them is that vague, open-ended phrases using broad words like “any”—which is the word the Missouri Constitution’s referendum provision employs—are *not enough* to satisfy a clear statement rule. *See id.* at 479–90; *see also Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 220 n.4 (2008).

The Missouri Supreme Court also did not address whether a State violates the Elections Clause when it allows 3.3% of registered voters to unilaterally void an enacted congressional map by merely submitting signatures—before any statewide vote. The State prominently briefed and orally argued that point, *see* Brief for Sec’y Hoskins at 49–52, *Von Glahn v. Hoskins*, No. SC101805 (Mo. Aug. 27, 2026), but the Missouri Supreme Court did not even mention it.

And the Missouri Supreme Court did not even mention—let alone decide—the State’s argument that switching congressional maps between the Primary and General Election would violate the U.S. Constitution. Nothing. Such cavalier treatment of federal constitutional claims is, frankly, shocking. It cannot foreclose this Court from considering federal legal questions.

8. Standing

Proposed Interveners’ observations here are (again) downright bizarre. They seem to be saying that federal candidates have no legally protected interest in challenging the congressional districts they run in. *Contra Bost v. Ill. State Bd. of Elections*, 607 U.S. 71, 77–79 (2026). This is so, Proposed Interveners claim, because the Missouri Supreme Court adopted a legal fiction that the HB 1 map used in the Primary Election must be deemed *retroactively invalid*.

To start, this legal fiction makes no sense even on its own terms. The Missouri Supreme Court in *Maggard* held that—under state law—a referendum petition cannot freeze a law enacted by the General Assembly and signed by the Governor *until* it is certified. *Maggard*, 733 S.W.3d at 419–20. When the Primary Election occurred in Missouri, the referendum petition was not certified. Therefore, in the real world, when the Primary Election happened, the HB 1 map was in effect.

But more importantly, the Missouri Supreme Court’s *state-law fiction* does not really matter here. This is a federal court. This Court hears federal legal claims. All agree that Plaintiff candidates *did run* under the House Bill 1 map in the Primary Election. And all agree that Missouri is currently poised to force Plaintiff candidates to run in dramatically different districts in the General Election. Plaintiff candidates obviously have standing to challenge that decision. *Bost*, 607 U.S. at 77–79. Retroactive state-law legal fictions cannot insulate state actions from federal judicial review.

9. The Elections Clause

Proposed Interveners are wrong about the Elections Clause—in at least two respects. *First*, the Missouri Constitution does not provide a “positive and clear” statement subjecting federal congressional maps to referenda. *Gradwell*, 243 U.S. at 485.

All Proposed Interveners point to is vague, open-ended language that does not specifically address federal redistricting. That is simply not good enough to satisfy a federal clear-statement rule. In *Gradwell* itself, the criminal statute at issue prohibited conspiracy “to defraud the United States in *any* manner for *any* purpose.” *Id.* at 479 (emphasis added). Yet despite the broad statutory language, the Supreme Court applied the Election Clause’s clear statement rule and held that “it would be a strained and unreasonable construction to apply” the criminal statute to election fraud because that would undermine state legislative authority. *Id.* at 485.

The fact that Missouri law is clearly not equipped to facilitate referenda on congressional redistricting plans reinforces the lack of a clear statement. According to state law, voters considering referenda must do so with only a 100-word summary statement and no pictures. Mo. Rev. Stat. § 116.334.1. Proposed Interveners thus expect Missourians to vote on congressional plans without knowing which counties go in which districts or even which district they would be in. That is absurd. Further, all agree that the Secretary of State has until the day of the Primary Election to make a certification decision on a proposed referendum. *See id.* § 116.150.3. That obviously makes no sense for a redistricting referendum—as this case acutely instructs.

Second, the Elections Clause does not permit a tiny minority of registered voters to unilaterally void an enacted congressional map before a statewide vote. The U.S. Constitution’s Elections Clause states that “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof.” U.S. Const. art. I,

§ 4, cl. 1. Yes, the Supreme Court has rejected the position that *only* state legislatures can be involved in redistricting. It has employed a history-and-tradition approach to uphold state-court judicial review and the gubernatorial veto, both of which co-existed with state legislative authority over federal elections since the founding. *See Moore v. Harper*, 600 U.S. 1, 24–25 (2023); *Smiley v. Holm*, 285 U.S. 355, 368 (1932). More controversially, the Supreme Court sanctioned statewide referenda votes (at least when state law clearly requires them) and independent redistricting commissions. *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n (“AIRC”)*, 576 U.S. 787, 824 (2015).

But the Supreme Court has *never* sanctioned the profoundly anti-democratic arrangement greenlighted by the Missouri Supreme Court under state law. Allowing a small minority of Missourians to unilaterally override the People’s elected representatives in the General Assembly for an election cycle *before* a statewide vote is implausible. And *AIRC*’s logic—which rested substantially on the notion of strengthening democracy, *see* 576 U.S. at 797–98; *id.* at 816–17; *id.* at 822–24 —actually undercuts Proposed Interveners’ defense of an anti-democratic system where small minorities of voters can unilaterally void congressional maps.

Nor does *Ohio ex rel. Davis v. Hildebrandt*, 241 U.S. 565 (1916), support this outlandish arrangement. As Chief Justice Roberts has explained, “[t]he result of the decision was to send *the Ohio Legislature* back to the drawing board to do the redistricting.” *AIRC*, 576 U.S. at 840 (Roberts, C.J., dissenting). *Hildebrant* certainly did not address an attempt by a small minority of voters to unilaterally void a congressional map for an election cycle.

If that arrangement complies with federal law, then it is hard to see what’s left of the Elections Clause. Under Proposed Intervener’s theory, a State could simply empower the Chairman of one of its political parties to unilaterally draw a congressional map. Or perhaps

Missouri could just allow Mr. von Glahn to unilaterally void a map at his discretion—even three days before a general election—by signing a piece of paper. Proposed Interveners’ theory proves far too much and is not supported by precedent.

10. Whether changing congressional maps between the Primary and General Elections Violates the Constitution

This question is not hard. The U.S. Constitution protects a right to vote—including in primary elections. *United States v. Classic*, 313 U.S. 299, 318 (1941). Although the precise bounds of the Constitution’s right to vote are contested, *see Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 189–91 (2008) (plurality op.), it obviously prohibits rendering hundreds of thousands of primary votes absolutely pointless, *see United States v. Mosley*, 238 U.S. 383, 386 (1915) (right to vote protects having ballots given legal effect).

That is what Missouri must do absent a federal court order. The voter Plaintiffs illustrate this dilemma. They voted in very different districts in the Primary Election than they would in the General Election. Now Missouri must force them to vote for General Election candidates they had no role in nominating. That bait-and-switch is unconstitutional. *See Classic*, 313 U.S. at 318; *Mosley*, 238 U.S. at 386; *Crawford*, 553 U.S. at 189–91 (plurality op.).

Additionally, the Equal Protection Clause forbids weighting the votes of some Missourians “more heavily” than others. *Gray v. Sanders*, 372 U.S. 368, 379 (1963). “Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their occupation, whatever their income, and wherever their home may be in that geographical unit.” *Id.* (emphasis added). “This is required by the Equal Protection Clause of the Fourteenth Amendment. The concept of ‘we the people’ under the Constitution visualizes no preferred class of voters but equality among those who meet the basic qualifications.” *Id.* at 379–80. That rule is violated here

because—absent relief—the hundreds of thousands of Missourians moved to new districts will have their votes diluted in favor of those voters not moved into new districts.

Proposed Interveners’ contrary responses fail. 2 U.S.C. § 2 merely empowers States to run federal elections consistent with state law. This statute does not (and cannot) authorize Missouri to disenfranchise hundreds of thousands of people. And the Missouri Supreme Court’s state-law fiction about retroactively disappearing maps cannot justify violating federal constitutional rights.

11. 3-Judge Panel

This case does not fall within 28 U.S.C. § 2284(a). Plaintiffs are not challenging the constitutionality of an apportionment enacted by the General Assembly. They are arguing that referenda on congressional maps in Missouri violate the Elections Clause and that ordering Missouri to switch to an old map between elections violates the Constitution. No one is challenging the underlying constitutionality of any apportionment plan, and thus § 2284(a) does not apply here.

12. Improper Defendant

Defendants plan to file a motion to dismiss the State of Missouri as a defendant. Missouri is “immune from suit under the terms of the Eleventh Amendment and the doctrine of sovereign immunity.” *Whole Woman’s Health v. Jackson*, 595 U.S. 30, 39 (2021). In the interim, Defendants respectfully request that the Court not grant any injunctive relief against the State of Missouri itself. Defendants acknowledge that Plaintiff’s constitutional claims for equitable relief may proceed against the state officer Defendants. *See Ex parte Young*, 209 U.S. 123, 159–60 (1908).

13. Impact of the Pending Stay Application

Finally, the Court asked Defendants to address the potential impact of Secretary Hoskins’s stay application before the Supreme Court. The answer is straightforward.

If the Supreme Court grants the stay, Plaintiffs’ claim for a TRO or preliminary injunctive relief under Counts II and III (§§ 74–109) is moot. The fate of Count I (§§ 50–73) depends on the scope of the stay. Secretary Hoskins did not ask the Supreme Court to stay the Missouri Supreme Court’s order to put Proposed Interveners’ referendum *on the ballot*; he only asked for a stay of the injunction to switch congressional maps. Application for Stay at 1–6, *Hoskins v. von Glahn*, No. 26A304 (Kavanaugh, J., Sept. 4, 2026). If the Supreme Court only grants that requested stay, Count I remains a live claim because Plaintiffs request broader relief—barring the referendum from the ballot. Notably, the Intervener-Defendants in *von Glahn v. Hoskins* asked for a stay of the Missouri Supreme Court’s entire order—including putting the referendum on the ballot. *See* Brief for Republican Nat’l Comm. in Support of Application for Stay at 18–29, No. 26A304 (Kavanaugh, J., Sept. 4, 2026). If the Supreme Court grants that broader stay, Plaintiffs’ request for temporary or preliminary injunctive relief under Count I would be moot.

If the Supreme Court denies the stay, nothing in this case is moot. The Supreme Court could deny the stay for a host of reasons—many of which would not even suggest that this case fails on the merits. For example, the Supreme Court considers certworthiness in granting stays. *See Does 1-3 v. Mills*, 142 S. Ct. 17, 17–18 (2021) (Barrett, J., concurring in the denial). A stay denial on that basis (and many other types) would not suggest Plaintiffs here are unlikely to succeed on the merits.

Dated: September 6, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2026 the foregoing was filed electronically through the Court's electronic filing system to be served electronically on counsel for all parties.

/s/ Louis J. Capozzi III

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

CONGRESSMAN ROBERT “BOB”	)	
ONDER, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 4:26-cv-01424-SRC
	)	Oral Argument Requested
STATE OF MISSOURI <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**PROPOSED INTERVENOR-DEFENDANTS’ MOTION TO INTERVENE AS
DEFENDANTS**

Pursuant to Federal Rules of Civil Procedure 24(a)(2) and 24(b)(1)(B), Proposed Intervenor-Defendants People Not Politicians (“PNP”) and Richard von Glahn (collectively, “Proposed Intervenor”) respectfully move this Court for leave to intervene as defendants. In support of this Motion, Proposed Intervenor state as follows:

1. Plaintiffs filed this action on September 4, 2026, challenging the Missouri Supreme Court’s unanimous September 3, 2026 decision in *Von Glahn v. Hoskins*, No. SC101805 (Mo. banc Sept. 3, 2026). *Von Glahn v. Hoskins* held that the Missouri Constitution authorizes a referendum on the congressional redistricting legislation House Bill 1 (“HB 1”), ordered the Secretary of State to place the referendum on the November 2026 ballot and to refrain from implementing HB 1 unless and until voters approve it. Plaintiffs seek a temporary restraining order and preliminary injunction requiring the Missouri Secretary of State to use the HB 1 congressional map for the November 3, 2026 general election.

2. PNP is the organization that collected over 300,000 signatures from Missouri voters and submitted the referendum petition on HB 1 to the Missouri

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Secretary of State on December 9, 2025. Richard von Glahn is PNP's executive director, a Missouri citizen, St. Louis County resident, taxpayer, and qualified voter who submitted the petition on PNP's behalf, challenged the Secretary of State's certificate of insufficiency in state court, and was the prevailing party in *von Glahn v. Hoskins*.

3. The Defendant State of Missouri itself has recognized that PNP and von Glahn are the real parties in interest in any dispute over the referendum on HB 1: in October 2025, the Missouri General Assembly, Secretary of State Hoskins, and the State of Missouri filed a federal lawsuit in this Court naming von Glahn and PNP as the sole defendants, seeking to enjoin them from pursuing the referendum. *See Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535-ZMB (E.D. Mo.).

4. Proposed Intervenors have a direct, substantial, and legally protectable interest in this action that may be impaired if intervention is not granted. They are the parties who prosecuted the underlying state court action, obtained the Missouri Supreme Court judgment that Plaintiffs seek to enjoin, and whose constitutional rights under the Missouri Constitution—including the right to a referendum on legislative acts—are at stake. If Plaintiffs prevail, the judgment in *von Glahn v. Hoskins* will be effectively nullified, and the referendum for which PNP collected over 300,000 signatures will have no meaningful effect on the November 2026 election.

5. The existing defendants—the State of Missouri and Secretary of State Denny Hoskins—cannot adequately represent Proposed Intervenors' interests. The Secretary of State *opposed* PNP's referendum petition, issued a certificate of insufficiency, and is currently seeking a stay of the Missouri Supreme Court's decision at the United States Supreme Court. *See Hoskins v. von Glahn*, No. 26A304 (U.S.).

6. Moreover, Plaintiffs' counsel in this case simultaneously filed a brief at the Supreme Court of the United States supporting the Secretary's stay application, raising serious doubts that a genuine adversarial proceeding exists in this action among the present parties. *See United States v. Johnson*, 319 U.S. 302, 305 (1943).

7. Without Proposed Intervenor, no party before this Court will present a defense of the Missouri Supreme Court's judgment—a deficiency that implicates both the adequacy of representation and Article III's case-or-controversy requirement.

8. This Motion is timely. The Complaint was filed only yesterday, September 4, 2026, and this Motion is being filed at the earliest possible stage of the proceedings.

9. In accordance with Federal Rule of Civil Procedure 24(c), Proposed Intervenor has attached hereto a proposed Motion to Dismiss.

10. The grounds for intervention are set forth more fully in the accompanying Memorandum of Law in Support of this Motion, filed contemporaneously pursuant to E.D. Mo. Local Rule 4.01(A).

11. Given the pending motion for a temporary restraining order and preliminary injunction, Proposed Intervenor respectfully request that the Court grant this Motion on an expedited basis and before ruling on Plaintiffs' motion for a temporary restraining order and preliminary injunction, so that Proposed Intervenor may be heard. A federal court should not enjoin a state supreme court's unanimous judgment without hearing from the parties who obtained it—especially where the existing defendants are not defending that judgment.

WHEREFORE, Proposed Intervenor-Defendants People Not Politicians and Richard von Glahn respectfully request that this Court grant their Motion to Intervene as

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Defendants, accept their proposed Motion to Dismiss for filing, and grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2026, I electronically filed the foregoing using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Charles W. Hatfield

Charles W. Hatfield

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

CONGRESSMAN ROBERT “BOB”	)	
ONDER, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 4:26-cv-01424
	)	
STATE OF MISSOURI <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**MEMORANDUM OF LAW IN SUPPORT OF PROPOSED
INTERVENOR-DEFENDANTS' MOTION TO INTERVENE**

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This Court needs an intervenor to fully defend the state law about which Plaintiffs complain and these Intervenorors have the right to do that. A few days ago, in *von Glahn v. Hoskins*, No. SC101805 (Mo. banc Sept. 3, 2026), the Missouri Supreme Court was called upon to interpret Missouri law and unanimously held that the Missouri Constitution authorizes a referendum on House Bill 1 (“HB 1”), the congressional redistricting bill, and ordered the Secretary of State to place the referendum on the November 2026 ballot. The Court said: “HB 1 is not the law and has never been the law. There is only one valid congressional redistricting in effect—the congressional redistricting the General Assembly established in 2022.” *Von Glahn v. Hoskins*, No. SC101805, slip op. at 12 n.8 (Mo. banc Sept. 3, 2026).

Given this, the Court ordered Defendant Hoskins and all those acting in concert with him to refrain from implementing the HB 1 map for the general election. The Court also pointed out that it had much earlier advised the Secretary of State that the HB 1 districts might not be the law. “In two separate cases in May, this Court stated it could not determine whether the congressional redistricting in HB 1 was in effect until the secretary issued his certification and the judicial review authorized by the General Assembly was complete. *Maggard*, 733 S.W.3d at 419-20; *NAACP*, 734 S.W.3d at 341 n.4.” *von Glahn* at 12. This action asks this federal district court to override those rulings of the Missouri Supreme Court.

Proposed Intervenorors von Glahn and PNP are the parties who obtained the judgment now under attack. PNP organized the referendum petition and collected over 300,000 signatures. von Glahn, PNP’s executive director, filed the petition with the Secretary of State, challenged the Secretary’s certificate of insufficiency, and prevailed

before the Missouri Supreme Court as the named plaintiff. No non-party has a more direct interest in defending that judgment.

And it should be clear that the existing defendants will not do so. The Secretary of State is currently asking the United States Supreme Court to stay the very ruling he would nominally defend here. *See Hoskins v. von Glahn*, No. 26A304 (U.S.). His filings with the Supreme Court call the Missouri ruling “bizarre” and “profoundly anti-democratic.” Hoskins Emergency Application for Stay and Administrative Stay Pending Appeal at 12. And his position is deep-rooted. The Defendant State of Missouri and Hoskins previously sued to prevent Proposed Intervenors from even delivering the referendum petition to Defendant Hoskins. *Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535 (E.D. Mo. Oct. 15, 2025). As detailed below and in Proposed Intervenors’ Motion to Dismiss, the circumstances of this case raise serious questions about whether a genuine adversarial proceeding exists. As presently constituted, no party before this Court will present a defense of the Missouri Supreme Court’s judgment or the requirements of Missouri law—a deficiency that implicates both the adequacy of representation and Article III’s case-or-controversy requirement. Intervention should be granted as of right or, in the alternative, by permission of the Court.

BACKGROUND

On September 12, 2025, the Missouri General Assembly passed HB 1 in a special session, redrawing Missouri’s eight congressional districts. (*See* Compl. ¶ 15.) Governor Kehoe signed HB 1 into law on September 28, 2025. (*See* Compl., Ex. 2 at 1.) On December 9, 2025, PNP, through its executive director Richard von Glahn, submitted a referendum petition on HB 1 to the Secretary of State, seeking to suspend HB 1’s

effectiveness and place it before Missouri voters for approval or rejection. *See* Compl., Ex. 3 at 2.)

The State of Missouri itself has recognized that PNP and von Glahn are the real parties in interest in any dispute over the referendum on HB 1. On October 15, 2025, the Missouri General Assembly, Secretary of State Hoskins, and the State of Missouri filed suit in this Court naming von Glahn and PNP as the sole defendants, seeking to enjoin them from pursuing the referendum. *See Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535-ZMB (E.D. Mo.). In that action, the State alleged that “Defendants Richard von Glahn and People Not Politicians[] have initiated a referendum process that would strip the General Assembly of its authority over redistricting” and sought “to prevent Defendants from unconstitutionally usurping the General Assembly’s vested authority.” (Compl. ¶¶ 1, 11, *Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535 (E.D. Mo. Oct. 15, 2025).)

The State simultaneously moved for a preliminary injunction targeting von Glahn and PNP specifically, arguing that “Defendants are attempting to transfer the General Assembly’s authority over federal redistricting to a referendum vote.” (Mem. in Supp. of Mot. for Prelim. Inj. at 1, *Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535 (E.D. Mo. Oct. 15, 2025).) The State’s own prior pleadings establish that PNP and von Glahn are the indispensable parties to any litigation over the referendum on HB 1. The federal district court dismissed that action on ripeness and abstention grounds in December 2025, and the State and Hoskins chose not to appeal.

On November 24, 2025, Plaintiffs’ current counsel filed an amicus brief in the 2025 federal action on behalf of the Missouri Republican State Committee, supporting the Defendant State of Missouri’s motion for a preliminary injunction against von Glahn

and PNP. (See Amicus Br. of Mo. Republican State Comm., *Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535-ZMB (E.D. Mo. Nov. 24, 2025).) The same counsel then represented the Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee as intervenors-respondents before the Missouri Supreme Court in *von Glahn v. Hoskins*.

On August 4, 2026—the date of Missouri’s congressional primary elections, and the statutory deadline for the Secretary’s certification decision, see § 116.150.3, RSMo—Secretary of State Denny Hoskins issued a certificate of insufficiency, finding “the referendum petition is insufficient under the Missouri Constitution because the Missouri Constitution does not authorize a referendum on congressional redistricting plans passed by the General Assembly.” (Compl., Ex. 3 at 1-2.); (see also Compl. ¶ 25.) Von Glahn challenged that certification the same day in the Circuit Court of Cole County, Missouri, under § 116.200.1, RSMo. (See Compl., Ex. 3 at 1-2.) The circuit court upheld the Secretary’s certification. (See Compl., Ex. 3.)

On appeal, the Missouri Supreme Court reversed. In its unanimous September 3, 2026 decision in *von Glahn v. Hoskins*, No. SC101805 (Mo. banc Sept. 3, 2026), the Court held that Article III, Section 49 of the Missouri Constitution authorizes a referendum on “any act of the general assembly,” including congressional redistricting legislation, and that “no exception applies.” (Compl. Ex 3 at 1.) The Court noted that the U.S. Supreme Court “has held on multiple occasions the United States Constitution permits a state to authorize a referendum as to legislation drawing new congressional districts,” citing, *inter alia*, *Ohio ex rel. Davis v. Hildebrandt*, 241 U.S. 565, 569 (1916). (*Id.* at 5.) The Court ordered the Secretary to issue a certificate of sufficiency, to place the referendum on the November 2026 ballot, and to refrain from implementing or

mandating the use of the HB 1 map for the November 3, 2026 general election “unless and until HB1 is approved by the voters.” (*Id.* at 12–13.)

On September 3, 2026, the Attorney General applied to the Missouri Supreme Court for a stay of its decision. The Missouri Supreme Court denied the stay application on September 4, 2026. (*See* Compl. ¶¶ 43–44.) The Secretary of State has now filed an emergency application for a stay with the United States Supreme Court. *See Hoskins v. von Glahn*, No. 26A304 (U.S.). The Intervenor-Respondents—the Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee—have filed a brief supporting the Secretary’s stay application. *See id.*

Plaintiffs filed this action on September 4, 2026—within hours of the Missouri Supreme Court’s denial of the stay—seeking a temporary restraining order and preliminary injunction requiring the Secretary to use the HB 1 map for the November 2026 general election. (*See* Compl. ¶¶ 50–93; Mot. for TRO & Prelim. Inj.) Plaintiffs do not appear to allege that the Secretary actually intends to use the HB 1 maps (i.e. that he will drop his request to the United States Supreme Court) or that he will take any other action that will injure them. Plaintiffs’ claims directly challenge the Missouri Supreme Court’s decision in *von Glahn*, alleging it violates the Elections Clause, U.S. Const. art. I, § 4, cl. 1, Article I, Section 2, and the Equal Protection Clause of the U.S. Constitution. (*See* Compl. ¶¶ 50–93.)

There’s good reason for that. Plaintiffs appear to be fully aligned with Intervenor-Respondents in *von Glahn*. Plaintiff Pat Thomas is a former official with the Missouri Republican Party, delegate to the 2016 Republican National Convention, and current

staff member to a Missouri state senator.¹ Plaintiff Debra Havens is also intimately involved in Missouri Republican Party operations. She currently serves as the chair of the Maries County Republican Party.² And goes without saying that Plaintiffs Onder and Brattin's interests are aligned with Defendants. They are current Republican candidates for Congress.

ARGUMENT

I. THE COURT SHOULD GRANT INTERVENTION AS OF RIGHT UNDER RULE 24(a)(2).

Federal Rule of Civil Procedure 24(a)(2) permits intervention by anyone who “claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.” The Eighth Circuit applies a four-factor test: (1) timeliness, (2) a recognized interest in the subject matter, (3) the possibility that the interest may be impaired, and (4) inadequate representation by existing parties. *South Dakota ex rel. Barnett v. U.S. Dep’t of Interior*, 317 F.3d 783, 785 (8th Cir. 2003). Rule 24 is to be construed liberally, and doubts resolved in favor of the proposed intervenor. *Turn Key Gaming, Inc. v. Ogallala Sioux Tribe*, 164 F.3d 1080, 1081 (8th Cir. 1999); see also *Nat’l Parks Conservation Ass’n v. U.S. E.P.A.*, 759 F.3d 969, 975 (8th Cir. 2014). This liberal construction applies with particular force in redistricting cases. In addition to the

¹ See <https://showme.missouri.edu/2023/mizzou-alumni-association-recognizes-luetkemeyer-and-thomas-with-geyer-award/>; <https://www.newstribune.com/news/2023/jan/09/jefferson-city-woman-embraces-jobs-ability-to/>; https://ballotpedia.org/Pat_Thomas; <https://missouriindependent.com/2021/11/04/missouri-redistricting-panels-feature-party-leaders-political-pros-activists/>.

² <https://missouri.gop/your-local-gop/>.

normal liberal construction, the Western District of Missouri has recognized, “redistricting cases seem typically to follow the exception rather than the general rule” regarding presumptions of adequate representation by state defendants, because intervention in such cases is “necessary as a check on the possible intrusion of partisan interests.” *Nash v. Blunt*, 140 F.R.D. 400, 402 (W.D. Mo. 1992). Each factor favors intervention here.

A. This Motion Is Timely.

This Motion is timely. Timeliness is determined by considering “all of the circumstances,” with particular attention to: (1) how far the proceedings have progressed; (2) the proposed intervenor’s reason for delay in seeking intervention; and (3) the possible prejudice to the parties already in the proceedings if the court allows intervention. *Jenkins v. Missouri*, 78 F.3d 1270, 1273–74 (8th Cir. 1996). Courts also consider the prospective intervenor’s knowledge of the litigation. *ACLU of Minnesota v. Tarek ibn Ziyad Acad.*, 643 F.3d 1088, 1094 (8th Cir. 2011). All three factors are easily met here.

First, the proceedings have barely begun: Plaintiffs filed their Complaint on September 4, 2026. This Motion is being filed the next day, before any responsive pleading is due and before any ruling on Plaintiffs’ emergency motion. Second, there has been no delay whatsoever; Proposed Intervenors are seeking intervention at the earliest possible stage. Third, no party can claim prejudice from intervention at this stage. The knowledge-of-the-litigation consideration also supports timeliness because Proposed Intervenors acted immediately upon learning of this action. *See United States v. Union Elec. Co.*, 64 F.3d 1152, 1158–59 (8th Cir. 1995) (timeliness assessed in light of totality of circumstances).

B. Proposed Intervenorors Have a Direct, Legally Protectable Interest.

PNP and von Glahn have a direct, legally protectable interest in this litigation. They organized and collected over 300,000 signatures in support of the referendum petition on HB 1. von Glahn filed the petition with the Secretary of State, challenged the Secretary's certificate of insufficiency in state court, and personally prevailed before the Missouri Supreme Court in the very decision that Plaintiffs now ask this Court to effectively nullify. There was no dispute that he had standing to obtain that judgment.

A “direct, substantial, legally protectable interest” satisfies the Rule 24(a)(2) standard. *Barnett*, 317 F.3d at 785. Courts routinely grant intervention in redistricting cases to parties with direct stakes in the outcome. *See Berry v. Ashcroft*, No. 4:22-CV-00465-JAR, 2022 WL 1540287 (E.D. Mo. May 16, 2022) (granting intervention to proposed intervenors who had pursued parallel state court redistricting proceedings and had direct interests in the redistricting outcome). The interest here is beyond dispute: Proposed Intervenorors are the very parties who prosecuted the underlying state court action, obtained the judgment now under attack, and whose constitutional rights under the Missouri Constitution—including the right to a referendum on legislative acts—are at stake.

The State of Missouri has itself confirmed the centrality of Proposed Intervenorors' interest. In October 2025, the State sued von Glahn and PNP in this Court as the sole defendants in a case challenging the referendum—identifying them as the parties whose actions were “unconstitutionally usurping the General Assembly's vested authority.” (Compl. ¶ 11, *Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535 (E.D. Mo. Oct. 15, 2025.)) Having named PNP and von Glahn as the indispensable defendants when

the State wanted to stop the referendum, the State can hardly deny that PNP and von Glahn have a legally protectable interest when the shoe is on the other foot.

C. Disposition of This Action May Impair Proposed Intervenor's Interests.

The threshold for demonstrating impairment under Rule 24(a)(2) is not onerous. Rule 24 requires only that disposition of the action “may as a practical matter impair” the proposed intervenors’ interests. *United States v. Union Elec. Co.*, 64 F.3d 1152, 1162 (8th Cir. 1995). Moreover, “[i]t is enough under Rule 24(a) that [the proposed intervenors] could be prejudiced by an unfavorable resolution in later litigation.” *Turn Key Gaming, Inc. v. Ogallala Sioux Tribe*, 164 F.3d 1080, 1082 (8th Cir. 1999).

If Plaintiffs succeed in obtaining an injunction requiring use of the HB 1 map for the November 2026 general election, the practical effect would be to nullify the Missouri Supreme Court’s judgment in *von Glahn v. Hoskins* and prevent the referendum Proposed-Intervenors sponsored and defended from having any meaningful effect. The referendum would become moot as a practical matter—even if voters rejected HB 1, the election would already have been conducted under the HB 1 map which is “not the law and has never been the law.” Under Missouri law, it “shall take effect when approved by a majority of the votes cast thereon, and not otherwise.” Mo. Const. Art. III Sec. 52(b).

This impairment is direct and substantial. “The requirement of [Rule 24(a)(2)] is satisfied if the applicant shows that representation of his interest ‘may be’ inadequate; and the burden of making that showing should be treated as minimal.” *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972). Proposed Intervenor certainly clear this bar.

D. Existing Defendants Cannot Adequately Represent Proposed Intervenor's Interests.

The record speaks for itself. The same day that Plaintiffs sued Defendants, State of Missouri and Secretary of State Hoskins in this Court, their counsel was joining the Defendants at the Supreme Court of the United States seeking a stay of the judgment they challenge in this Court. At every stage of the related prior state and federal proceedings, these defendants have opposed the referendum and the positions Proposed Intervenor would defend here.

The Secretary of State *opposed* PNP's referendum petition and issued a certificate of insufficiency on August 4, 2026, finding that the Missouri Constitution does not authorize a referendum on congressional redistricting. The Secretary vigorously defended his certification at the trial court and Missouri Supreme Court.

Then Attorney General filed an application for a stay of the Missouri Supreme Court's decision with the Missouri Supreme Court on September 3, 2026—the same day the decision was issued—which was denied on September 4, 2026. The Secretary is now asking the United States Supreme Court to vacate the judgment he would nominally defend in this proceeding. The Secretary has filed an emergency stay application in *Hoskins v. von Glahn*, No. 26A304, seeking to block the Missouri Supreme Court's ruling. The Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee, represented by the same counsel as Plaintiffs here, have filed a brief supporting the Secretary's application. A party who is simultaneously asking a higher court to vacate a judgment cannot be expected to defend that judgment in this Court.

The record here raises substantial questions about whether this lawsuit presents the “honest and actual antagonistic assertion of rights” upon which judicial power depends. *United States v. Johnson*, 319 U.S. 302, 305 (1943); *see also Lord v. Veazie*, 49

U.S. (8 How.) 251, 255 (1850); *Hunt v. Roth*, 648 F.2d 1148, 1153 (8th Cir. 1981). The federal Complaint advances the same Elections Clause, Article I § 2, Equal Protection, and *Purcell* arguments that Plaintiffs’ counsel raised—and that the Missouri Supreme Court unanimously rejected—as intervenors-respondents in *von Glahn*. Intervenor-Respondents there were the Missouri Republican Party, the Republican National Committee, and Republican Congressional Campaign Committee. They are fully aligned with Plaintiffs here— two of which are current and former Missouri Republican Party officials and two are current Republican candidates for Congress.

That counsel now represents new plaintiffs in federal court, against a defendant who has taken the same position as the plaintiffs. Indeed, on the same evening this Complaint was filed, Plaintiffs’ counsel filed a brief at the United States Supreme Court in *Hoskins v. von Glahn*, No. 26A-304, captioned “Intervenors-Respondents’ Brief in Support of Applicant’s Emergency Application for Stay”—expressly supporting the Secretary’s position. Counsel cannot credibly claim adversity to a party they are simultaneously supporting in another tribunal.

Meanwhile, the Attorney General’s office, which is obligated to defend this lawsuit on behalf of the Secretary, and the Secretary himself, are before the Supreme Court seeking the identical relief Plaintiffs request here. The “Defendant” and his counsel at the Attorney General’s office. should here defend against the Plaintiffs’ attack and present the Court with the arguments it needs to consider whether to enjoin Missouri law. But that defendant, represented by the Attorney General, simultaneously argues to this nation’s highest court that the unanimous Missouri Supreme Court Ruling is “bizarre” and “anti-democratic.” They have asked the United States Supreme Court to enjoin enforcement of the law they should be defending here.

This structural conflict—where the nominal defendant’s own counsel is aligned with the plaintiffs’ objectives—further underscores the absence of genuine adversity. *See Nash v. Blunt*, 140 F.R.D. 400, 402 (W.D. Mo. 1992) (finding intervention “necessary to insure this court’s jurisdiction” where parties “necessarily agreed on a wide variety of factual and legal issues,” thereby “depriving the court of ‘opposing parties representing adverse interests’ as required by Article III”). These circumstances are detailed more fully in Proposed Intervenor’s contemporaneously filed Motion to Dismiss. Regardless of the disposition of that motion, the absence of genuine adversity independently compels intervention: if neither Defendant will present a defense, Proposed Intervenor is the only parties who can ensure the adversarial presentation that Article III requires.

The October 2025 litigation reinforces the point. When the State sought to challenge the referendum, it sued von Glahn and PNP directly as the sole defendants, identifying them as the indispensable parties. *See Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535 (E.D. Mo.). Now, in the wake of an adverse ruling, new plaintiffs have filed suit against the Secretary as a nominal defendant—while the parties the State itself identified as the real adversaries are absent. And the proper federal avenue for reviewing the Missouri Supreme Court’s judgment—28 U.S.C. § 1257 certiorari review by the Supreme Court—is already being actively pursued. *See Hoskins v. von Glahn*, No. 26A-304 (U.S.). Without Proposed Intervenor, no party will present a genuine defense of the Missouri Supreme Court’s judgment in this parallel proceeding.

The existing defendants’ interests are aligned with Plaintiffs’ interests, not with Proposed Intervenor’s. Where the government’s interest diverges from that of a proposed intervenor, the inadequacy burden is easily met. *Trbovich*, 404 U.S. at 538 n.10. “[W]hen the party seeking intervention has the same ultimate objective as a party

to the suit, a party is adequately represented *only if* there is no showing of adversity of interest, collusion, or nonfeasance.” *Barnett*, 317 F.3d at 787 (emphasis added). That showing is made here. The existing defendants’ interests are different from Proposed Intervenor’s, and the harms Proposed Intervenor face are unique. Intervention as of right must be granted. *See Turn Key Gaming, Inc.*, 164 F.3d at 1082 (reversing denial of intervention).

II. IN THE ALTERNATIVE, THE COURT SHOULD GRANT PERMISSIVE INTERVENTION UNDER RULE 24(b).

Even if the Court were to conclude that Proposed Intervenor are not entitled to intervention as of right, permissive intervention is warranted under Rule 24(b)(1)(B). That provision allows intervention when a party “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(B). The Court considers whether intervention will unduly delay or prejudice the adjudication of the original parties’ rights. Fed. R. Civ. P. 24(b)(3). Permissive intervention is committed to the Court’s sound discretion. *Bush v. Viterna*, 740 F.2d 350, 359 (8th Cir. 1984).

Proposed Intervenor satisfy this standard. The core question in this case is whether the Missouri Supreme Court’s decision in *von Glahn v. Hoskins* comports with the United States Constitution. Proposed Intervenor were the prevailing parties in that decision and have colorable defenses that go to the heart of the case:

The U.S. Supreme Court has repeatedly held that referenda on congressional redistricting are permissible under the Elections Clause. *Ohio ex rel. Davis v. Hildebrandt*, 241 U.S. 565 (1916); *Moore v. Harper*, 600 U.S. 1, 25–26 (2023); *Arizona State Legislature v. Arizona Indep. Redistricting Comm’n*, 576 U.S. 787 (2015).

The Missouri Constitution’s referendum provision, Article III, Section 49, authorizes a referendum on “any act of the general assembly.” The Missouri Supreme Court unanimously held this includes congressional redistricting legislation—a straightforward application of the constitutional text.

Intervention will not delay or prejudice the existing parties. To the contrary, Proposed Intervenor’s participation will assist the Court in fully and fairly resolving the constitutional questions presented. PNP and von Glahn possess unique knowledge of the referendum petition process, the state court proceedings, and the practical implications of the relief Plaintiffs seek. Without their participation, the Court would lack the perspective of the parties most directly affected by the outcome.

III. THE COURT SHOULD GRANT THIS MOTION ON AN EXPEDITED BASIS.

The posture of this case supports expedited resolution of this Motion. Plaintiffs have filed a motion for a temporary restraining order and preliminary injunction and a motion to expedite.

Proposed Intervenor—as the prevailing parties in the underlying state court decision—should be heard before this Court rules on any request for emergency injunctive relief. A federal district court likely lacks the authority to enjoin a state supreme court’s unanimous judgment, and it certainly should not do so without hearing from the parties who obtained it. Without Proposed Intervenor, the present parties are unlikely to have any adversity between them. Profound jurisprudential and practical concerns should require the Court to permit intervention before resolving Plaintiffs’ request for extraordinary relief—overriding a state supreme court ruling on the eve of an election.

CONCLUSION

For the foregoing reasons, Proposed Intervenor-Defendants People Not Politicians and Richard von Glahn respectfully request that this Court grant their Motion to Intervene as Defendants and permit them to participate in these proceedings, including any hearings on Plaintiffs' motion for a temporary restraining order and preliminary injunction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2026, I electronically filed the foregoing using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Charles W. Hatfield

Charles W. Hatfield



Supreme Court of Missouri

SC101805

September 4, 2026

Richard Von Glahn,
Appellant,

vs.

Denny Hoskins, In His Official Capacity, et al.,
Respondents.

Order

Respondent's motion for a stay of injunction pending emergency appeal and application for stay to the Supreme Court of the United States overruled.

By: W/BFAP
Chief Justice

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

RICHARD VON GLAHN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 26AC-CC00440
	)	
DENNY HOSKINS, in his official	)	
capacity,	)	
	)	
Defendant.	)	

JUDGMENT

All parties appeared before this Court on August 19, 2026, and arguments were made by counsel. The Court has considered the pleadings, the evidence in the form of the Joint Stipulation of Facts and Exhibits filed August 18, 2026, the pre-trial briefs, and argument of counsel. Being duly advised, the Court now issues its Judgment in this matter.

FINDINGS OF FACT

1. The General Assembly enacted House Bill 1 (HB 1) on September 12, 2025. HB 1 repealed Missouri’s prior congressional districting plan and established new boundaries for Missouri’s eight congressional districts.

2. HB 1 passed by a margin of 21 to 11 in the Senate and 90 to 65 in the House of Representatives. *See* Mo. Senate J. 25–26 (2d Extra. Sess., 103d Gen. Assembly, Sept. 12, 2025); Mo. House J. 37–38 (2d Extra. Sess., 103d Gen. Assembly, Sept. 9, 2025).

3. Governor Michael L. Kehoe signed HB 1 into law on September 28, 2025.

4. A group called People Not Politicians (“PNP”) launched a

referendum campaign to challenge the HB 1 map. PNP eventually submitted a referendum petition to the Secretary of State on December 9, 2025, invoking the referendum provisions in Article III of the Missouri Constitution.

5. Under Article III, Section 52(a), “[a] referendum may be ordered . . . by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state.” Mo. Const. art. III, § 52(a). Article III’s referendum provisions are silent regarding congressional redistricting. *See id.* art. III, §§ 49, 52(a)-(b).

6. PNP’s submission triggered the Secretary’s statutory duty to review the referendum petition. *See Maggard v. State*, 733 S.W.3d 411, 416 (Mo. banc 2026).

7. That review encompasses the timeliness, legality, and sufficiency of the petition, as well as the sufficiency of the signatures offered in support of the petition. *See* §§ 116.120–116.140, RSMo.

8. “After” review, “if the secretary of state finds [the petition] 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.” § 116.150.1, RSMo.

9. But “[i]f the secretary of state finds the petition insufficient, the secretary of state shall issue a certificate stating the reason for the insufficiency.” § 116.150.2, RSMo.

10. The Secretary was required to complete this extensive review “not later than 5:00 p.m. on the thirteenth Tuesday prior to the general election or two weeks after the date the election authority certifies the results of a petition verification pursuant to subsection 2 of section 116.130, whichever is later.”

§ 116.150.3, RSMo.

11. The thirteenth Tuesday prior to this year's general election fell on Tuesday, August 4, the date of the State's primary elections.

12. While the Secretary and Missouri's local election officials were reviewing PNP's submission, two plaintiffs separately challenged HB 1's effectiveness, seeking a declaratory judgment and an injunction preventing use of the HB 1 map until voters approved it through the referendum process. *See Maggard*, 733 S.W.3d at 413.

13. The Missouri Supreme Court unanimously rejected their claims, holding that "the December 9 referendum petition filing did not automatically suspend HB 1 under article III, sections 49, 52(a), or 52(b) of the Missouri Constitution." *Id.* at 421. The Missouri Supreme Court also went out of its way to emphasize that its decision should not be read as endorsing referenda on congressional maps. *See id.* at 414 n.7 ("[T]his opinion presupposes without deciding HB 1 is subject to the right of referendum.").

14. Following the Supreme Court's ruling, the Attorney General released an opinion letter requiring "State and local election officials" to "take all appropriate steps to ensure the HB 1 map is fully implemented in advance of the 2026 primary elections." Mo. Att'y Gen., Op. Letter 03-2026 (May 13, 2026). Local election officials then implemented the HB 1 map in Missouri's Centralized Voter Registration ("MCVR") system, transferring hundreds of thousands of voters to the new districts. Stipulated Ex. 26 ¶ 7; Stipulated Ex. 29 at 109. After implementation, state and local officials prepared ballots and conducted the August 4 primary elections under the HB 1 map.

15. A total of 1,206,871 Missourians voted in the State's congressional primary elections under the HB 1 map. *See State of Missouri Election Results*

– Primary Election August 4, 2026, *available at* <https://enr.sos.mo.gov/> (last visited Aug. 17, 2026).

16. Prior to 5 p.m. on August 4, the last day to vote in the primary elections, Secretary Hoskins announced that he was issuing a certificate finding PNP’s petition insufficient. *See* Stipulated Ex. 5.

17. The Secretary’s certificate identified as “the reason for the insufficiency,” § 116.150.2, RSMo., that the Missouri Constitution does not permit referenda on congressional maps, *see* Stipulated Ex. 5. The Secretary’s certificate relied upon a letter from the Attorney General explaining that insufficiency. *See id.*

18. Plaintiff filed this suit later that evening. Plaintiff alleges that “he is entitled to the immediate suspension of the use and implementation of HB 1.” Pet. ¶¶ 42-43; *see also id.* at 8. He also alleges that the Court should “restrain[] the Secretary from taking further steps to implement or use the congressional districts in HB 1 to ensure that . . . the correct congressional districts are utilized to conduct the 2026 general congressional election.” *Id.* ¶ 45; *see also id.* at 8.

19. Plaintiff’s Petition does not identify what he believes to be “the correct congressional districts . . . to conduct the 2026 general congressional election.” *Id.* ¶ 45.

20. To the extent Plaintiff asks the Court to revert Missouri to the plan the General Assembly repealed in HB 1, such an action would move hundreds of thousands of voters into different districts for the imminent 2026 general election compared to the districts in which they cast their ballots in the August primary elections just two weeks ago. *See, e.g.,* Order and Judgment, Findings 27, 30, 40-46, *Wise v. State*, No. 2516-CV29597 (Jackson Cty. Cir. Ct. Mar. 12,

2026); Stipulated Ex. 26 ¶ 7; Stipulated Ex. 29 at 109.

CONCLUSIONS OF LAW

I. Legal Standard

21. The General Assembly “has the power to do whatever is necessary to perform its functions *except as expressly restrained by the Constitution*.” *Luther v. Hoskins*, 730 S.W.3d 567, 571 (Mo. banc 2026) (quotations omitted) (emphasis added).

22. “Deference due the General Assembly requires that doubt be resolved against nullifying its action if it is possible to do so by . . . any reasonable construction of the Constitution.” *State v. Clay*, 481 S.W.3d 531, 537 (Mo. banc 2016) (quotations omitted).

23. This case also implicates federal law. The U.S. Constitution provides that “[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI.

24. The Missouri Constitution enforces this principle, declaring that “Missouri is a free and independent state, subject only to the Constitution of the United States.” Mo. Const. art. I, § 4.

25. Thus, federal law controls over any contrary provision of the Missouri Constitution or law.

26. The Secretary has the authority to apply the U.S. Constitution.

27. The Secretary must apply and adhere to the U.S. Constitution—

the supreme law of the land—in every action he undertakes. *See* U.S. Const. art. VI; Mo. Const. art. I, § 4. No statute or state constitutional provision can override that obligation. *See* U.S. Const. art. VI. In fact, the Secretary of State’s oath *requires* that he “support the Constitution of the United States and this state.” Mo. Const. art. VII, § 11.

II. Missouri’s Referendum Provisions Do Not Apply To Congressional Redistricting.

A. Article III Does Not Subject Congressional Redistricting To The Referendum.

28. Article III expressly directs that “the general assembly shall by law divide the state into [congressional] districts.” Mo. Const. art. III, § 45. This is the *only* constitutional provision addressing congressional redistricting—and it recognizes the General Assembly’s authority and mandate over that task. *Luther*, 730 S.W.3d at 571.

29. When the General Assembly conducts congressional redistricting, it acts not only under this express state constitutional command but also under an express federal constitutional grant of authority.

30. The Elections Clause provides that the “Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof,” subject to laws enacted by Congress. U.S. Const. art. I, § 4.

31. The General Assembly’s power to conduct congressional redistricting, therefore, is a uniquely robust legislative authority—emanating from a dual mandate prescribed by both the state and federal constitutions—layered on top of its plenary power to do whatever is necessary to perform its functions “except as expressly restrained by the Constitution.” *Luther*, 730

S.W.3d at 571 (quotations omitted).

32. Given the General Assembly's unique authority over congressional redistricting, this Court will not lightly infer that the Missouri Constitution elsewhere divested that authority absent a **clear statement**.

33. Missouri courts interpret the Constitution to effectuate its "plain, ordinary, and natural meaning," and any provision must be "considered as a whole with the primary objectives of the provision in issue in mind." *Id.* (quotations omitted); *see also Mo. Prosecuting Att'ys v. Barton Cty.*, 311 S.W.3d 737, 741 (Mo. banc 2010) (explaining that "due regard is given to the primary objectives of the provision at issue as viewed in harmony with all related provisions, considered as a whole") (quotations omitted).

34. Applying those principles here, the Missouri Constitution states that congressional redistricting belongs to the General Assembly. *See Mo. Const. art. III, § 45.*

35. This expectation of clarity is not novel in Missouri law. Missouri courts apply it across multiple doctrinal areas, each reflecting that where the law establishes a settled default, courts do not presume it has been silently displaced.

36. For example, Missouri courts presume that statutes apply only within the State's borders unless the General Assembly clearly says otherwise. *Tuttle v. Dobbs Tire & Auto Centers, Inc.*, 590 S.W.3d 307, 311 (Mo. banc 2019). In addition, Missouri courts presume the State cannot be sued unless the General Assembly expressly waives the State's immunity. *Ramirez v. Mo. Prosecuting Att'ys*, 694 S.W.3d 432, 436 (Mo. banc 2024). And Missouri courts presume that statutes operate prospectively unless the legislature's intent for

retroactive application “clearly appears from the express language of the act or by necessary or unavoidable implication.” *Lincoln Credit Co. v. Peach*, 636 S.W.2d 31, 34 (Mo. banc 1982).

37. In each context, the principle is the same: A reasonable reader knows the baseline under Missouri law and expects clarity before concluding it has been changed.

38. That principle also animates the Missouri Supreme Court’s substantial deference to the General Assembly’s exercise of its plenary legislative power recognized by the Missouri Constitution.

39. Missouri law’s baseline expectation that the General Assembly can exercise any and all legislative power is so strong that the Missouri Supreme Court refuses to nullify legislative acts under the Missouri Constitution if “it is possible to do so by . . . any reasonable construction of the Constitution” or by resolving any “doubt . . . against nullifying its action.” *Clay*, 481 S.W.3d at 537.

40. If anything, the expectation of clarity applies even more strongly here because congressional redistricting represents the rare circumstance where the General Assembly wields a dual mandate under the State and U.S. Constitutions. *See* Mo. Const. art. III, § 45; U.S. Const. art. I, § 4.

41. In other words, because an express restraint is necessary to limit the General Assembly’s legislative authority recognized by the Missouri Constitution, such a restraint at a minimum is required to limit the General Assembly’s exercise of its congressional redistricting authority both recognized by the Missouri Constitution *and* granted by the U.S. Constitution. *See Luther*, 730 S.W.3d at 571.

42. Against that backdrop, Plaintiff points only to the generic referendum provision in Article III, Section 49, which provides that “[t]he people reserve power . . . to approve or reject by referendum any act of the general assembly.” Mo. Const. art. III, § 49; *see* Petition ¶ 4.

43. But that provision at most merely *raises*, but does not *answer*, the question whether the referendum power extends to congressional redistricting, a domain Article III and the U.S. Constitution separately and specifically assign to the General Assembly.

44. A generic provision that says nothing about congressional redistricting cannot do the work of divesting the General Assembly of the dual mandate the Missouri and U.S. Constitutions assign to it.

45. Because Section 49 does not “expressly restrain[]” the General Assembly’s authority over congressional redistricting, it cannot limit, let alone oust, the General Assembly’s exercise of that authority. *Luther*, 730 S.W.3d at 571 (quotations omitted). And any doubt on that score must be resolved in favor of the General Assembly, not against it. *See Clay*, 481 S.W.3d at 537.

B. The Missouri Constitution’s Specific Redistricting Provisions Override The Generic Referendum Power.

46. Even if Section 49’s generic language could be read to encompass congressional redistricting, a more specific constitutional provision resolves the question. Article III, Section 7(h) provides: “No redistricting plan shall be subject to the referendum.” Article III, Section 3 similarly provides: “No reapportionment shall be subject to the referendum.”

47. By its plain text, Section 7(h) covers all redistricting. It is not limited to Senate redistricting or redistricting conducted by a commission. Nor

is Section 3 limited to House redistricting. The “plain, ordinary, and natural meaning” of these provisions exempts congressional redistricting from the referendum. *Luther*, 730 S.W.3d at 571.

48. To be sure, Section 7(h) and Section 3 appear among other provisions which address state redistricting. But that placement reflects the impetus for these provisions: undoing the Missouri Supreme Court’s decision subjecting Senate redistricting to the referendum in *State ex rel. Gordon v. Becker*, 49 S.W.2d 146 (Mo. banc 1932). That placement, however, does not delineate the scope of Section 7(h) or Section 3, neither of which expresses any limitation on its scope.

49. In all events, the construction that Section 7(h) and Section 3 cover congressional redistricting is at least reasonable, so any “doubt” on this question must be resolved in favor the General Assembly and against subjecting HB 1 to nullification through the referendum. *Clay*, 481 S.W.3d at 537.

C. Context Confirms That Congressional Redistricting Is Not Subject To The Referendum.

50. Context reinforces that a congressional redistricting statute duly enacted by the General Assembly cannot be subjected to the referendum process. Three features of Missouri’s legal landscape reinforce this conclusion.

51. *First*, in the more than eighty years since Missouri ratified its current Constitution in 1945, no referendum petition directed at a congressional redistricting plan has ever reached the ballot.

52. The lone attempt before *Maggard* occurred in 1952, when a group

filed referendum petitions against the congressional map, but the petitions were held untimely because the statute had already taken effect. *See State ex rel. Moore v. Toberman*, 250 S.W.2d 701, 705-06 (Mo. banc 1952).

53. The complete absence of any successful referendum on a congressional map over eight decades of practice underscores that Missouri never deliberately chose to extend the referendum power to this domain.

54. Indeed, given the relative ease of collecting signatures of “five percent of the legal voters in each of two-thirds of the congressional districts in the state,” Mo. Const. art. III, § 52(a)—and the charged political stakes involved in redistricting—one would expect that political opponents of the majority party in the General Assembly would have forced a referendum on a congressional redistricting plan long ago if Missouri law provided a viable path to do so. But no such thing has occurred.

55. *Second*, the 1945 Constitution itself repudiated the only Missouri Supreme Court decision that had ever sanctioned a referendum on legislative redistricting of any kind.

56. In *State ex rel. Gordon v. Becker*, 49 S.W.2d 146 (Mo. banc 1932), a divided court permitted a referendum challenging state senate redistricting.

57. The Constitutional Convention responded by inserting Article III, Section 7(h)—the very provision discussed above—which expressly declares that “[n]o redistricting plan shall be subject to the referendum.” Mo. Const. art. III, § 7(h) (1945).

58. The Convention thus eliminated referenda in the only redistricting context in which any Missouri court had approved such a referendum. *See*

Debates of the 1943–1944 Constitutional Convention of Missouri 7016 (2008). That deliberate rejection only confirms the Missouri Framers’ distrust of referenda in the redistricting sphere.

59. *Third*, Chapter 116, the statutory “framework for exercising the right of referendum” the General Assembly enacted in 1980, *see No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 487 (Mo. banc 2022), is incompatible with referenda on congressional maps.

60. Two features are particularly telling. As an initial matter, Chapter 116 restricts the ballot summary for any referendum measure to a mere hundred words and makes no provisions for visual aids such as maps. *See* § 116.334, RSMo. Congressional redistricting is a uniquely complex undertaking involving considerations of population, compactness, geography, and communities of interest. *See generally Healey v. State*, 732 S.W.3d 827 (Mo. banc 2026). It is difficult to see how voters could meaningfully evaluate competing redistricting plans based solely on a hundred-word description.

61. Had the General Assembly contemplated that Chapter 116 would govern referenda on congressional maps, it would have written it to furnish voters with far more information so they could make an informed choice regarding that complex issue.

62. Most telling, Chapter 116 sets the presumptive deadline for the Secretary’s certification decision on the very same day as the August primary elections. *See* § 116.150.3, RSMo. It is difficult, if not impossible, to fathom that the General Assembly would impose a certification timeline that extends to—or past—primary election day if it believed that a referendum could displace the congressional map under which the very primary was conducted.

63. These points merely confirm what the text already establishes: Missouri has never—by constitutional provision, by statute, or by practice—subjected congressional redistricting to the referendum. At every turn where the question might have been addressed, Missouri’s framers and legislators either remained silent or affirmatively rejected referenda on redistricting.

D. The Referendum Provisions Themselves Exempt Congressional Maps From Their Coverage.

64. In addition, the text of Article III’s referendum provisions themselves underscore that they exempt congressional redistricting from their reach.

65. Article III, Section 52(a) carves out from the referendum process “laws necessary for the immediate preservation of the public peace, health or safety.” Mo. Const. art. III, § 52(a). Legislation qualifies for this exception when there is “a crisis or emergency which requires immediate or quick legislative action for the preservation of the public peace, property, health, safety, or morals.” *State ex rel. Tyler v. Davis*, 443 S.W.2d 625, 631 (Mo. banc 1969).

66. Missouri courts have explained that this standard is satisfied when federal law imposes a deadline that the State must meet through prompt legislation.

67. For example, in *Osage Outdoor Advertising, Inc. v. State Highway Commission*, 687 S.W.2d 566, 569-70 (Mo. App. 1984), the federal Highway Beautification Act required Missouri to enact effective billboard-control legislation before a set date or lose ten percent of its federal highway appropriation. After the General Assembly passed the required statute, the court upheld it as emergency legislation, explaining that “[t]his sequence of

events demonstrates the necessity for immediate action by the legislature and prompt enactment of the law.” *Id.* at 569.

68. The same rationale applies here with greater force. Federal law requires each State’s Legislature to prescribe the times, places, and manner of holding congressional elections. *See* U.S. Const. art. I, § 4. Federal law also imposes several constitutional and statutory mandates with which Missouri must comply, including a nationwide federal general election day on the first Tuesday in November of even-numbered years, 3 U.S.C. § 1; 2 U.S.C. §§ 1, 7, and a strict 45-day ballot transmission requirement prior to any federal primary or general election, 52 U.S.C. § 20302(a)(8). HB 1 is the legislation through which Missouri satisfies those federal requirements for congressional elections.

69. Just as the billboard statute in *Osage* was necessary to avoid the loss of federal highway funds, HB 1 is necessary to avoid a far graver consequence: the inability to hold a constitutionally valid election.

70. “[T]he political franchise of voting” has long been recognized as “preservative of all rights,” *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 667 (1966) (quotations omitted), and legislation that makes a federal election possible is plainly necessary to preserve the public peace. It cannot be suspended at the behest of a small minority of voters who prefer a different redistricting plan—particularly when that minority seeks to impose on the public a different plan in the weeks between a primary and a general election.

III. Federal Law Independently Confirms That Missouri Has Not Ousted The General Assembly’s Redistricting Authority.

71. Although Missouri law alone requires dismissal of the Petition, this Court’s conclusion is independently supported by federal law.

72. As explained, when the General Assembly conducts congressional redistricting, it wields authority expressly granted it by the U.S. Constitution's Elections Clause. *See* U.S. Const. art. I, § 4. Federal law, in turn, imposes its own **clear statement** requirement before this federal legislative authority can be displaced. Missouri's referendum provisions do not satisfy that requirement for the same reasons they fail it under Missouri law: They say nothing about congressional redistricting.

A. Clear Statement Rules Protect and Uphold The U.S. Constitution's Express Delegations of Authority.

73. Enforcing constitutional boundaries ranks among courts' most vital duties. Given the tendency of institutions to encroach on each other's powers, *see* THE FEDERALIST No. 51 (James Madison) (C. Rossiter ed., 1961), courts must serve as a "bulwark[]" against those incursions, THE FEDERALIST No. 78 (Alexander Hamilton) (C. Rossiter ed., 1961).

74. Consistent with that role, courts will not lightly infer a significant restructuring of a constitutional allocation of power. Where the Constitution assigns authority to a specific actor, that power cannot be divested absent a **clear statement**. (Emphasis added) *See West Virginia v. EPA*, 597 U.S. 697, 735 (2022) (Gorsuch, J., concurring) (explaining that clear-statement rules "operate[] to protect foundational constitutional guarantees").

75. Courts deploy an array of clear statement rules to safeguard the prerogatives of each branch of the federal government in its proper sphere. For example, Article I of the Constitution delegates responsibility "to make the laws that govern us" to "the people's elected representatives." *Nat'l Fed'n of Indep. Bus. v. OSHA*, 595 U.S. 109, 124 (2022) (Gorsuch, J., concurring).

76. To protect Article I's grant of authority, courts will not infer that Congress delegated to executive agencies the power to resolve major policy questions absent a clear statement. *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159-60 (2000).

77. This expectation of clarity reflects and reinforces the constitutional structure. See *West Virginia*, 597 U.S. at 723 (explaining that the major questions doctrine rests on "both separation of powers principles and a practical understanding of legislative intent").

78. "Because the Constitution vests Congress with 'all legislative Powers,' a reasonable interpreter would expect it to make the big-time policy calls itself, rather than pawning them off to another branch." *Biden v. Nebraska*, 600 U.S. 477, 515 (2023) (Barrett, J., concurring) (citation omitted). Accordingly, the clear statement rule keeps the legislative power "where . . . it belongs." *Nat'l Fed'n of Indep. Bus.*, 595 U.S. at 124 (Gorsuch, J., concurring).

79. Clear statement rules likewise protect the President's constitutional prerogatives in Article II. It is axiomatic that "[t]he President is the sole organ of the nation in its external relations, and its sole representative with foreign nations." *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 319 (1936) (quotations omitted). So "unless there is the affirmative intention of the Congress clearly expressed to give a statute extraterritorial effect," courts will presume it does not apply extraterritorially. *Morrison v. Nat'l Australia Bank Ltd.*, 561 U.S. 247, 255 (2010) (cleaned up).

80. In this context, the clear statement rule reflects the structural principle that Congress does not ordinarily intend to intrude on the President's

authority to conduct foreign relations. *See RJR Nabisco, Inc. v. European Community*, 579 U.S. 325, 348 (2016).

81. Underscoring the point, federal courts routinely employ clear statement rules to protect their Article III authority. Federal courts will not imply a repeal of their jurisdiction in “the absence of clear congressional language mandating” that result. *McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 483-84 (1991); *see also Goncalves v. Reno*, 144 F.3d 110, 122 (1st Cir. 1998) (applying “the long-standing rule disfavoring repeal of jurisdictional provisions by implication”).

82. For example, the U.S. Supreme Court has long required that if Congress intends to make exceptions to the Supreme Court’s appellate jurisdiction it must do so with unmistakable clarity, not “by mere implication.” *Ex parte Yerger*, 75 U.S. 85, 106 (1869). This principle ensures that any retrenchment of federal courts’ core functions occurs, if at all, only by Congress speaking with the clarity the Constitution’s separation of powers demands.

83. Clear statement rules also help police the “constitutional balance of federal and state powers.” *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991). The Constitution’s structure, including the Tenth Amendment’s reservation of powers, counsels restraint in inferring federal limitations on state authority.

84. Hence, “if Congress intends to alter the usual constitutional balance between the States and the Federal Government, it must make its intention to do so unmistakably clear in the language of the statute.” *Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 65 (1989) (cleaned up).

85. This clear statement rule governs attempts to displace state sovereign immunity, *see Seminole Tribe v. Florida*, 517 U.S. 44, 55 (1996)

(“unequivocal[] express[ion]” required “to abrogate the immunity”) (quotations omitted), to preempt state legislation, *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947) (courts will assume state police powers not superseded “unless that was the clear and manifest purpose of Congress”), to impose conditions on states accepting federal funds, see *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981) (“unambiguous[]” language required to “impose a condition on the grant of federal moneys”), and to criminalize conduct traditionally regulated by the states, *Bond v. United States*, 572 U.S. 844, 857 (2014) (absent “clear indication,” courts will not read statutes to “intrude[] upon traditional state criminal jurisdiction”) (quotations omitted).

86. In short, across multiple doctrinal settings, clear statement rules serve as a structural safeguard ensuring that only a deliberately expressed choice—not ambiguity or implication—can recalibrate the Constitution’s usual balance of shared authorities among competing actors.

B. The Elections Clause Requires A Clear Statement To Displace The State Legislature’s Redistricting Authority.

87. The Elections Clause, no less than other enumerated delegations, requires a clear statement before courts may determine that a state has reallocated power over redistricting from the state legislature.

88. This clear statement rule flows from the Elections Clause itself, which expressly provides that “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations” U.S. Const. art. I, § 4 (emphasis added).

89. This delegation reflects a reasoned constitutional settlement. The Framers recognized “electoral districting problems and considered what to do

about them,” and they “settled on a characteristic approach, assigning the issue to the state legislatures, expressly checked and balanced by the Federal Congress.” *Rucho v. Common Cause*, 588 U.S. 684, 699 (2019). Courts “must respect” the Constitution’s “deliberate choice” to “expressly vest[] power” to conduct congressional redistricting “in ‘the Legislature’ of each State.” *Moore v. Harper*, 600 U.S. 1, 34 (2023).

90. As with other express delegations in the U.S. Constitution, courts require a **clear statement** before concluding that a state has displaced its legislature’s authority over congressional redistricting.

91. It is well established that Congress must employ “positive and clear statutes” in order to override a state legislature’s prerogative to regulate federal elections. *United States v. Gradwell*, 243 U.S. 476, 485 (1917); *see also United States v. Oregon*, 828 F. Supp. 3d 1092, 1095-96 (D. Or. 2026) (same, citing *Gradwell*, 243 U.S. at 485); *United States v. Caldwell*, No. CV 26-2025 (ZNQ) (JTQ), 2026 WL 2186515, at *3 (D.N.J. July 29, 2026) (same, citing *Gradwell*, 243 U.S. at 485).

92. Because Congress—the sole actor the Elections Clause empowers to supersede state legislative regulations—may do so only through unmistakable, affirmative enactments, any contention that some state actor or process has displaced the state legislature’s redistricting role must at a minimum rest on equally explicit and unequivocal language.

93. The U.S. Supreme Court’s Elections Clause cases confirm the point. In *State of Ohio ex rel. Davis v. Hildebrant*, the U.S. Supreme Court considered whether a constitutional referendum could displace the Ohio General Assembly’s authority to redistrict. 241 U.S. 565, 566-67 (1916). The

U.S. Supreme Court concluded that it could only because state law “conclusive[ly]” “ma[d]e[] it clear that . . . the referendum constituted a part of the state Constitution and laws” applicable to congressional redistricting. *Id.* at 568.¹

94. More recently, in *Arizona State Legislature v. Arizona Independent Redistricting Commission*, the U.S. Supreme Court weighed whether Arizona could create an independent commission to draw congressional districts. 576 U.S. 787, 792-93 (2015). The U.S. Supreme Court sustained that arrangement because Arizona’s Constitution expressly “remove[d] congressional redistricting authority from the State Legislature.” *Id.* at 796-97. In both cases, no doubt existed that the state had deliberately overridden the legislature’s authority.

95. The U.S. Supreme Court’s decision in *Davis v. Hildebrant* is not controlling here for several additional reasons.

96. *First*, the provision at issue in *Hildebrant* did not involve a provision like Article III, Section 7(h) of the Missouri Constitution exempting redistricting from the referendum. Ohio’s referendum provision applied broadly to “any law, section of any law or any item in any law . . . passed by the General Assembly.” *State ex rel. Davis v. Hildebrant*, 94 Ohio St. 154, 158-59 (1916). Missouri’s Constitution, by contrast, contains an express exemption:

¹ *Hildebrant* is also inapposite because it pre-dated the U.S. Supreme Court’s one-person, one-vote jurisprudence and other subsequent legal developments that require states to conduct congressional elections in equipopulous single-member districts. *See, e.g., Kirkpatrick v. Preisler*, 394 U.S. 526 (1969). Thus, at the time of *Hildebrant*, extending a referendum process to a legislature’s duly enacted congressional districting plan did not place the state in peril of violating the one-person, one-vote mandate or other federal requirements that foreclose Plaintiffs’ claim and requested relief here. *See, e.g., infra* Parts IV-V. Moreover, *Hildebrant* arose in a non-election year, not between a primary and general election in the same year. *See, e.g., infra* Parts V-VI.

“No redistricting plan shall be subject to the referendum.” Mo. Const. art. III, § 7(h).

97. *Second*, the U.S. Supreme Court in *Hildebrant* did not address whether the Ohio referendum provision comported with the Elections Clause. Instead, it addressed only whether an act of Congress at issue in that case comported with the Elections Clause. *See* 241 U.S. at 567-68.

98. *Third*, *Hildebrant* arose in a non-election year. The referendum was conduct in 1915—not between a primary and a general election. *See id.* It therefore did not present the concerns at issue here regarding disruption to an ongoing election cycle.

99. *Fourth*, *Hildebrant* pre-dated the U.S. Supreme Court’s one-person, one-vote jurisprudence and other subsequent legal developments that require states to conduct congressional elections in equipopulous single-member districts. *See, e.g., Kirkpatrick v. Preisler*, 394 U.S. 526 (1969). At the time of *Hildebrant*, extending a referendum process to a legislature’s duly enacted congressional districting plan did not place the state in peril of violating the one-person, one-vote mandate or other federal requirements that foreclose Plaintiff’s claim and requested relief here.

C. Missouri’s Referendum Provisions Do Not Provide A Clear Statement Displacing The General Assembly’s Authority.

100. The Missouri Constitution does not supply *any* statement—let alone a clear one—reallocating authority over congressional redistricting away from the General Assembly to a referendum process.

101. “Article III, section 45 is the only provision of the Missouri Constitution directly addressing congressional redistricting,” *Luther*, 730

S.W.3d at 571, and it mandates that “the *general assembly* shall by law divide the state into [congressional] districts,” Mo. Const. art. III, § 45 (emphasis added).

102. Plaintiff directs this Court’s attention to the generic referendum provision in Article III, Section 49, which provides that “[t]he people reserve power . . . to approve or reject by referendum any act of the general assembly.” Mo. Const. art. III, § 49; *see* Petition ¶ 4.

103. This is a textbook example of a broad, undifferentiated clause that does not provide a **clear statement** overriding the U.S. Constitution’s express grant of authority over congressional redistricting to the General Assembly. *See Spector v. Norwegian Cruise Line Ltd.*, 545 U.S. 119, 139 (2005) (plurality opinion) (“[C]lear statement rules ensure [the state] does not, by broad or general language, legislate on a sensitive topic inadvertently or without due deliberation.”).

104. Section 49 gives no indication that Missouri “specifically considered” whether to displace the General Assembly’s federally assigned authority over redistricting and “intentionally legislated on the matter.” *Sossamon v. Texas*, 563 U.S. 277, 290 (2011).

105. Accordingly, it does not provide a “conclusive” statement divesting the General Assembly of its Elections Clause authority over congressional redistricting, much less vesting that authority in the referendum process. *Hildebrant*, 241 U.S. at 568.

106. Lacking any **clear statement** in Missouri law to support his claim, Plaintiff’s Petition fails.

IV. The U.S. Constitution Invalidates Article III, Section 52(B) As Applied To A Congressional Map Enacted By The Legislature.

107. Even if Missouri's referendum provisions could somehow be read to encompass congressional redistricting, the U.S. Constitution would not permit it. *See* U.S. Const. art. VI; Mo. Const. art. I, § 4. Both the Elections Clause and the Guarantee Clause forbid the application of Article III, Section 52(b) to a congressional map enacted by the General Assembly.

108. As discussed, the Elections Clause vests redistricting authority squarely in the state legislature. *See* U.S. Const. art. I, § 4. Indeed, the U.S. Supreme Court recently cautioned that state law may not be wielded to “arrogate” the “power vested in state legislatures to regulate federal elections.” *Moore*, 600 U.S. at 29.

109. That is what would happen if Article III, Section 52(b) applies to congressional maps.

110. Section 52(b) provides that legislation subject to a referendum is suspended once a sufficient petition is filed. Mo. Const. art. III, § 52(b); *see also Maggard*, 733 S.W.3d at 418. A referendum petition is sufficient if signed by merely “five percent of the legal voters in each of two-thirds of the congressional districts in the state.” Mo. Const. art. III, § 52(a).

111. On Plaintiffs' theory, a small fraction of voters can freeze a congressional map duly enacted by the General Assembly before any majority of Missourians has voted for or against it—and even *after* that map has been used to conduct primary elections.

112. That theory inverts the constitutional design. The Elections Clause guarantees that the People’s elected representatives control the time, place, and manner of federal elections, not that a small, unelected minority can wield effective veto power over the General Assembly’s redistricting decisions.

113. HB 1 passed overwhelmingly in both chambers of the General Assembly and was signed by the Governor. *See* Mo. Senate J. 25–26 (2d Extra. Sess., 103d Gen. Assembly, Sept. 12, 2025); Mo. House J. 37–38 (2d Extra. Sess., 103d Gen. Assembly, Sept. 9, 2025). Yet Plaintiff claims that a small minority of voters can suspend the map months before the election without any statewide vote.

114. The Elections Clause forbids any arrangement that would so thoroughly “annihilate” the General Assembly’s redistricting authority. *Hildebrant*, 241 U.S. at 569.

115. The Guarantee Clause compels the same conclusion.

116. That clause provides that “[t]he United States shall guarantee to every State in this Union a Republican Form of Government.” U.S. Const. art. IV, § 4. It also “necessarily implies a duty on the part of the States themselves to provide” a republican form of government. *Minor v. Happersett*, 88 U.S. 162, 175 (1874).

117. It is clear that disputes under the Guarantee Clause are nonjusticiable political questions. But the Secretary reasoned in part that the referendum is invalid under the Guarantee Clause as part of his independent obligation to uphold the Constitution. *See Minor*, 88 U.S. at 175. That reasoning is sufficient to support the Secretary’s action—and Plaintiff asserts that the very question is nonjusticiable. If Guarantee Clause questions are

political questions confined to the political branches, and the legislature is one political branch and the Secretary of State is another, then courts cannot override the Secretary's determination and must defer to the judgment of those elected branches.

118. A republican government is one in which “the scheme of representation takes place”—that is, the people govern through elected representatives who enact laws on their behalf. *THE FEDERALIST* No. 10 (Madison) (C. Rossiter ed., 1961).

119. “[T]he distinguishing feature of that form is the right of the people to choose their own officers for governmental administration, and pass their own laws in virtue of the legislative power reposed in representative bodies, whose legitimate acts may be said to be those of the people themselves.” *Duncan v. McCall*, 139 U.S. 449, 461 (1891); accord *Madden v. Missouri Pac. Ry. Co.*, 192 S.W. 455, 458 (Mo. banc 1917) (Woodson, J., concurring in the judgment).

120. The result Plaintiff seeks is inconsistent with a republican form of government. On his theory, a small minority of voters can nullify a congressional map enacted by the People's elected representatives without any majority vote. See *THE FEDERALIST* No. 22 (Hamilton) (C. Rossiter ed., 1961); *THE FEDERALIST* No. 58 (Madison) (C. Rossiter ed., 1961) (“it would no longer be the majority that would rule: the power would be transferred to the minority”).

121. The “immediate suspension” of HB 1, Pet. ¶¶ 42-43, would leave Missouri with no congressional map whatsoever for the imminent general election.

122. Permitting a sliver of the electorate to void the “legitimate acts . . . of the people themselves” cannot be squared with Missouri’s constitutional duty to maintain a republican form of government. *Duncan*, 139 U.S. at 461.

V. Federal Law Forecloses Any Alteration to Missouri’s Congressional Map At This Late Stage Of The Electoral Process.

123. Federal law also prohibits Plaintiff’s requested relief: “immediate suspension of the use and implementation of HB 1.” Pet. ¶¶ 42-43; *see also id.* at 8.

124. More than 1.2 million Missourians have *already* voted under the HB 1 map in the primary elections. *See* State Of Missouri Election Results – Primary Election August 4, 2026, *available at* <https://enr.sos.mo.gov/> (last visited Aug. 17, 2026).

125. Plaintiff asks the Court to nullify those votes and adopt some other congressional map for the imminent general election. Doing so would violate federal law in multiple respects.

126. *First*, UOCAVA protects the voting rights of military servicemembers and citizens living abroad by requiring state election officials to transmit absentee ballots no fewer than 45 days before any federal election. *See* 52 U.S.C. § 20302(a)(8); *see also* § 115.914, RSMo.

127. That requirement applies independently to each federal election, including a primary.

128. Accordingly, if this Court were to suspend the use of HB 1, UOCAVA would require ballot transmission to military and overseas voters 45 days before any primary under the new map. Missouri law would then require a three-day waiting period after the primary before the results could be certified. *See* §§ 115.920.1, 115.508, RSMo. And UOCAVA would again

require ballot transmission 45 days before the subsequent general election on November 3, 2026. 3 U.S.C. § 1; 2 U.S.C. §§ 1, 7.

129. Accordingly, the State needs 93 days minimum before the general election on November 3, 2026, to comply with the federal election day statute and UOCAVA.

130. That deadline has already passed. *See Foster v. Love*, 522 U.S. 67, 74 (1997) (holding that a State may not conduct federal elections in conflict with congressionally mandated timing under 2 U.S.C. § 7).

131. An injunction against HB 1 would therefore require state officials to violate federal law. And UOCAVA is enforceable by the U.S. Attorney General in federal court, 52 U.S.C. § 20307(a), meaning that Plaintiffs requested relief would expose Missouri officials to an adverse federal injunction.

132. The Court concludes that the Secretary correctly avoided that result by declining to certify the referendum petition. *See* Stipulated Ex. 5 at 9-10.

133. *Second*, holding a general election under a different congressional map than the one used in the August 4 primary would violate Article I, Section 2 of the U.S. Constitution.

134. That provision guarantees that “[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States.” U.S. Const. art. I, § 2.

135. The U.S. Supreme Court has long recognized that “[w]here the state law has made the primary an integral part of the procedure of choice,” then “the right of the elector to have his ballot counted at the primary[] is

likewise included in the right protected by Article I, § 2.” *United States v. Classic*, 313 U.S. 299, 318 (1941).

136. Missouri law makes the primary integral: “all candidates for elective office shall be nominated at a primary election,” § 115.339, RSMo., and “[t]he person receiving the greatest number of votes at a primary election as a party candidate for an office shall be the only candidate of that party for the office at the general election,” § 115.343, RSMo.

137. A candidate may be replaced only if he or she dies, is disqualified, or voluntarily withdraws. *See* § 115.363.3(1)-(3), .4, RSMo.

138. The Missouri Supreme Court has thus confirmed that “primary elections have constitutional stature” and serve as an “*integral* part of [the State’s] election machinery.” *State ex rel. McClellan v. Kirkpatrick*, 504 S.W.2d 83, 86 (Mo. banc 1974) (emphasis added).

139. Plaintiff’s requested relief plainly violates the right of Missouri voters to have their ballot counted. More than 1.2 million Missourians voted in the August 4 congressional primaries under the HB 1 map and selected nominees in each of Missouri’s eight districts. Plaintiff asks this Court to ignore those votes, *see* Pet. ¶¶ 42-43; *see also id.* at 8, stripping the nominees of the mandate their voters conferred. Article I, Section 2 forbids this result.

140. The U.S. Supreme Court has long recognized that primary and general elections are not separate events but a unified process. In *Smith v. Allwright*, the Court described “[t]he fusing . . . of the primary and general elections into a single instrumentality for choice of officers.” 321 U.S. 649, 660 (1944).

141. Because the primary and general election constitute a “single instrumentality for choice of officers,” *id.*, then changing the districts between those two stages does not merely alter the ballot; it fractures the instrumentality itself. *See also Storer v. Brown*, 415 U.S. 724, 735 (1974) (describing the primary as “not merely an exercise or warm-up for the general election but an integral part of the entire election process, the initial stage in a two-stage process by which the people choose their public officers”).

142. *Third*, an order requiring a general election under a different congressional map than the one used in the primary would violate the Equal Protection Clause. U.S. Const. amend. XIV, § 1.

143. The U.S. Supreme Court has held that primary-election procedures constitute “state action’ within the meaning of the Fourteenth Amendment” and “must be exercised in a manner consistent with the Equal Protection Clause.” *Bullock v. Carter*, 405 U.S. 134, 140-41 (1972).

144. The Supreme Court has also made clear that “[o]nce the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote . . . wherever their home may be in that geographical unit.” *Gray v. Sanders*, 372 U.S. 368, 379 (1963).

145. If the congressional map changes between the primary and general elections, it would force hundreds of thousands of Missourians to vote in a district different from the one in which they cast their primary ballots.

146. Those voters would possess materially less voting power than voters whose district remained the same because the former group would have to select from candidates they never had the opportunity to evaluate, support, or oppose in the primary.

147. They would thus be denied the right to choose their own representative through the integrated primary and general elections. Meanwhile, voters who happened to remain in the same district would retain the full benefit of their primary vote. An order changing the congressional map would thus create two classes of voters—those who had the opportunity to select their general election candidate and those who did not—in direct violation of the Equal Protection Clause.

148. In sum, federal law precludes this Court from ordering the State to use a different congressional map than the one under which Missouri conducted the 2026 primary elections.

VI. The Court Will Not Enter Any Changes To The General Assembly's Duly Enacted Map For The Ongoing 2026 Election.

149. In all events, the Court will not order any changes to the General Assembly's duly enacted 2025 Plan for the ongoing 2026 election. *See, e.g., Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006).

150. Missouri has already completed its August 4 primary elections, in which over 1.2 million Missourians selected nominees who are now the only candidates of their respective parties for the general election, *see* § 115.343, RSMo., which will be completed in only eleven weeks from now.

151. Any judicially ordered changes to the map at this late juncture would “result in voter confusion and consequent incentive to remain away from the polls” and erode the “[c]onfidence in the integrity of our electoral processes . . . essential to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006); *accord Hadley v. Junior Coll. Dist. of Metro. Kansas City*, 460 S.W.2d 1, 2 (Mo. banc 1970).

152. Months ago, the U.S. Supreme Court stayed a three-judge federal district court's order enjoining use of Texas's 2025 congressional redistricting plan and requiring the State to revert to its 2022 plan. *Abbott v. League of United Latin American Citizens*, 607 U.S. ----, 146 S. Ct. 418, 419 (2025).

153. The district court issued its injunction shortly after the opening of candidate filing, approximately four months before the primary, and eleven months before the November 2026 general election. *See League of United Latin Am. Citizens v. Abbott*, 809 F. Supp. 3d 502 (W.D. Tex. 2025).

154. The U.S. Supreme Court issued the stay because the district court had “improperly inserted itself into an active primary campaign, causing much confusion” with its late-breaking injunction. *Abbott*, 146 S. Ct. at 419; *see*

Robinson v. Ardoin, 37 F.4th 208, 228-29 (5th Cir. 2022) (per curiam), *stay issued sub nom.*, *Ardoin v. Robinson*, 142 S. Ct. 2892, 2892-93 (June 28, 2022) (staying injunction of congressional redistricting plan issued five months before primary elections); *Callais v. Landry*, 732 F. Supp. 3d 574, 613-14 (W.D. La. Apr. 30, 2024), *stay issued sub nom.*, *Robinson v. Callais*, 144 S. Ct. 1171 (May 15, 2024) (staying injunction of congressional redistricting plan issued more than six months before the next election).

155. It is a “basic tenet of election law” that “[w]hen an election is close at hand, the rules of the road should be clear and settled.” *Democratic Nat’l Comm. v. Wis. State Legislature*, 141 S. Ct. 28, 31 (2020) (mem.) (Kavanaugh, J., concurring). “[L]ate-breaking, court-ordered rule changes can ‘result in voter confusion and consequent incentive to remain away from the polls,’ and thus undermine the ‘[c]onfidence in the integrity of our electoral processes . . . essential to the functioning of our participatory democracy.’” *Bost v. Ill. State Bd. of Elections*, 607 U.S. ----, 146 S. Ct. 513, 521 (2026) (quoting *Purcell*, 549 U.S. at 4-5); *see also Abbott*, 146 S. Ct. at 419.

156. After all, “running a statewide election is a complicated endeavor,” involving “a host of difficult decisions about how best to structure and conduct the election.” *Democratic Nat’l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring). And those decisions must then be communicated to the “state and local officials” tasked with implementing them, who in turn “must communicate to voters how, when, and where they may cast their ballots through in-person voting on election day, absentee voting, or early voting.” *Id.*

157. When a “court alters election laws near an election,” *id.*, candidates, voters, and even officials are left scrambling to understand the

court-imposed alteration, “inviting confusion and chaos and eroding public confidence in electoral outcomes,” *id.* at 30 (Gorsuch, J., concurring).

158. These considerations counsel judicial restraint and deference to the democratic process on the eve of an election. The General Assembly is responsible for redrawing the State’s congressional districts. *See* Mo. Const., art. III, § 45; U.S. Const. art. I, § 4, cl. 1; *see also* *Ariz. State Legis. v. Ariz. Ind. Redistricting Comm’n*, 576 U.S. 787, 808 (2015).

159. This allocation makes practical sense. Legislatures “enjoy far greater resources for research and factfinding” than courts, and “make policy and bring to bear the collective wisdom of the whole people when they do, while courts dispense the judgment of only a single person or a handful.” *Democratic Nat’l Comm.*, 141 S. Ct. at 29 (Gorsuch, J., concurring).

160. “It is one thing for state legislatures to alter their own election rules in the late innings and to bear the responsibility for any unintended consequences. It is quite another thing for a . . . court to swoop in and alter carefully considered and democratically enacted state election rules when an election is imminent.” *Id.* at 31 (Kavanaugh, J., concurring).

161. Missouri’s own precedent reinforces these principles. In *Hadley v. Junior College District of Metropolitan Kansas City*, the Missouri Supreme Court confronted a remand after the U.S. Supreme Court found that junior college trustee districts violated the one-person, one-vote principle. *See* 460 S.W.2d at 1. By the time the Missouri Supreme Court addressed the case, the State’s election machinery was already in motion. Five candidates had filed for office, officials had begun printing absentee ballots and adjusting voting machines, and the State had already incurred substantial expense. *Id.* at 2-3.

Moreover, the candidate-filing deadline fell just two days away and the election itself loomed one month out. *Id.*

162. In light of these considerations, the Missouri Supreme Court held that “it would be wholly inequitable and impracticable to attempt at this late date to apply the principles enunciated” by the U.S. Supreme Court, and ordered the election to proceed under the existing apportionment. *Id.*

163. In other words, even a *proven* violation of the U.S. Constitution could not justify disrupting an ongoing election. As the Missouri Supreme Court explained, “a court is entitled to *and should* consider the proximity of a forthcoming election and the mechanics and complexities of state election laws, and should act and rely upon general equitable principles.” *Id.* at 2 (emphasis added) (quoting *Reynolds v. Sims*, 377 U.S. 533, 585 (1964)).

164. This case presents the scenario *Hadley* and *Purcell* were designed to prevent. If courts cannot change a congressional map four months before a primary, see *Abbott*, 146 S. Ct. at 419, this Court certainly will not do so *after* the primary has already occurred and mere weeks before the general election.

165. Candidate filing closed months ago. Over 1.2 million Missourians voted in the August 4 primary. Nominees have been selected. Campaigns for the general election are underway. Plaintiff has not demonstrated how State officials could reverse course and implement some entirely new map, how nominees selected by voters in one set of districts would campaign in different ones, or how voters would make sense of a last-minute overhaul of the districts they just voted in.

166. The disruption Plaintiff seeks would exceed anything contemplated in *Abbott*, *Ardoin*, or *Callais*—and the U.S. Supreme Court stayed all of those injunctions as impermissible.

167. Missouri election officials are not aware of any precedent, in Missouri or any other State, in which a court has changed a congressional map between a State's primary and general elections. Stipulated Ex. 26 ¶¶ 5, 16.

168. On the contrary, courts have rejected attempts to change district boundaries after a primary. In *Terrazas v. Slagle*, 821 F. Supp. 1154 (W.D. Tex. 1992), after Texas held its primary elections under court-ordered interim state senate redistricting plans, the Secretary of State issued a directive attempting to switch the general election to entirely different senate districts under a new plan. The three-judge federal court enjoined the directive and explained that “[p]rimary elections for offices chosen by the electorate in separate geographical districts obviously make no sense unless the districts are the same for the ensuing general election as for the primary.” *Id.* at 1159. The court agreed with the Justice Department's undisputed assertion that the State had “never held or sought to hold a general election under a redistricting plan different from the plan used for the preceding primary election.”

169. In fact, courts have refused to change maps even when the existing districts are unconstitutional. In *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016), the court had found that the state legislature had engaged in one of the most extensive unconstitutional racial gerrymanders ever encountered by a federal court, affecting nearly 70% of House and Senate districts. *See Covington v. North Carolina*, 270 F. Supp. 3d 881, 892, 896 (M.D.N.C. 2017). Yet with “the 2016 primary elections already held under the challenged maps and Election Day less than three months away,” the court concluded that immediate injunctive relief was “impractical” and allowed the general election to proceed under the unconstitutional maps. *Id.* at 887, 892; *see also Covington*, 316 F.R.D. at 177.

170. In fact, changing the maps at this late juncture is not just “impractical,” it is impossible. As one election official explained, implementing a new congressional map requires local election officials to transfer hundreds of thousands of individual voters in the MCVR system. *Id.* ¶ 7; *see also* Stipulated Ex. 29 at 109. That is a meticulous process involving careful analysis of printed maps and multiple rounds of proofreading; it ordinarily takes more than two weeks, and at least 7-10 days even under emergency conditions. Stipulated Ex. 26 ¶ 7.

171. But even that timeline is academic here, because the MCVR system locks shortly before absentee ballots are distributed and remains locked until an election is certified two weeks after election day. *Id.* ¶ 8. This year, the system will remain locked until at least mid-November because of a Jackson County special election in September 2026. *Id.* ¶¶ 9-10. The Court declines to order an unprecedented remedy that is impossible to implement. *See Hadley*, 460 S.W.2d at 3 (refusing to alter districts where doing so would be “wholly inequitable and impracticable”).

WHEREFORE, this Court hereby issues its Judgment and Order in favor of Defendant Denny Hoskins and Intervenor Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee and against Plaintiff on Plaintiff’s Petition for Declaratory Judgment and Injunctive Relief and further ORDERS, DECLARES, and ADJUDGES that:

- A. Missouri’s referendum provisions in Article III, Sections 49 and 52 of the Missouri Constitution do not apply to congressional redistricting enacted by the General Assembly pursuant to Article III, Section 45;
- B. The Secretary of State’s decision to not certify the referendum petition directed at HB 1 was lawful;

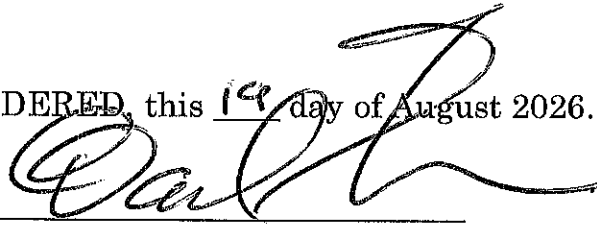
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- C. HB 1 remains in full force and effect for the 2026 general election;
- D. The Petition is dismissed and judgment is entered for Defendant;
- E. The parties are to bear their own costs.
- F. As soon as a notice of appeal is filed, if any, this

Court relinquishes its jurisdiction over this matter
and deems this Judgment final for purposes of appeal.

See Rule 81.045

So ORDERED, this 14 day of August 2026.

A handwritten signature in black ink, appearing to read 'Daniel Green', written over a horizontal line.

Daniel Green
Circuit Court Judge

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Stipulated Exhibit 28

AFFIDAVIT OF TAMMY BROWN

Affiant first being duly sworn, on her oath attests:

1. I served as a local election official for 25 years in Jackson County, Missouri. I was a Commissioner on the Jackson County Election Board from 2001 to 2008, and then I was the Republican Director of the Board from 2009 until my retirement in July 2026.

2. During my tenure as a Commissioner and the Republican Director, I helped facilitate over 100 elections in Jackson County, Missouri. The Jackson County Election Board serves about 270,000–280,000 registered voters who reside within our jurisdiction.

3. During my 25 years at the Board, I assisted with implementing new congressional maps three different times: in 2012, in 2022, and then in 2026 for the implementation of the House Bill 1 map.

4. I personally assisted with implementing Missouri's new congressional map in 2026. I also helped prepare ballots for absentee and military voters for the August primary election. The primary election was held on August 4, 2026. Under Missouri law, that election must be certified by August 18, 2026.

5. I am aware that there is a lawsuit seeking to change Missouri's congressional map after the August 2026 primary election. I have never heard of a lawsuit like this before.

6. Based on my 25 years of experience as a local election official, I believe that it is literally impossible to change Missouri's 2026 congressional map after the primary election and before the general election on November 3, 2026. In my view, changing the congressional map after the primary election would put the entire election at risk.

7. Implementing a new congressional map is an arduous, time-intensive duty for local election authorities. It involves manually reassigning precincts to a new congressional

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district in the Missouri Centralized Voter Registration (“MCVR”) database. This is a step-by-step, meticulous process that involves printing maps, proofing lines, assigning each precinct to the correct congressional district, and ensuring that each voter is placed in the correct district. This requires the assistance of every member of our office and usually takes 2 weeks to complete. If pressed for overtime and weekend work, I estimate that the Jackson County Election Board could implement a new map in the MCVR database in 7–10 days. I do not know how long it would take other local election authorities to implement a new congressional map in the MCVR database.

8. During any ongoing election, the MCVR database prevents us from moving any voters from one district to another. This makes congressional district lines impossible to change during any election—whether or not the election is congressional in nature. The database locks 8 to 10 weeks before any election because of military voters and absentee voters who need to receive mail ballots before election day. The MCVR database remains locked at least until the election is certified, which must occur within 2 weeks after election day under State law.

9. Jackson County is holding a recall election on September 1, 2026, for an Independence City Council member. Absentee voting for that recall election began on July 21, 2026, and no excuse absentee voting will begin on August 18, 2026. The Jackson County Election Board will then have until September 14, 2026, to certify the results of that recall election. During that timeframe, the MCVR database will remain locked and cannot be changed.

10. Meanwhile, the certification date for Missouri’s general election is August 25, 2026, under state law. At that time, the congressional district lines will already be set up in the MCVR database, and the database cannot be changed. Thus, there is no time window to change

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the congressional district lines in the MCVR database between now and the general election on November 3, 2026.

11. Changing a congressional map before an election also involves more than just altering the district assigned to each voter in MCVR. After a map is changed in MCVR, local election authorities must design and test ballots to ensure that the ballots are tabulating correctly. This process usually takes about 2 weeks. Local election authorities also need an additional week to send ballots for printing after we finish designing ballots.

12. Local election officials must comply with federal law that requires them to send mail ballots to military voters no later than 45 days before the election. This federal law is known as the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”).

13. Under State law, local election officials must also prepare ballots for absentee voters no later than 42 days before an election.

14. To comply with these deadlines, local election officials start preparing military and absentee ballots 10 weeks before an election. At that time, we design, proofread, and test the ballots. Then, we send the military and absentee ballots for printing 8 weeks before the election.

15. I am aware that the Missouri Secretary of State can request a waiver from UOCAVA’s deadlines in some circumstances where it is impossible to comply with the 45-day deadline for sending mail ballots to military voters. However, I have never heard of Missouri requesting a waiver or receiving a waiver under UOCAVA. Also, even if we obtained a waiver under UOCAVA, state law would still require us to send ballots to absentee voters 42 days before the election. Thus, even if we could obtain a waiver, that would only provide an additional 3 days to prepare and send ballots to absentee voters.

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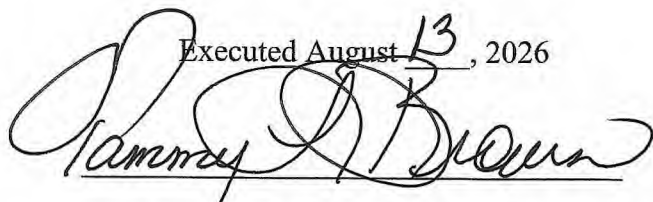
16. I have never heard of a State changing its congressional map after completing its primary election. I cannot imagine how a State could justify forcing voters to vote in different districts for a primary and general election.

17. I was provided the opportunity to review the affidavit of Brianna Lennon, the County Clerk and Election Authority of Boone County. Ms. Lennon states that 2022 congressional district has not been overwritten in MCVR. Ms. Lennon also states that no additional work would be needed to re-implement the 2022 congressional districts.

18. Ms. Lennon's representation is wrong as to Jackson County. In Jackson County, we exclusively implemented the HB 1 congressional map in the MCVR database for the 2026 congressional election. Reverting to the 2022 map would require us to reopen the MCVR database and to manually adjust each precinct's and each voter's congressional district back to the 2022 map. As far as I am aware, there is no "magic button" that would suddenly allow us to revert to the 2022 congressional districts.

19. For these reasons, I believe that is impossible to change Missouri's congressional map after the 2026 primary election. The MCVR database will remain locked between now and the General Election in November 2026. Also, even if the database somehow opened, changing the congressional map, preparing ballots, and sending mail ballots to overseas and absentee voters would take weeks that local election officials do not have.

20. I declare under penalty of perjury that the foregoing is true and correct.

Executed August 13, 2026

Affiant, Tammy Brown

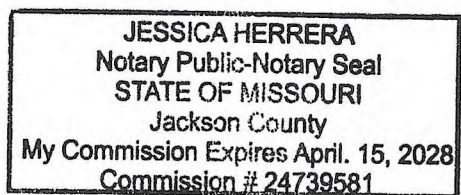
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State of Missouri
 County of Jackson

In witness whereof, I have hereunto subscribed my name and affixed my official seal.
 Subscribed and sworn before me this 13th day of August in the year 2026.

Jessica Herrera
 Notary Public

My commission expires: April 15, 2028



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CONGRESSMAN ROBERT “BOB” ONDER,)
RICHARD “RICK” BRATTIN,)
PATRICIA “PAT” THOMAS, and)
DEBRA HAVENS,)

Plaintiffs,)

Case No. 4:26-cv-01424

**ORAL ARGUMENT
REQUESTED**

v.)

STATE OF MISSOURI and DENNY)
HOSKINS, in his official Capacity)
as Missouri Secretary of State,)

Defendants.

**PROPOSED INTERVENOR-DEFENDANTS’ MOTION TO
DISMISS COMPLAINT AND COMBINED MEMORANDUM IN SUPPORT**

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INTRODUCTION

On September 3, 2026, the Missouri Supreme Court unanimously held¹ in *von Glahn v. Hoskins*, No. SC101805, that the referendum petition on HB 1 was “legal, sufficient, and timely,” that, under state law, HB 1 “never took effect”, “has never been the law,” and that the 2022 congressional districts are “the only valid congressional redistricting in effect.” Slip op. at 12–13. The court enjoined the Secretary of State from implementing the HB 1 districts. *Id.* at 13.

The next day, the Missouri Supreme Court denied the Secretary’s motion for a stay. Hours later, Plaintiffs filed this federal complaint. The hallmarks of collusion are unmistakable. Plaintiffs’ counsel—Ellinger Bell LLC—is the same firm that represented the Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee as intervenors-respondents in the state court case. The federal complaint advances the identical Elections Clause, Article I § 2, Equal Protection, and *Purcell* arguments that counsel raised—and lost—in state court. And the nominal defendant, Secretary Hoskins, publicly agrees with Plaintiffs: he lost in state court, was denied a stay, and has sought an emergency stay from the United States Supreme Court.

Indeed, after filing this Complaint, Plaintiffs’ counsel filed a brief at the Supreme Court in *Hoskins v. Von Glahn*, No. 26A-304, supporting Secretary Hoskins’s emergency stay application. The same attorneys are thus simultaneously (a) suing Secretary Hoskins as a nominal defendant in this Court, and (b) supporting Secretary Hoskins’s position at the Supreme Court—advancing the same legal theories, seeking the same practical result. Justice Kavanaugh has ordered a response by September 7, 2026, and a reply by September 8. The proper federal avenue for reviewing the

¹ All joined the main opinion—there were no concurrences indicating that any individual judge disagreed with the reasoning used to reach the conclusion.

Missouri Supreme Court’s judgment—28 U.S.C. § 1257 certiorari review—is already being actively pursued.

For a host of reasons discussed below, this case should be dismissed pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

ARGUMENT

I. THIS COURT LACKS SUBJECT MATTER JURISDICTION BECAUSE THE COMPLAINT IS A COLLUSIVE, FEIGNED CASE

The Constitution limits federal judicial power to actual “Cases” and “Controversies” between genuinely adverse parties. U.S. Const. art. III, § 2. Congress has codified this requirement: “A district court shall not have jurisdiction of a civil action in which any party, by assignment or otherwise, has been improperly or collusively made or joined to invoke the jurisdiction of such court.” 28 U.S.C. § 1359. Where a lawsuit is collusive—where the parties share a common objective and have manufactured a dispute—the case must be dismissed because it does not present the “honest and actual antagonistic assertion of rights” upon which judicial integrity depends. *Chicago & Grand Trunk Ry. Co. v. Wellman*, 143 U.S. 339, 345 (1892); *see also Whole Woman’s Health v. Jackson*, 595 U.S. 30, 40 (2021).

The Supreme Court has long enforced these requirements with vigor. In *Muskrat v. United States*, 219 U.S. 346, 361 (1911), the Court held that “judicial power . . . is the right to determine actual controversies arising between adverse litigants,” and that an attempt to obtain a judicial declaration is not a “case” or “controversy” where the defendant “has no interest adverse to the claimants.” As the Court explained: “It never was the thought that, by means of a friendly suit, a party beaten in the legislature could transfer to the courts an inquiry as to the constitutionality of the legislative act.” *Id.* (quoting *Wellman*, 143 U.S. at 345). In *United States v. Johnson*, 319 U.S.

302, 305 (1943), the Court vacated a judgment where a landlord had controlled a tenant’s lawsuit, holding that the suit was “collusive because it is not in any real sense adversary.”

The rule against collusive suits has deep roots. In *Lord v. Veazie*, 49 U.S. (8 How.) 251, 255 (1850), the Supreme Court condemned suits where parties share a common interest and manufacture a dispute as “an abuse which courts of justice have always reprehended.” *See also Cleveland v. Chamberlain*, 66 U.S. (1 Black) 419, 426 (1862). The Eighth Circuit has applied these principles. *Curb & Gutter District No. 37 v. Parrish*, 110 F.2d 902, 907 (8th Cir. 1940); *Hunt v. Roth*, 648 F.2d 1148, 1150 (8th Cir. 1981) (“Article III requires the existence of a case or controversy between two genuinely adverse parties”). The duty to police collusion is mandatory: “it is the duty of the circuit court, on its own motion, as soon as the collusive character of the case is shown, to stop all further proceedings and dismiss the suit.” *Williams v. Nottawa*, 104 U.S. 209, 211 (1881).

The collusion here is unmistakable: Plaintiffs’ counsel—Ellinger Bell LLC—is the same law firm that represented the Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee as intervenors-respondents in *von Glahn v. Hoskins* before the Missouri Supreme Court. Plaintiffs are Republican candidates² and party leaders³ who supported the Secretary’s position throughout. They are in privity with the

² Mr. Brattin voted for HB 1 and has been defending it alongside the Secretary for months. *See, e.g.,* https://www.kshb.com/news/local-news/chiefs-fans-demonstrate-unity-as-missouri-legislature-approves-map-splitting-kansas-citys-districts?utm_source=chatgpt.com; https://abc17news.com/politics/2026/05/15/missouri-senator-asks-boone-county-prosecutor-attorney-general-to-take-action-against-boone-county-clerk/?utm_source=chatgpt.com. Just today, he praised the Secretary’s ongoing efforts to use HB 1. *See* <https://x.com/RickBrattin/status/2096232967718814154?s=20>.

³ Ms. Havens is the Chair of the Republican Party in Maries County. *See* <https://missouri.gop/your-local-gop/>. Ms. Thomas has served as Treasurer and Secretary of the Missouri Republican Party. *See* https://ballotpedia.org/Pat_Thomas.

Intervenors in *Von Glahn* and seek the same result: continued use of the HB 1 map, despite it not being a law. The nominal defendant—Secretary Hoskins—agrees with Plaintiffs. *He has agreed to entry of a TRO enjoining a Missouri Supreme Court decision.* The Complaint advances identical arguments that Ellinger Bell LLC raised—and the Missouri Supreme Court unanimously rejected—in the state court proceeding. *Compare* Compl. ¶¶ 50–73, 74–86, 87–96, 97–109, with Intervenors-Respondents’ Brief at 14–52. The same attorneys are simultaneously supporting the Secretary at the Supreme Court. Ellinger Bell LLC’s September 4, 2026 brief in *Hoskins v. Von Glahn*, No. 26A-304, explicitly supports the Secretary’s stay application. The Complaint was filed as “related” to *Missouri General Assembly v. Von Glahn*, No. 4:25-CV-1535-ZMB—a lawsuit the Secretary himself filed in October 2025 pressing identical Elections Clause arguments. Plaintiffs’ counsel filed an amicus brief (on behalf of the Missouri Republican Party) *supporting* the Secretary in that prior action. *See* Nov. 14, 2025, Amicus Br., Case No. 4:25-CV-1535-ZMB. The Complaint explicitly targets the *Von Glahn* ruling, seeking the exact relief the Missouri Supreme Court denied. The Missouri Attorney General’s office is obligated to defend this lawsuit while simultaneously serving as counsel for the Secretary before the Supreme Court—seeking the same relief Plaintiffs request here. This structural conflict is yet another hallmark of a non-adversarial proceeding.

This is a textbook case of manufactured litigation that Article III and 28 U.S.C. § 1359 forbid. Like the friendly suit condemned in *Wellman*, 143 U.S. at 345, this action is an attempt by parties “beaten in the legislature”—or, more precisely, beaten in the state’s highest court—to “transfer to the courts an inquiry as to the constitutionality of the legislative act.” Like the landlord in *Johnson*, Ellinger Bell LLC orchestrated this federal action after losing in state court, naming a

nominal adversary who shares their objective. And as in *Muskrat*, the nominal defendant “has no interest adverse to the claimants.” 219 U.S. at 361. The Court should dismiss this case as collusive.

II. THE PENDING SUPREME COURT PROCEEDING INDEPENDENTLY REQUIRES DISMISSAL OR ABSTENTION

28 U.S.C. § 1257(a) vests the Supreme Court with jurisdiction to review final judgments of a State’s highest court. The Secretary’s pending emergency application in *Hoskins v. Von Glahn*, No. 26A-304, invokes that jurisdiction and seeks review of the Missouri Supreme Court’s judgment. The Intervenors in that case—represented by Plaintiffs’ counsel—fully support the stay request. This Court cannot serve as an alternative appellate forum for the same alleged federal claims.

The existence of parallel Supreme Court proceedings weighs heavily in favor of abstention under *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976). The Supreme Court is considering the same questions: the validity of the Missouri Supreme Court’s judgment, the Elections Clause, Article I § 2, Equal Protection, and the feasibility of implementing a different map. Justice Kavanaugh has ordered a response by September 7, 2026, and a reply by September 8. Proceeding here would invite duplicative litigation and conflicting rulings.

Any action by this Court risks creating the very conflicting orders that *Purcell v. Gonzalez*, 549 U.S. 1 (2006), warns against. A district-court injunction directing use of the HB 1 map while the Supreme Court considers whether to stay the Missouri Supreme Court’s injunction *against* that map would create chaos for election officials, candidates, and voters.

The pending Supreme Court proceeding demonstrates an adequate alternative forum—the constitutionally designated forum—for Plaintiffs’ federal claims. *See Malliotakis v. Williams*, 146 S. Ct. 809 (2026). Plaintiffs cannot bypass that proceeding by asking this Court to issue the relief the Supreme Court is considering.

This Court should dismiss the Complaint as an impermissible attempt to circumvent the Supreme Court’s exclusive appellate jurisdiction. At minimum, this Court should stay proceedings pending the Supreme Court’s resolution of the stay application.

III. *ROOKER-FELDMAN* BARS THIS COURT FROM REVIEWING THE MISSOURI SUPREME COURT’S JUDGMENT

Federal courts, with the exception of the United States Supreme Court, lack appellate jurisdiction over state court proceedings. *Keene Corp. v. Cass*, [908 F.2d 293, 296](#) (8th Cir. 1990); [28 U.S.C. § 1257](#). A federal claim is “inextricably intertwined” with a state-court judgment “if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it.” *Pennzoil Co. v. Texaco, Inc.*, [481 U.S. 1, 25](#) (1987) (Marshall, J., concurring). “Where federal relief can only be predicated upon a conviction that the state court was wrong, it is difficult to conceive the federal proceeding as, in substance, anything other than a prohibited appeal of the state-court judgment.” *Id.*

The Eighth Circuit has enforced this doctrine rigorously. *Rooker-Feldman* “forecloses indirect attempts to undermine state court decisions,” *Brown v. Sweeney*, [242 F.3d 374](#) (8th Cir. 2000), and applies to claims for injunctive and declaratory relief. *Keene Corp.*, [908 F.2d at 297](#). “[A] party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States district court.” *Knutson v. City of Fargo*, [600 F.3d 992, 998](#) (8th Cir. 2010). While the doctrine is typically limited to parties to a state court action, “[e]videce of collusion might dictate a different result.” *In re Skyline Woods Country Club, LLC*, [431 B.R. 830, 837 n.23](#) (B.A.P. 8th Cir. 2010).

Every element is satisfied. This action was filed after the Missouri Supreme Court entered its judgment on September 3, 2026. The Complaint identifies that judgment as the source of Plaintiffs’ alleged injury, Compl. ¶ 33, and every claim requires this Court to find that the Missouri

Supreme Court was wrong—that HB 1 did take effect, and that the 2022 districts should not govern the November 2026 election.

This is not a case where the *Lance v. Dennis*, 546 U.S. 459, 466 (2006), privity limitation has any force. Plaintiffs are represented by the identical counsel who represented the losing intervenors in the state court action, and the evidence of collusion is overwhelming. *See In re Skyline Woods*, 431 B.R. at 837 n.23. This lawsuit is, in every material respect, an appeal of the *von Glahn* judgment disguised as an original federal action. Only the United States Supreme Court has jurisdiction to review it. 28 U.S.C. § 1257.

IV. THE PURCELL PRINCIPLE BARS THE RELIEF PLAINTIFFS SEEK

The Supreme Court has repeatedly held that federal courts should not alter election rules on the eve of an election. *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006) (“[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion”). Justice Kavanaugh articulated a four-factor test for federal court intervention: relief should be denied unless “(i) the underlying merits are entirely clearcut in favor of the plaintiff; (ii) the plaintiff would suffer irreparable harm absent the injunction; (iii) the plaintiff has not unduly delayed bringing the complaint to court; and (iv) the changes in question are at least feasible before the election without significant cost, confusion, or hardship.” *Merrill v. Milligan*, 142 S. Ct. 879, 881 (2022) (Kavanaugh, J., concurring); *see also Malliotakis*, 146 S. Ct. at 810 (“relief may be inequitable if it is issued shortly before an election”).

Purcell cuts entirely against federal court action. Plaintiffs frame this case as one about preventing disruption from switching maps. But there is nothing to “switch.” As the Missouri Supreme Court unanimously held, under state law HB 1 “is not the law and has never been the law.” Slip op. at 12. The 2022 districts are the only lawful districts in effect. Plaintiffs ask this

Court to *change* the rules by mandating use of a map that has never been the law, overriding a unanimous ruling of the State’s highest court. That is precisely the federal intervention *Purcell* condemns.

None of the *Merrill* factors favor Plaintiffs. The merits are not “entirely clearcut”—the Missouri Supreme Court unanimously rejected every argument, and the United States Supreme Court has repeatedly upheld state referenda on redistricting. *See Ohio ex rel. Davis v. Hildebrandt*, [241 U.S. 565, 569](#) (1916); *Moore v. Harper*, [600 U.S. 1, 25–26](#) (2023). The 2022 districts are the status quo—the only lawful map. And any practical difficulties are of the Secretary’s own making; the Missouri Supreme Court specifically noted that he “chose to delay his certification until the last possible day” and “chose not to seek resolution of the constitutional question despite having been told at least as early as December 2025 he had the unique ability as secretary to do so.” Slip op. at 12 n.8. ***This Court*** warned him in December 2025. *See Mo. Gen. Assembly v. Von Glahn*, [2025 WL 3514277](#), at *2 n.2 (E.D. Mo. Dec. 8, 2025).

The timing of Plaintiffs’ filing underscores bad faith. The Missouri Supreme Court expedited the case so its ruling would issue before the September 8, 2026 statutory deadline. Plaintiffs filed this lawsuit on Friday evening before a holiday weekend, ensuring maximum pressure for emergency action with minimum time for deliberation. This gamesmanship is the antithesis of the orderly process *Purcell* demands.

The *Grove* doctrine provides an additional bar. The Supreme Court unanimously held in *Grove v. Emison*, [507 U.S. 25, 34](#) (1993): “States have the primary duty and responsibility to perform [redistricting], and federal courts must defer their action when a State, through its legislative or judicial branch, has begun in timely fashion to address the issue.” (emphasis added). Missouri, through its judicial branch, timely addressed the status of HB 1, using specific processes

mandated by Missouri statutes, including a highly expedited schedule that had the case heard and fully decided by the Missouri Supreme Court in a matter of weeks. “Absent evidence that these state branches will fail timely to perform that duty, a federal court must neither affirmatively obstruct state reapportionment nor permit federal litigation to be used to impede it.” *Id.*

When a state court enters a final redistricting judgment, federal courts are “obligated . . . to give that judgment legal effect.” *Id.* at 35–36. The Missouri Supreme Court held that HB 1 “never took effect” and the 2022 districts are “the only valid congressional redistricting in effect.” That judgment is binding, and Plaintiffs’ request for a federal order displacing it is barred.

V. YOUNGER ABSTENTION BARS FEDERAL INTERFERENCE WITH ONGOING STATE PROCEEDINGS

Under *Younger* abstention, federal courts should decline jurisdiction when “(1) there is an ongoing state proceeding, (2) which implicates important state interests, and (3) there is an adequate opportunity to raise any relevant federal questions in the state proceeding.” *Plouffe v. Ligon*, [606 F.3d 890, 892](#) (8th Cir. 2010). A state proceeding remains “ongoing” until all avenues of appellate review—including Supreme Court review under [28 U.S.C. § 1257](#)—have been exhausted. *Huffman v. Pursue, Ltd.*, [420 U.S. 592, 605](#) (1975). Even where state court proceedings have concluded, *Younger* still bars a federal action, and the appropriate disposition is dismissal. *Tony Alamo Christian Ministries v. Selig*, [664 F.3d 1245, 1251](#) (8th Cir. 2012).

All three conditions are met. First, the state proceedings are ongoing—the Secretary has filed an emergency stay application at the Supreme Court, with a response ordered by September 7 and a reply by September 8. Second, the proceedings implicate the most important of state interests: administering state elections. *See Miller v. Johnson*, [515 U.S. 900, 915](#) (1995). Third, there was a full opportunity to raise federal claims in the state proceedings. Both the Secretary and the Intervenors extensively briefed Elections Clause, Equal Protection, and Article I § 2 arguments

before the Missouri Supreme Court. The proper avenue for further review is the Supreme Court, not a parallel federal district court action.

Younger abstention thus requires dismissal. The losing parties in *von Glahn* have a clear path to seek federal review: certiorari to the Supreme Court. Indeed, that path is already being pursued.

VI. THE ANTI-INJUNCTION ACT BARS THE REQUESTED RELIEF

The Anti-Injunction Act provides that federal courts “may not grant an injunction to stay proceedings in any State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.” [28 U.S.C. § 2283](#). The Act’s prohibition is comprehensive, reaching “all steps taken or which may be taken in the state court or by its officers from the institution to the close of the final process.” *Hill v. Martin*, [296 U.S. 393, 403](#) (1935). Plaintiffs’ request that Missouri officials use HB 1 rather than the 2022 districts would, in substance, override the Missouri Supreme Court’s judgment. Section 2283 cannot be avoided by addressing an order to the parties rather than to a state court. *Atl. Coast Line R. Co. v. Brotherhood of Locomotive Engineers*, [398 U.S. 281, 287–88](#) (1970).

The Complaint asks this Court to “prevent Defendants from using any Congressional map other than the HB1 map until amended by the Missouri General Assembly.” Compl., Prayer for Relief ¶ C. Granting that relief would directly countermand the Missouri Supreme Court’s order requiring use of the 2022 districts.

None of the three exceptions applies. There is no prior federal judgment to “protect or effectuate.”⁴ There is no express congressional authorization for federal courts to enjoin state court

⁴ Indeed, the Secretary and Plaintiffs’ counsel previously *lost* a federal case trying to raise these issues in December 2025. *See Mo. Gen. Assembly v. Von Glahn*, No. 4:25-CV-1535-ZMB, [2025 WL 3514277](#) (E.D. Mo. Dec. 8, 2025). They failed to take a timely appeal from that order.

election orders. And there is no jurisdictional necessity—[28 U.S.C. § 1257](#) vests exclusive jurisdiction to review state court judgments in the United States Supreme Court, not federal district courts.

VII. RES JUDICATA AND COLLATERAL ESTOPPEL BAR RELITIGATION

Under the Full Faith and Credit Act, [28 U.S.C. § 1738](#), federal courts must give state court judgments “the same preclusive effect” they would receive “in the rendering state’s courts.” *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, [544 U.S. 280, 293](#) (2005). This requires giving the Missouri Supreme Court’s judgment in *von Glahn* the same claim-preclusive and issue-preclusive effect a Missouri court would give it.

Both claim preclusion and issue preclusion apply. The Elections Clause arguments that form the core of the federal Complaint were extensively briefed by the Secretary and Intervenors (represented by the same counsel now representing Plaintiffs) before the Missouri Supreme Court. *See* Intervenors-Respondents’ Br. at 14–46; Respondent’s Br. at 27–39.

The Missouri Supreme Court addressed these federal constitutional issues on the merits, unanimously holding that the Elections Clause does not prohibit state referenda on congressional redistricting, *Von Glahn*, slip op. at 6, and rejecting the “clear statement” argument,” *id.* at 6–7.

Missouri’s four-identity test for *res judicata* includes “identity of the persons and parties to the action,” but that requirement is satisfied by privity. *Emerald Pointe, LLC v. Taney Cnty. Missouri*, [78 F.4th 428, 433](#) (8th Cir. 2023). Plaintiffs satisfy that standard: they seek the same relief as the *von Glahn* Intervenors, advance the same constitutional theories, and are represented by the same counsel.

At least three of the Supreme Court’s recognized nonparty-preclusion categories apply. *Taylor v. Sturgell*, [553 U.S. 880, 893–95](#) (2008), holds that “a nonparty is bound by a judgment if

she assumed control over the litigation in which that judgment was rendered,” and that “a party bound by a judgment may not avoid its preclusive force by relitigating through a proxy.” *Id.* at 895. The *von Glahn* Intervenor assumed control over litigation of the very federal constitutional arguments Plaintiffs now reassert. And this action is a proxy effort: the same counsel and aligned interests seek to relitigate through new nominal plaintiffs what they lost in state court.

VIII. PLAINTIFFS LACK ARTICLE III STANDING

To establish Article III standing, a plaintiff must demonstrate “(1) an injury in fact that is concrete, particularized, and actual or imminent; (2) that the injury was likely caused by the defendant; and (3) that the injury would likely be redressed by judicial relief.” *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). Plaintiffs cannot satisfy these requirements.

Plaintiffs’ claims are premised on having a legally cognizable interest in being governed by the HB 1 districts. But the Missouri Supreme Court unanimously held that HB 1 “never took effect” and “has never been the law.” *Von Glahn*, slip op. at 12–13. Because the referendum petition was filed before HB 1’s effective date, HB 1 was “referred to the people” and never became law. *Id.* at 11–12.

Plaintiffs have no legally cognizable interest in being governed by a map that has never been the law. Congressman Onder and Mr. Brattin voluntarily chose to run in the HB 1 districts knowing the referendum petition was pending and that the Missouri Supreme Court had expressly held in May 2026 that HB 1 was not in legal effect if the referendum petition was sufficient. *See Maggard v. State*, 733 S.W.3d 411, 419-20 (Mo. banc 2026). Plaintiffs Thomas and Havens are Republican Party leaders who similarly supported the Secretary’s litigation strategy. All four Plaintiffs assumed the risk that HB 1 might never become law.

To the extent Plaintiffs formed expectations based on the Secretary’s premature use of HB 1 for the August 4, 2026 primary, those expectations were based on improper conduct. The Missouri Supreme Court explained that the Secretary “chose to delay his certification until the last possible day” and “chose not to seek resolution of the constitutional question despite having been told at least as early as December 2025 he had the unique ability as secretary to do so under Missouri statutes.” *Von Glahn*, slip op. at 12 n.8. Any injury is self-inflicted.

Voters and candidates have no constitutional right to demand the use of a particular redistricting map. Their right is to vote in lawful districts—and the 2022 districts are the only lawful districts in effect. Plaintiffs’ claimed injuries arise from the Missouri Supreme Court’s enforcement of the Missouri Constitution, not from any constitutional violation.

IX. THE COMPLAINT FAILS ON THE MERITS

A. The Elections Clause Does Not Bar State Referenda on Congressional Redistricting

Plaintiffs’ central claim—that the Elections Clause prohibits Missouri from subjecting a congressional redistricting act to a popular referendum—has been rejected as “plainly without substance” for over a century. In *Ohio ex rel. Davis v. Hildebrandt*, 241 U.S. 565, 569 (1916), the Supreme Court held that a state constitution’s authorization of a referendum on congressional redistricting does not violate the Elections Clause.

Nothing has changed. In *Moore v. Harper*, 600 U.S. 1, 25–26 (2023), the Supreme Court reaffirmed that “redistricting is a legislative function, to be performed in accordance with the [s]tate’s prescriptions for lawmaking, which may include the referendum and the Governor’s veto.” The Court rejected “the contention that the Elections Clause vests state legislatures with exclusive and independent authority when setting the rules governing federal elections.” *Id.* at 25;

see also *Ariz. State Leg. v. Ariz. Indep. Redistricting Comm’n*, [576 U.S. 787, 805](#) (2015); *Hawke v. Smith*, [253 U.S. 221, 230–31](#) (1920).

Missouri’s Constitution is indistinguishable from the Ohio provision upheld in *Hildebrandt*. Article III, Section 49 provides that “[t]he people . . . reserve power to approve or reject by referendum *any act of the general assembly*.” [Mo. Const. art. III, sec. 49](#) (emphasis added). As the Missouri Supreme Court observed, “[t]here is no meaningful difference between article III, section 49 and the Ohio constitutional provision the Supreme Court upheld in *Hildebrandt* in 1916.” *Von Glahn*, slip op. at 7. It also held that “the referendum and initiative petition power in article III, section 49 . . . is an essential part of the state’s lawmaking process under the Missouri Constitution.” *Id.* at 8. This holding is dispositive.

Plaintiffs’ “clear statement” theory—that the Missouri Constitution must specifically subject congressional redistricting to the referendum—was unanimously rejected. The court held that “any act of the general assembly” includes congressional redistricting acts and that congressional redistricting “is a legislative act.” *State ex rel. Carroll v. Becker*, [45 S.W.2d 533, 537](#) (Mo. banc 1932); *Von Glahn*, slip op. at 7, 10. The Elections Clause claim is foreclosed by over a century of precedent.

B. The Article I, § 2 and Equal Protection Claims Are Meritless

Plaintiffs’ Article I, § 2 and Equal Protection claims rest entirely on the premise that HB 1 was lawfully in effect when the August 4, 2026 primary was conducted. But this premise is false. As the Missouri Supreme Court unanimously held, “HB 1 is not the law and has never been the law.” *Von Glahn*, slip op. at 12. Any confusion caused by use of the HB 1 districts was the result of the Secretary’s own unlawful conduct—his premature implementation of a map that had never taken effect. *Id.* at 12 n.8.

The Constitution does not require the perpetuation of an error. It requires the use of the only lawful districts—the 2022 congressional districts. Indeed, federal law independently requires use of those districts: under 2 U.S.C. § 2c, Representatives must be elected “from districts established by law.” The only districts “established by law” in Missouri are the 2022 districts.

X. THE COMPLAINT IS PROCEDURALLY DEFECTIVE FOR FAILURE TO REQUEST A THREE-JUDGE PANEL

Section 2284(a) provides that “[a] district court of three judges shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts.” 28 U.S.C. § 2284(a). This mandatory language “creates an obligation impervious to judicial discretion.” *Shapiro v. McManus*, 577 U.S. 39, 43 (2015).

The Complaint unquestionably challenges the constitutionality of the apportionment of congressional districts: it asks this Court to declare the use of Missouri’s only lawful districts unconstitutional and to enjoin Defendants from using anything other than HB 1. Yet nowhere do Plaintiffs request a three-judge court. “A single judge shall not . . . enter judgment on the merits” or “hear and determine any application for a preliminary or permanent injunction.” 28 U.S.C. § 2284(b)(3). A single judge cannot grant the relief Plaintiffs seek.

CONCLUSION

For the foregoing reasons, Proposed Intervenor-Defendants respectfully request that this Court dismiss the Complaint with prejudice.

Respectfully submitted

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CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2026, I electronically filed the foregoing using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Charles W. Hatfield

Charles W. Hatfield

132a

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONGRESSMAN ROBERT “BOB”
ONDER et al.,

Plaintiffs,

v.

STATE OF MISSOURI and DENNY
HOSKINS,

Defendants.

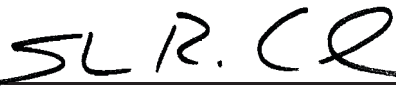
Case No. 4:26-cv-01424-SRC

Order

On September 5, 2026, People Not Politicians and Richard von Glahn moved to intervene as defendants in this action, either as of right or by permissive intervention. Doc. 12; *see* doc. 12-1 at 9–14 (The Court cites to page numbers as assigned by CM/ECF.). The proposed intervenors also filed a motion to dismiss. Doc. 12-4.

The Court orders the parties to, no later than 12:00 p.m. Central Daylight Time on September 6, 2026, respond to (1) the proposed intervenors’ motion to intervene, doc. 12; (2) any other motions to intervene filed in the interim; and (3) the intervenors’ proposed motion to dismiss, doc. 12-4.

So ordered this 5th day of September 2026.



STEPHEN R. CLARK
CHIEF UNITED STATES DISTRICT JUDGE

133a

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONGRESSMAN ROBERT “BOB” ONDER)

et al.,)

Plaintiffs,)

v.)

STATE OF MISSOURI and DENNY)

HOSKINS,)

Defendants.)

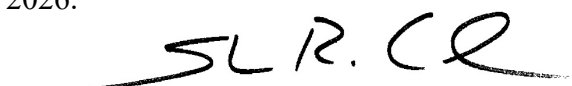
Case No. 4:26-cv-01424-SRC

Order

On September 4, 2026, Plaintiffs Congressman Robert “Bob” Onder, Brattin Richard, Patricia Thomas, and Debra Havens filed a motion for a temporary restraining order and preliminary injunction, doc. 2, seeking to enjoin the Missouri Secretary of State from using the congressional districts ordered by the Missouri Supreme Court’s decision in *von Glahn v. Hoskins*, --- S.W.3d ---, No. SC101805 (Mo. Sep. 3, 2026) (en banc).

The Court orders the parties (and any putative or actual intervenors) to, no later than 12:00 p.m. Central Daylight Time on September 7, 2026, file separate supplemental briefs analyzing (1) whether federal abstention doctrines or the *Rooker-Feldman* doctrine apply, *see Dist. of Columbia Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983), and (2) the impact that a Supreme Court ruling on the pending Emergency Application for Stay and Administrative Stay Pending Appeal in *Hoskins v. von Glahn*, No. 26A304, would have on this case. All supplemental briefs must not exceed ten pages, double-spaced.

So ordered this 5th day of September 2026.


STEPHEN R. CLARK
CHIEF UNITED STATES DISTRICT JUDGE

134a

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ROBERT “BOB” ONDER, ET AL.,

Plaintiffs,

v.

Case No. 4:26-cv-01424

STATE OF MISSOURI, ET AL.,

Defendants.

**STATEMENT IN SUPPORT PLAINTIFFS’ REQUEST FOR A TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Under the extraordinary circumstances of this case, Defendants agree that Plaintiffs meet the thresholds warranting a temporary restraining order and join them in requesting that this Court issue said relief. *See Nken v. Holder*, 556 U.S. 418, 434 (2009) (citation omitted). Plaintiff candidates will be forced to compete in districts in which they did not run in the Primary Election. Meanwhile, Plaintiff voters will be forced to cast general-election ballots for a different slate of candidates than they considered in the Primary Election. For the reasons detailed by Plaintiffs, that gives rise to clear-cut violations of the United States Constitution.

As explained by Plaintiffs, the Missouri Supreme Court has ordered Defendants here to conduct the upcoming General Election according to a different map than the Primary Election. Mem. in Support of TRO at 4. The Missouri Supreme Court’s order patently violates federal law in several respects. Hence, Plaintiffs are likely to succeed on at least one of their claims.

First, the order violates the U.S. Constitution’s Elections Clause. U.S. Const. art. I, § 4. The Clause provides that “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the *Legislature* thereof.” *Id.* (emphasis added). But, the Missouri Supreme Court held that a referendum *petition*—signed by just five percent of legal voters in two-thirds of the congressional districts in the State (approximately 3.3% of the State’s voters)—can suspend Missouri’s duly-enacted congressional map. *See von Glahn v. Hoskins*, No. SC101805, slip op. 8–9 (Mo. Sept. 3, 2026) (quoting Mo. Const. art. III, § 52(a)). If *that* profoundly anti-democratic arrangement is permissible, little is left of the Elections Clause. *See* Mem. in Support of TRO at 5–7.

Second and relatedly, Defendants agree that a referendum cannot proceed against federal-congressional maps *at all* in Missouri because the Missouri Constitution contains no “positive and clear” statement authorizing that abrogation of the General Assembly’s authority. *See United States v. Gradwell*, 243 U.S. 476, 485 (1917).

Third, a judicial order dramatically altering a congressional map *between* a primary and a general election violates several constitutional provisions. Article I, Section 2 provides that “[t]he House of Representatives shall be composed of Members *chosen every second Year by the People* of the several States.” U.S. Const. art. I, § 2 (emphasis added). This protects the right of Missourians to select their representatives in both primary and general elections. *See United States v. Classic*, 313 U.S. 299, 318 (1941). 1.2 million Missourians participated in the State’s

primary under the HB 1 map, in August 2026. *See* Compl. ¶ 78; Ex. 2 at 3. Yet the Missouri Supreme Court just threw those votes into the dustbin—requiring the winners of the primary election to run in very different congressional districts. *See* Compl. ¶ 37.

Thus, absent a stay, hundreds of thousands of voters will be forcibly switched to new districts and made to vote on general election candidates they had no role in choosing. *See* Compl. ¶¶ 38, 94–96; Ex. 2, at 4. This unprecedented disenfranchisement violates Article I, § 2, the constitutional right to vote, and the Equal Protection Clause. *See Gray v. Sanders*, 372 U.S. 368, 379 (1963) (“Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their occupation, whatever their income, and *wherever their home may be* in that geographical unit.” (emphasis added)); *Classic*, 313 U.S. at 318 (“Where the state law has made the primary an integral part of the procedure of choice . . . the right of the elector to have his ballot counted at the primary, is likewise included in the right protected by” the Constitution’s right to vote.).

Despite Plaintiffs’ clear entitlement to legal relief, the State can do nothing to remedy the situation. The Missouri Supreme Court’s order flatly prohibits the State from conducting the general election according to the HB 1 map. *See von Glahn*, slip op. 13–14 (“The secretary and all of those acting in concert with him are restrained and enjoined from implementing, using, or mandating the use of the congressional redistricting in HB 1 for the November 2026 general election or at any other time

thereafter unless and until HB1 is approved by the voters at the November 2026 general election” (citing Mo. Const. art. XII, § 2(b))). Only a federal-court order can rectify that legal violation.

The equities likewise favor Plaintiffs. The Missouri Supreme Court’s order is inflicting unprecedented chaos and profound injury on Missouri. A state trial court found that holding the 2026 General Election under a different congressional map would be “impossible.” Ex. 2, at 36. This jeopardizes Missouri’s ability to hold a timely election in compliance with federal law. 2 U.S.C. § 7; *see Foster v. Love*, 522 U.S. 67, 73–74 (1997) (holding that State may not run federal election in conflict with federal timing of 2 U.S.C. § 7, which requires an election this year on November 3, 2026). And Missouri is almost certain to violate UOCAVA’s deadline for sending out absentee ballots to overseas and military ballots absent a federal-court order. *See* Emergency App. for Stay and Administrative Stay Pending Appeal at 33–34, *Hoskins v. von Glahn*, 26A304 (U.S. Sept. 4, 2026).

Plaintiffs and the public face their own irreparable injury. As the trial court found, changing the map will “move hundreds of thousands of voters into different districts.” Ex. 2, at 4. This includes Plaintiff voters. *See* Compl. ¶ 38. As Plaintiffs explain, both the candidate and voter Plaintiffs face injuries to their right to vote and right to conduct election-related activities. Mem. in Support of TRO at 9. Any time “constitutional rights are threatened or impaired, irreparable injury is presumed.” *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012). Likewise, no interest is

furthered in conducting an unlawful election. Mem. in Support of TRO at 11. To the contrary, the State wishes to comply with federal law for the benefit of *all* its voters.

Defendants are aware of no court in U.S. history ordering a State to change substantially its congressional map *after* a primary election has occurred. This destabilizing and unprecedented situation calls for extraordinary relief. The Missouri Supreme Court's order prevents the State from making this situation right. Given these circumstances and to avoid catastrophic injury to Missouri citizens, Defendants agree that Plaintiffs satisfy the requirements for a temporary restraining order and preliminary-injunctive relief. *See Nken*, 556 U.S. at 434. The Court should therefore grant Plaintiffs' requested relief to preserve the integrity of Missouri's election.

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Dated: September 5, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2026 the foregoing was filed electronically through the Court's electronic filing system to be served electronically on counsel for all parties.

/s/ Louis J. Capozzi III