IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

TERRENCE WISE, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 2516-CV29597
	)	
STATE OF MISSOURI, *et al.*,	)	
	)	
Defendants.	)	
ELIZABETH HEALEY, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 2516-CV31273
	)	
STATE OF MISSOURI, *et al.*,	)	
	)	
Defendants.	)	

INTERVENOR'S PRETRIAL STATEMENT

The Missouri Republican State Committee ("MRSC") respectfully submits this Pretrial Statement regarding the February 17, 2026 trial of the *Wise* Plaintiffs' Counts II, III, and IV and the *Healey* Plaintiffs' Count II.

Plaintiffs cannot carry their heavy burden to prove that the General Assembly's enactment of the 2025 congressional districting plan ("Missouri First Map" or "2025 Plan") in House Bill 1 ("HB 1") "clearly and undoubtedly contravene[s] the constitution." *Johnson v. State*, 366 S.W.3d 11, 20 (Mo. banc 2012) (quotations omitted). At its most fundamental level, Plaintiffs' suit posits that the Constitution *required* the General Assembly to maintain their

preferred Kansas City First Map and *prohibited* it from adopting the new Missouri First Map that better performs on traditional districting principles, and better represents Missourians, statewide. On that basis, they ask the Court to enjoin the 2025 Plan the General Assembly duly enacted, and to resurrect the predecessor 2022 Plan it duly repealed, in HB 1. *See, e.g.*, *Wise* Petition Prayer For Relief.

Far from requiring or even supporting this result, the Constitution forecloses it. "[T]he Constitution is not a grant but a restriction upon the powers of the legislature." *Liberty Oil Co. v Director of Revenue*, 813 S.W.2d 296, 297 (Mo. banc 1991). "Consequently, the General Assembly has the power to do whatever is necessary to perform its functions *except as expressly restrained by the Constitution.*" *Id.* (emphasis added); *see also Bohrer v. Toberman*, 227 S.W.2d 719, 723 (Mo. banc 1950) (General Assembly has "all the powers and privileges which are necessary to enable it to exercise in all respects . . . its appropriate functions, except so far as it may be restrained by the express provisions of the Constitution").

Nothing in the Constitution "expressly restrain[s]" the General Assembly to accord special treatment to the Kansas City area (or any other area of the State) when it performs congressional redistricting, much less to freeze in place the district configuration in Kansas City and Jackson County Plaintiffs favor. *Liberty Oil Co.*, 813 S.W.2d at 297. To the contrary, the

Constitution recognizes that congressional redistricting plans may "be drawn in multiple ways, all of which . . . meet the constitutional requirements." *Pearson v. Koster*, 359 S.W.3d 35, 39 (Mo. banc 2012) (*Pearson I*). And even when complying with those few express restraints, the Constitution requires courts to "respect" the General Assembly's policy-laden, discretionary "political" judgments and trade-offs inherent in redistricting. *Id*. at 40.

The General Assembly made precisely such judgments here. There is no dispute that the 2025 Missouri First Plan outperforms the 2022 Plan on several traditional principles statewide, including avoiding splits of counties, municipalities, and voting tabulation districts ("VTDs"). The General Assembly also concluded that the 2025 Plan better represents the interests of all Missourians statewide than the 2022 Plan. And at the same time, the General Assembly reasonably could have concluded that even the 2025 Plan's configuration of districts in Kansas City and Jackson County will result in *better* representation in Congress for those areas than the 2022 Plan.

Neither theory Plaintiffs will advance at trial can show that the General Assembly "clearly and undoubtedly contravene[d] the constitution" when it made those judgments. *Johnson*, 366 S.W.3d at 20. *First*, Plaintiffs cannot carry their heavy burden to show that the 2025 Plan violates Article III, Section 45's direction that congressional districts be "as compact . . . as may be." Mo. Const., art. III, § 45. At the threshold, the 2025 Plan is *more compact*

statewide than the 2022 Plan—and the three districts Plaintiffs challenge are also more compact in the 2025 Plan than they were in the 2012 Plan the Missouri Supreme Court upheld against a compactness challenge. *See Pearson v. Koster*, 367 S.W.3d 36, 48 (Mo. banc 2012) (*Pearson II*). That includes Districts 5 and 6, which the Missouri Supreme Court specifically addressed and upheld in 2012. *See id.* at 53-56. Even so, Section 45 does not require the General Assembly to maximize compactness: instead, its "as may be" qualification recognizes the General Assembly's broad discretion to balance compactness against other redistricting principles and goals, such as it did in the Missouri First Map. *Pearson I*, 359 S.W.3d at 39.

Plaintiffs principally rest their compactness challenge on the analyses of four putative experts, but those analyses come nowhere close to establishing a constitutional violation. For one thing, those experts have acknowledged that their conceptions of compactness and traditional principles are not binding under Missouri law and that the General Assembly and courts could adopt different ones. For another, none of those experts spoke to even a single member of the General Assembly about the 2025 Plan and, thus, none knows which redistricting principles the General Assembly considered or how it balanced those principles against each other.

Plaintiffs' compactness challenge thus boils down to a claim that the Court should substitute their experts' views and judgments regarding

compactness and traditional principles for the General Assembly's views and judgments. Such judicial overriding of the General Assembly, of course, is precisely what the Constitution forbids. *See, e.g.*, *id.*

Second, the Wise Plaintiffs' claims in Counts III and IV that HB 1 violates Section 45's population-equality and contiguity requirements are meritless. They allege that HB 1 assigns a VTD in Kansas City, "KC 811," to both Districts 4 and 5 and, thus, that those districts are not equipopulous and contiguous. But their own expert acknowledged that *two* different VTDs are named "KC 811." He also acknowledged that the computer file the Secretary of State has promulgated to implement HB 1 assigns one KC 811 in District 4 and the other in District 5 and, thus, achieves population equality and contiguity.

For all of these reasons, and as explained more fully below, Plaintiffs cannot carry their heavy burden to prove a constitutional violation. The Court should deny Plaintiffs' request for relief.

BACKGROUND

The United States Census Bureau conducted a decennial census in 2020 and certified the results to the Governor of Missouri on April 26, 2021. *See* Joint Stipulation ¶ 21. Thereafter, the Missouri General Assembly, in the 2022 regular session, drew congressional districts based on the 2020 Census and passed such districts in House Bill 2909 (2022). *See id.* ¶ 32. This 2022

Plan split 9 counties 10 times. *See* Trende Report at 19; Cervas Report at 14.[1] It split both Kansas City and Jackson County into 3 districts: Districts 4, 5, and 6. *See* Rodden Report at 8; Rodden Rebuttal Report at 11; Trende Report at 21. It also split 8 more municipalities in the Kansas City area of Jackson and Clay Counties, and a total of 31 municipalities statewide. *See* Trende Report at 24; Cervas Report at 7. The 2022 Plan, moreover, split 46 VTDs statewide. *See* Hood Report at 12.

On August 29, 2025, Governor Kehoe publicly announced that he was convening an extraordinary session of the General Assembly and "calling on the General Assembly to take action on congressional redistricting . . . to ensure our districts . . . put Missouri values first." Joint Stipulation ¶ 51; *Governor Kehoe Announces Special Session* (Aug. 29, 2025).[2] Governor Kehoe also unveiled the Missouri First Map at that time. Joint Stipulation ¶ 52. The General Assembly enacted the Missouri First Map as HB 1 on September 12, 2025, and Governor Kehoe signed it into law on September 28, 2025. *Id.* ¶¶ 59-60. At the time of signing, Governor Kehoe touted the new plan as a

[1] This Pretrial Statement cites the reports and depositions of the parties' six disclosed expert witnesses as "[Expert Name] Report at [Page number]" and "[Expert Name] Deposition at [Page number]." Intervenor anticipates that all expert reports and testimony tracking the experts' depositions will be admitted at trial.

[2] Available at https://governor.mo.gov/press-releases/archive/governor-kehoe-announces-special-session-congressional-redistricting-and

"Missouri First Map" that improved performance on traditional districting principles and "best represents Missourians." *Governor Kehoe Signs Missouri First Map Into Law* (Sept. 28, 2025).[3]

The 2025 Plan improves performance on several traditional districting criteria statewide. It is more compact than the 2022 Plan statewide on statistical metrics employed by experts on both sides of the case. *See* Hood Report at 5-6, 14; Rodden Report at 30; Rodden Deposition at 58-59; Cervas Deposition at 35. It reduces the number of county splits to 5 counties 7 times. *See* Trende Report at 19; Cervas Report at 14. It reduces the number of split municipalities to 13 and the number of split VTDs to 42. *See* Hood Report at 11-12; Cervas Report at 7. Like the 2022 Plan, it splits Kansas City and Jackson County into Districts 4, 5, and 6. *See* Trende Report at 21; Rodden Report at 10; Rodden Rebuttal Report at 11. The 2025 Plan, moreover, fixes most of the other municipality splits in the Kansas City area of Jackson and Clay Counties. *See* Trende Report at 25.

On its face, HB 1 refers twice to a VTD called "KC 811." *See* HB 1. Two different VTDs in Jackson County are named "KC 811." *See* Trende Report at 15-16. The Secretary of State has generated a software file known as a shapefile to facilitate implementation of the 2025 Plan. *See* Cervas Report at

[3] Available at https://governor.mo.gov/press-releases/archive/governor-kehoe-signs-missouri-first-map-law

7 n.*; Joint Stipulation ¶¶ 90-95. The shapefile places the one KC 811 VTD into District 4 and the other into District 5. *See* Joint Stipulation ¶¶ 90-95. The district configurations reflected in the shapefile comply with the Constitution's equal-population and contiguity mandates. *See id.*

Plaintiffs are qualified Missouri voters. *See id.* ¶¶ 1-3. The *Wise* Plaintiffs filed their Petition challenging HB 1 in this Court on September 12, 2025, *see Wise* Petition, and the *Healey* Plaintiffs filed their Petition in this Court on September 28, 2025, *see Healey* Petition. The Petitions name Secretary of State Denny Hoskins, the Jackson County Board of Election Commissioners, and the Kansas City Board of Election Commissioners as the Defendants. *See Wise* Petition at 1-2; *Healey* Petition at 1-2.

The *Wise* Plaintiffs bring four claims against the 2025 Plan under Article III, Section 45. Count I alleges that Section 45 prohibits mid-decade redistricting; Count II challenges Districts 4 and 5 as insufficiently compact; Count III alleges a violation of the equal-population requirement; and Count IV alleges a violation of the contiguity requirement. *Wise* Petition at 39-44. The *Healey* Plaintiffs bring only Counts I and II, but their compactness challenge in Count II is broader, encompassing District 6 in addition to Districts 4 and 5. *See Healey* Petition ¶ 115. Plaintiffs seek declaratory relief and an injunction prohibiting Defendants from using the 2025 Plan to conduct any congressional election and reverting Missouri to the 2022 Plan. *See id.* at

30-31; *Wise* Petition at 44-45.

The Missouri Republican State Committee moved to intervene in defense of HB 1 on November 8, 2025. *See* Motion to Intervene. On December 10, this Court granted the motion to intervene and consolidated the *Wise* and *Healey* cases for trial. *See* Order. That same day, the Court stayed proceedings on Plaintiffs' mid-decade redistricting challenge in their respective Counts I because a "similar if not identical" challenge is currently before the Missouri Supreme Court. *See id.*; SC101412, *Luther v. Missouri Secretary of State*.

During discovery, Plaintiffs disclosed and produced expert reports from four putative experts. The *Wise* Plaintiffs identified three experts whose testimony they plan to present at trial, Dr. Jonathan Cervas, Dr. John Cromartie, and Dr. Ari Stern. The *Healey* Plaintiffs disclosed one expert witness, Dr. Jonathan Rodden. Defendants disclosed one expert, Dr. Sean Trende, and Intervenor's disclosed one expert, Dr. M.V. Hood III. Trial on Plaintiffs' unstayed claims is set to begin on February 17, 2026.

LEGAL STANDARD

Like any statute, a redistricting plan enacted by the General Assembly "is assumed to be constitutional and will not be held unconstitutional unless the plaintiff proves that it 'clearly and undoubtedly contravene[s] the constitution.'" *Johnson*, 366 S.W.3d at 20 (quoting *Mo. Prosecuting Att'ys v.*

Barton Cnty., 311 S.W.3d 737, 740-41 (Mo. banc 2010)). Courts therefore must uphold a redistricting plan "unless it 'plainly and palpably affronts fundamental law embodied in the constitution.'" *Id.* (quoting *Barton Cnty.*, 311 S.W.3d at 741). Any "'doubts will be resolved in favor of the constitutionality' of the plan." *Id.* (quoting *Barton Cnty.*, 311 S.W.3d at 741); *see also Liberty Oil Co.*, 813 S.W.2d at 297 ("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 that action or by any reasonable construction of the Constitution.").

ARGUMENT

The Court should enter judgment in favor of Defendants and deny Plaintiffs' requests for relief because they cannot carry their heavy burden to show that the 2025 Plan "clearly and undoubtedly contravene[s]" the Constitution. *Johnson*, 366 S.W.3d at 20 (quotations omitted).

I. PLAINTIFFS CANNOT CARRY THEIR HEAVY BURDEN ON THEIR COMPACTNESS CHALLENGE.

Plaintiffs' respective Counts II fail because the 2025 Plan does not "clearly and undoubtedly contravene," *Johnson*, 366 S.W.3d at 20 (quotations omitted), Section 45's direction that congressional districts be "as compact . . . as may be." Mo. Const., art. III, § 45.

A. Section 45 recognizes the General Assembly's broad discretion in drawing compact districts.

Section 45 directs that congressional districts "shall be composed of

contiguous territory *as compact . . . as may be*." Mo. Const. art. III, § 45 (emphasis added). Section 45 does not require the General Assembly to achieve maximum compactness, much less to sacrifice other traditional principles and redistricting goals to increase compactness in one area of the State. "A determination of whether a district fails to satisfy the [compactness] requirement cannot be accomplished solely by inquiring if it is 'compact,' because the modifier 'as may be' alters the meaning of that word." *Pearson II*, 367 S.W.3d at 48 (quotations omitted). In other words, both textual components—"compact" and "as may be"—underscore that the General Assembly wields broad discretion in how it complies with this constitutional direction. *See id.* at 48-49.

The first component, "compact," is "a vague standard" that places only minimal restraint on the General Assembly's redistricting choices. *Id.* at 49. The Missouri Supreme Court has "reject[ed] the proposition that 'compact' refers solely to physical shape or size" of a district. *Id.* at 48. So while a visual observation of a district's shape is "relevant," it "is not the decisive factor in determining whether a district departs from the principle of compactness." *Id.* at 48-49. Instead, the Missouri Supreme Court has held that the "vague" term "compactness" refers to "closely united territory," but has left that concept undefined. *Id.*; *see also State ex rel. Barrett v. Hitchcock*, 146 S.W. 40, 61 (Mo. banc 1912).

The second component—"as may be"—further underscores the General Assembly's broad discretion in drawing districts in accordance with this constitutional direction. That component recognizes the practical reality that "compactness . . . cannot be achieved with absolute precision." *Pearson II*, 367 S.W.3d at 49 (quotations omitted). For one thing, "[t]he existence of multiple districts prevents absolute compactness . . . because the boundary of one district must fit the boundary of another district, all within state territory lines." *Id.*; *see also* Hood Report at 5 (explaining that "increasing the compactness of some districts within a geographically bounded area . . . may cause a diminishment in the compactness scores of surrounding districts").

For another, "[t]he 'as may be' standard also recognizes" that the General Assembly may—and indeed, must—consider and balance "other [ ] factors" when it "draw[s] district boundaries." *Pearson II*, 367 S.W.3d at 49. For example, the General Assembly must draw maps with "contiguous territory and population equality," Mo. Const. art. III, § 45; *see also Pearson II*, 367 S.W.3d at 48-49, and federal law demands strict compliance with the one-person, one-vote mandate, *see, e.g.*, *Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1964); *see also Pearson II*, 367 S.W.3d at 46, 50.

The General Assembly may also consider "other recognized factors that inherently are included within the constitutional standards governing the reapportionment process, although not expressly articulated as a separate

requirement in the constitution." *Pearson II*, 367 S.W.3d at 49. Those factors include traditional principles like "population density; natural boundary lines; the boundaries of political subdivisions, including counties, municipalities, and precincts; and the historical boundary lines of prior redistricting maps." *Id.* at 50; *see also Pearson I*, 359 S.W.3d at 40 (Mo. banc 2012) (recognizing the importance of preservation of "the integrity of the existing lines of [Missouri's] various political subdivisions").

Because redistricting requires the General Assembly to weigh and trade off several competing variables, it is axiomatic that "maps [can] be drawn in multiple ways, all of which might meet the constitutional requirements." *Pearson I*, 359 S.W.3d at 39. "These decisions are political in nature and best left to political leaders, not judges." *Id.*; *see also Abrams v. Johnson*, 521 U.S. 74, 101 (1997) ("The task of redistricting is best left to state legislatures, elected by the people and as capable as the courts, if not more so, in balancing the myriad factors and traditions in legitimate districting policies."). That makes perfect sense. The Missouri Constitution charges the General Assembly, not the courts, with making the inevitable policy trade-offs inherent in redistricting. *See* Mo. Const. art. II, § 1; *id.* art. III, § 45.

Thus, the constitutional test of compactness "involves whether there is a departure from the principle of compactness in the challenged district and, if there are minimal and practical deviations, whether the district is nonetheless

'as compact as may be' under the circumstances." *Pearson II*, 367 S.W.3d at 48. Absent such a showing, courts "shall respect" and uphold the General Assembly's duly enacted map. *Pearson I*, 359 S.W.3d at 40; *see also Johnson*, 366 S.W.3d at 20.

B. Plaintiffs cannot show that the 2025 Plan departs from the principle of compactness.

Redistricting experts, including Plaintiffs' experts here, employ "various statistical measures . . . in determining compactness." *Pearson II*, 367 S.W.3d at 49. All of these measures attempt to determine whether the district encompasses "closely united territory." *Id.* To be sure, the Missouri Supreme Court has declined to adopt a threshold of compactness under any of these measures and has stated that no single measure "alone" can demonstrate a lack of compactness. *Id.* at 49 n.10. But it has also deemed such measures relevant and even relied on them as part of assessing and rejecting compactness challenges to the 2012 Plan, including in Districts 5 and 6. *See id.* at 49 n.10, 53-57.

One of the first statistical measures of compactness ever invented is called the Reock measure. *See* Trende Report at 6. The Reock measure compares the area of the district to the area of the smallest circle that wholly encompasses the district—also known as the "minimum bounding circle." *Id.* at 6-7. The Polsby-Popper measure is another commonly used statistical measure. *See id.* at 8-11. A district's Polsby-Popper score is the percentage of

a circle with the same perimeter as the district that the district would fill. *See id.*; *see also* Rodden Report at 30; Cervas Report at 7; Cervas Deposition at 45 (Plaintiffs' expert conceding that Reock and Polsby-Popper are "the two most important" statistical compactness measures and "capture . . . the features of the plans that are most relevant for courts").

As even Plaintiffs' experts agree, the 2025 Missouri First Map is *more* compact statewide than the 2022 Plan on the Polsby-Popper measure. *See* Hood Report at 6, 14; Trende Report at 18; *see also* Rodden Report at 30; Cervas Report at 7; Cervas Deposition at 35 (acknowledging that "the 2025 map is more compact than the 2022 map" under Polsby-Popper). The 2025 Missouri First Map is also more compact statewide than the 2022 Plan on the Reock measure as calculated by one common redistricting and mapping software, Maptitude. *See* Hood Report at 5-6. Moreover, *every* district in the 2025 Plan—including each of the three challenged districts—is more compact than the least compact district in the 2022 Plan on the Reock and Polsby-Popper measures. *See id.* And even one of the districts Plaintiffs challenge, District 6, is more compact on both the Reock and Polsby-Popper measures in the 2025 Plan than it was in the 2022 Plan. *See id.*

The 2025 Plan also outperforms on compactness the 2012 Plan upheld by the Missouri Supreme Court against a compactness challenge. *Pearson II*, 367 S.W.3d at 53-57. Statewide, the 2025 Plan scores better on compactness

than the 2012 Plan on both the Reock and Polsby-Popper measures. *See* Hood Report 5-6; Trende Report at 18.

Even the three districts Plaintiffs challenge are more compact in the 2025 Plan than the versions of those districts in the constitutionally compact 2012 Plan. *See* Hood Report at 5-6. Districts 5 and 6—which the Missouri Supreme Court specifically addressed and upheld in the 2012 Plan, *Pearson II*, 367 S.W.3d at 53-57—are more compact on the Polsby-Popper measure and on the Reock measure as calculated by both Maptitude and Dave's Redistricting App, *see* Hood Report at 5-6. District 4 is more compact on the Polsby-Popper measure, has the same Reock score according to Maptitude, and has a minimally lower Reock score (.02) according to Dave's Redistricting App. *See id.* And each of Districts 4, 5, and 6 in the 2025 Plan is more compact on the Reock and Polsby-Popper measures than the least compact district in the 2012 Plan. *See id.* at 5-6, 14.

Thus, as Dr. Trende explains, the 2025 Plan's compactness scores "do[] not suggest . . . the Enacted Map as a whole [is] unusually non-compact compared to what has previously been employed in Missouri." Trende Report at 19. To the contrary, the 2025 Plan and even the three challenged districts compare favorably on compactness to predecessor plans, including the constitutionally compact 2012 Plan. *See* Hood Report at 5-6, 14. Plaintiffs cannot show that the 2025 Plan or any of the challenged districts "depart[s]

from the principle of compactness." *Pearson II*, 367 S.W.3d at 48.

C. Plaintiffs cannot show that the challenged districts are not as compact as may be under the circumstances.

Even if Plaintiffs could show "a departure from the principle of compactness," their compactness challenges still would fail because they cannot show that any of the challenged districts is not "'as compact . . . as may be' under the circumstances." *Pearson II*, 367 S.W.3d at 48. Any "deviations" from compactness in the challenged districts are "practical" and justified by the General Assembly's adherence to other requirements and traditional principles in the Missouri First Map statewide. *Id.*

The 2025 Plan complies with the requirement of "population equality" under both state and federal law. Mo. Const. art. III, § 45; *see also Pearson II*, 367 S.W.3d at 46, 49-50; *infra* Part II. For federal law, this means that the 2025 Plan achieves "*precise* mathematical equality," *Kirkpatrick v. Preisler*, 394 U.S. 526, 530-31 (1969) (emphasis added), of 769,364 persons in 7 districts and one extra person in District 7, *see* Hood Report at 10. The 2025 Plan also complies with the requirement that each district comprise "contiguous territory." Mo. Const. art. III, § 45; *see infra* Part II.

The General Assembly also pursued—and significantly improved performance compared to the 2022 Plan on—the important traditional principle of respecting "the boundaries of political subdivisions, including counties, municipalities, and precincts." *Pearson II*, 367 S.W.3d at 48; *see also*

Pearson I, 359 S.W.3d at 40. For example, the 2025 Plan splits 5 counties 7 times, compared to the 9 counties split 10 times in the 2022 Plan. *See* Trende Report at 19. The 4 counties the 2025 Plan makes whole are Camden, Clay, St. Charles, and Warren. *See* HB 1; Trende Report at 20-21; Cervas Deposition at 38, 58, 70 (acknowledging the 2025 Plan's correction of county splits); Rodden Deposition at 70-71 (acknowledging correction of Camden County split).

The 2025 Plan also splits only 13 municipalities statewide, compared to 31 municipality splits in the 2022 Plan. *See* Cervas Report at 7; Hood Report at 11. The improvement is even more dramatic for municipalities wholly contained within a single county: the 2022 Plan split 22 such municipalities statewide, and the 2025 Plan splits only 2. *See* Hood Report at 11. The 2025 Plan also reduces the number of split VTDs statewide from 46 to 42. *Id.* at 12.

The 2025 Plan even improves performance on traditional principles in the Kansas City and Jackson County area Plaintiffs focus on. As mentioned, the 2025 Plan fixes a split of Clay County within the Kansas City municipal limits. The 2022 Plan split the Clay County portion of Kansas City into Districts 5 and 6, but the 2025 Plan places the entire Clay County portion of Kansas City into District 6. *See* Rodden Report at 8, 11. The 2025 Plan also fixes most of the municipal splits in the Kansas City area of Jackson and Clay Counties. *See* Trende Report at 25. And it respects other political subdivisions

in the Kansas City area as well because it "follows the State Senate map through Jackson County almost perfectly." *Id.* at 22.

The 2025 Plan, like the 2022 Plan and the 2012 Plan, splits Kansas City and Jackson County into Districts 4, 5, and 6. *See* Rodden Report at 8, 11-13. Unlike prior plans, the 2025 Plan places "the downtown airport, (Charles B. Wheeler MKC), in the Sixth District" whose current representative, Sam Graves, chairs the House Transportation Committee. Trende Report at 27.

The 2025 Plan also places a larger share of the populations of Kansas City and Jackson County in Districts 4 and 6 compared to prior plans. *See* Rodden Report at 8, 11-13; Rodden Rebuttal Report at 11. Accordingly, a substantial portion of the constituencies of the representatives of those districts hails from Kansas City and/or Jackson County. *See* Rodden Report at 8, 11-13; Rodden Rebuttal Report at 11. The General Assembly reasonably could have concluded that this configuration would result in *better* representation for Kansas City and Jackson County because, compared to prior plans, a substantial portion of the constituencies of 3 representatives now hails from Kansas City and/or Jackson County. All 3 of those representatives now represent, must advocate for, and be responsive to, the needs of the Kansas City area and its voters. *See, e.g.*, Rodden Deposition at 54.

Plaintiffs cannot show that any of these choices violated any districting principle the Constitution's compactness direction "implicitly permits" the

General Assembly to consider. *Pearson II*, 367 S.W.3d at 50. Quite to the contrary: the General Assembly's preference for a Missouri First Map that better performs on traditional principles and better represents all Missourians—*including in Kansas City and Jackson County*—over the Kansas City First Map favored by Plaintiffs was well within its broad legislative discretion in congressional redistricting. *See id.* at 48-50; *Pearson I*, 359 S.W.3d at 39-40. The Constitution does not require special treatment of any area of the State, does not freeze Plaintiffs' favored district configuration in place, and does not require the General Assembly to sacrifice performance on traditional districting principles statewide, in Kansas City, or in Jackson County to suit Plaintiffs' preferences. Plaintiffs cannot show that any district, including District 4, 5, or 6, is not "'as compact . . . as may be' under the circumstances." *Pearson II*, 367 S.W.3d at 48.

D. Plaintiffs' experts fail to establish a constitutional violation.

Plaintiffs attempt to carry the heavy burden on their compactness claims through their four expert witnesses. But those experts' analyses cannot demonstrate that the 2025 Plan "clearly and undoubtedly contravene[s]" Section 45's compactness direction. *Johnson*, 366 S.W.3d at 20 (quotations omitted). In fact, each of those analyses suffers a variety of methodological and legal flaws.

First, Plaintiffs' experts posit that the General Assembly was required

to adopt the most compact map that achieves its other redistricting goals. *See, e.g.*, Cervas Report at 8, 12-16; Stern Report at 4; *see also* Wise Petition ¶¶ 200-02; Healey Petition ¶¶ 112-15. That, of course, is not the law. *See Pearson I*, 359 S.W.3d at 39 (explaining that "maps [can] be drawn in multiple ways" that comport with Section 45); *Pearson II*, 367 S.W.3d at 48-57. Nor can Plaintiffs seriously contend otherwise, since their own experts' analyses show that their preferred 2022 Plan did not maximize compactness. *See* Cervas Report at 7.

Moreover, given modern redistricting software, it is possible to draw an infinite number of potential plans. Dr. Stern generated 100,000 maps at the click of a button. *See* Trende Report at 16-17; *see also* Cervas Deposition at 40 (explaining that "you can make as many as you want to make, as many as you have the time"). If Section 45 required maximum compactness, then a stable map could never be achieved—"more simulations and exploration will eventually discover a more compact map." Trende Report at 17.

Second, *none* of Plaintiffs' experts discussed the 2025 Plan with any member of the General Assembly. They therefore have no way of knowing which traditional factors the General Assembly considered, how it balanced those various factors, which trade-offs it made among them, and how it decided to make those trade-offs. *See, e.g.*, *Pearson II*, 367 S.W.3d at 48-57; Rodden Deposition at 21 ("I have no knowledge of what the map drawer was considering . . . ."), *id.* at 44; *see also* Cervas Deposition at 61 (conceding that

he does not know if his alternative map would "split[] any municipalities that aren't split in the 2025 map"). In fact, they did not even "look into" whether their views regarding compactness and traditional principles reflect the views of "any Missouri legislator" or map drawer. *See* Rodden Deposition at 13-14, 42-44, 46-47, 51, 57, 70; *see also* Cervas Deposition at 26 (conceding that he reviewed no materials provided to legislators in connection with HB 1); Cervas Rebuttal Report at 6 and Cervas Deposition at 86 (acknowledging that he did not "consider everything that the legislature considered" in the challenged districts); Stern Deposition at 69 (conceding he did not "speak to any member of the Missouri legislature about the 2025 plan or its enactment"); *id.* at 87 (acknowledging that he did not "consider it important . . . to abide by the legislature's choice as much as possible"); Cromartie Deposition at 92-93 (conceding he did not communicate with any Missouri congressmen and did not review "any legislation or legislative history" besides the bill itself). Their various analyses therefore cannot control for or replicate the policy-laden, discretionary judgments the General Assembly made throughout the legislative process and the 2025 Plan. *See, e.g.*, *Pearson II*, 367 S.W.3d at 48-57.

Third, because they could not replicate the General Assembly's discretionary decisionmaking, Plaintiffs' experts instead invoke their own notions of compactness, traditional districting principles, and the law. For

example, Dr. Cervas's analysis is tainted by his erroneous premise that Missouri law requires any deviations from compactness to be "necessary to comply" with other redistricting principles. Cervas Report at 2; *compare* *Pearson II*, 367 S.W.3d at 48-57.

As another example, Dr. Rodden proposes a number of factors that, in his view, bear on the undefined term "closely united territory." *See* Rodden Report at 15-29. But in addition to conceding that he has "no knowledge" whether any legislator or map drawer considered any of those factors, Rodden Deposition at 21, Dr. Rodden conceded that the factors he identified are not an exclusive definition of that term and that Missouri legislators and courts could adopt a different definition entirely, *see id.* at 19-20, 44. Dr. Rodden also asserts that the 2025 Plan's spreading of more Kansas City residents into Districts 4 and 6 "might . . . undermine[]" representation of Kansas City's interests, Rodden Report at 23, but never considered whether it might in fact *enhance* representation of those interests, *see* Rodden Deposition at 46-47, 50-58.

Dr. Cromartie's analysis does not rest on any traditional redistricting criteria because he does not know what they are. He conceded that he is not "familiar with traditional redistricting principles," Cromartie Deposition at 87, has never heard of "the principle of contiguity," *id.* at 88, and reviewed no "literature on redistricting principles" or "case law," *id.* at 22. In fact, he had

never encountered the term "closely united territory" before this litigation. *Id.* at 14, 63-65; *see also id.* at 88 (acknowledging he did not "know any of the details" about the principle of compactness). Rather than apply recognized standards, Dr. Cromartie devised his own metric based exclusively on "rural-urban status"—a definition he formulated only after Plaintiffs' counsel asked him to do so. *Id.* at 64; Cromartie Report at 4. But this criterion is nothing more than Dr. Cromartie's personal preference. He acknowledged that whether to create "more balanced or more mixed urban and rural congressional districts" is a "value judgment." *Id.* at 86-87. That value judgment, of course, belongs to the General Assembly, not Plaintiffs' experts. *Pearson I*, 359 S.W.3d at 39.

Fourth, Plaintiffs' experts rely upon unproven—and, in at least one instance, *disproven*—methodologies. Dr. Rodden invokes a "district sprawl" methodology that he invented for this case, has not been subject to peer review, and has not been accepted by any court. *See* Rodden Report at 30-33; Rodden Deposition at 63, 97. And coincidentally, that methodology *disproves* Plaintiffs' compactness challenge to District 6 because District 6 is *more* compact in the 2025 Plan on Dr. Rodden's invented "district sprawl" metric than it was in the 2022 Plan. *See* Rodden Report at 30-33; Rodden Deposition at 64, 79-80.

Dr. Stern used an "ensemble analysis" to generate thousands of plans that he thought were probative of whether the 2025 Plan is a statistical outlier

on compactness compared to a hypothetical sample of plans. *See* Stern Report at 4. But the U.S. Supreme Court has rejected precisely this type of ensemble analysis in two recent cases because it is "flawed in its fundamentals," *Allen v. Milligan*, 599 U.S. 1, 35 (2023), and has "no probative force," *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 33 (2024).

At the threshold, the maps in Dr. Stern's ensemble are unconstitutional and, thus, *never* would—or could—have been enacted by the General Assembly. As Dr. Stern explained, most of his "ensemble maps allow a ±1% tolerance in population," Stern Report at 20; *see also id.* at 10, while a select few have a "stricter population tolerance of ±.1%," *id.* at 10; *see also* Stern Deposition at 84-85 (conceding that the maps in the ensemble "could have a variance of over 15,000 people"). They therefore violate the equal-population requirement of "*precise* mathematical equality" the U.S. Constitution demands for congressional plans. *Kirkpatrick*, 394 U.S. at 530-31 (emphasis added).

The entire premise of Dr. Stern's "ensemble analysis" is to see "where [the 2025 Plan] ranks among the measurements of the ensemble maps" with respect to compactness. Stern Report at 7-8; *see also* Stern Deposition at 101. But because the ensemble maps could never have been constitutionally enacted and were drawn to different parameters than the 2025 Plan, any comparison between those maps and the 2025 Plan is meaningless. *See, e.g.*, *Milligan*, 599 U.S. at 34. Plaintiffs prove nothing by comparing a constitutional 2025 Plan

drawn to precise equality with unconstitutional maps drawn to a looser concept of equality. *See, e.g.*, *id.*; *Alexander*, 602 U.S. at 33.

Dr. Stern's unconstitutional approach to the equal-population requirement is not the only way in which his analysis fails to "accurately represent[] the districting process in" Missouri. *Milligan*, 599 U.S. at 34. Dr. Stern conceded that he was not aware of the principles the General Assembly used to create the 2025 Plan or how the General Assembly balanced them, so he could not simulate those principles or that balancing. *See* Stern Deposition at 48, 69, 90, 135; *see also id.* at 181 (conceding that plaintiffs' counsel did not advise him to account for municipal or county splits). Accordingly, it is impossible to say which of Dr. Stern's maps—if any—satisfied the General Assembly's criteria. That alone forecloses reliance on his opinion. *See Milligan*, 599 U.S. at 34; *Alexander*, 602 U.S. at 24-25, 33.

Dr. Stern's analysis suffers from an additional flaw. The algorithm he used to generate his ensemble inherently favors compact maps. Dr. Stern claims he "did not introduce any artificial parameters or constraints that would cause the ensemble to prefer or require certain types of maps" and that "no compactness conditions were imposed to steer the algorithm toward compact maps." Stern Report at 10. But the algorithm necessarily and unavoidably "prioritize[s] compactness, upweight[s] compactness" because those priorities are "baked into the mathematical calculation." Trende Report at 29

(quotations omitted). For this reason, the algorithm "will naturally draw districts with a high degree of compactness," without offsetting for other traditional principles the General Assembly pursued. *Id.* at 29-30; *see* Stern Deposition at 94-95 (conceding this point). Dr. Stern's analysis is thus circular: he uses an algorithm that inherently favors compact maps to generate an ensemble, and then faults the 2025 Plan for being less compact than that ensemble. But if the baseline is rigged to favor compactness, the percentile rankings prove nothing, except that the 2025 Plan was drawn by a General Assembly applying other traditional redistricting criteria rather than by an algorithm with a compactness priority "baked in." Trende Report at 29.

In sum, Plaintiffs' experts have merely proposed definitions of compactness, concepts of traditional districting principles, and alternative maps reflecting their own preferences for how redistricting criteria should have been weighed in HB 1. Of course, the Constitution does not permit the Court to substitute Plaintiffs' experts' views and judgments for the General Assembly's. *Pearson I*, 359 S.W.3d at 39. And even if Plaintiffs had raised *any* doubt—and they have not—the Court must resolve the doubt in favor of the General Assembly and HB 1's constitutionality. *Johnson*, 366 S.W.3d at 20. The Court should enter judgment against Plaintiffs and in favor of Defendants on both sets of Plaintiffs' Count II.

II. THE *WISE* PLAINTIFFS' EQUAL-POPULATION AND CONTIGUITY CLAIMS FAIL.

The *Wise* Plaintiffs allege that the HB 1 assigns VTD KC 811 into two separate districts and, thus, violates Section 45's equal-population and "contiguous territory" requirements. Mo. Const. art. III, § 45; *see also* Cervas Report at 25-26. But as Dr. Trende explained—and Dr. Cervas conceded—two VTDs in Jackson County share the label "KC 811." Trende Report at 15-16; *see* Cervas Deposition at 23; Joint Stipulation ¶¶ 79-86. Each KC 811 VTD has a unique GEOID that allows mapping software to assign each separately to the appropriate district. *See* Trende Report at 15-16; Joint Stipulation ¶¶ 79-86. The Secretary of State did so when he generated the software file, known as a shapefile, used to implement the 2025 Plan. *See* Cervas Deposition at 22-23; Joint Stipulation ¶¶ 90-95. All of the districts in the shapefile comply with the equal-population and contiguity requirements. *See* Joint Stipulation ¶¶ 90-95; Hood Report at 10; Cervas Report at 7 n.*; Cervas Deposition at 87. Even Dr. Cervas conceded as much—and he used the shapefile to conduct the analysis in his expert report. *See* Cervas Report at 7 n.*. The Court should enter judgment against Plaintiffs and for Defendants on the *Wise* Plaintiffs' Counts III and IV.

III. THE COURT SHOULD NOT ORDER ANY CHANGES TO THE GENERAL ASSEMBLY'S DULY ENACTED MAP FOR THE ONGOING 2026 ELECTION.

Finally, in all events, the Court should not order any changes to the General Assembly's duly enacted 2025 Plan, or order reversion to the 2022 Plan, for the ongoing 2026 election. *See, e.g.*, *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006). The February 24 opening of candidate filing is rapidly approaching as of the date of this Pretrial Statement. Any judicially ordered changes to the map at this late juncture would harm candidates preparing for the upcoming primary elections, "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." *Id.* at 4-5.

Indeed, the U.S. Supreme Court recently 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. ----, 2025 WL 3484863, at *1 (2025). The district court issued its injunction shortly after the opening of candidate filing, approximately four months before the primary elections, and eleven months before the November 2026 general election. *See League of United Latin Am. Citizens v. Abbott*, No. 3:21-cv-259, 2025 WL 3215715 (W.D. Tex. Nov. 18, 2025). 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*, 2025 WL 3484863, at *1; *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).

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. ----, 2026 WL 96707, at *4 (2026) (quoting *Purcell*, 549 U.S. at 4-5); *see also Abbott*, 607 U.S. ----, 2025 WL 3484863, at *1 (2025). 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 Committee*, 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.* When a "court alters election laws near an election," *id*, candidates, voters, and even voters 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).

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). 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). "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).

This case presents the scenario *Purcell* was designed to prevent. Candidates have already started preparing to file as soon as the filing period opens on February 24 (or shortly thereafter). Those candidates—as well as the voters, campaigns, political parties, and volunteers who support them—are thus actively preparing for and working toward the July 8 voter registration deadline and the August 4 primary election. *See* Missouri Secretary of State, 2026 Missouri Election Calendar.[4]

Invalidating HB 1 at this juncture or even later would cause severe disruption. Candidates would find themselves running in redrawn districts against different opponents, potentially including incumbents or challengers they never anticipated facing. Support cultivated among volunteers and voters, and endorsements painstakingly secured from local officials and community leaders, might carry little weight, become useless, or even become liabilities among a new electorate. In short, candidates and their supporters would be forced to mount an entirely "new and different campaign in a short time frame." *Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 586 (5th Cir. 2006) (quotations omitted). And voters would find themselves in new districts, facing confusion about which district they reside in and confronting unfamiliar

[4] Available at https://www.sos.mo.gov/elections/calendar/2026cal.

candidates. *See Bost*, 2026 WL 96707, at *4; *see also Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring) (explaining that "even heroic efforts likely would not be enough to avoid chaos and confusion").

The Court should follow the settled approach of the United States Supreme Court and decline to order any changes to the General Assembly's duly enacted map in the few months before the upcoming primary elections. *See Abbott*, 2025 WL 3484863, at *1; *Ardoin*, 142 S. Ct. at 2892-93; *Robinson*, 144 S. Ct. 1171. Such an injunction would "lead to disruption and to unanticipated and unfair consequences for candidates, political parties, and voters, among others." *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). To "protec[t] the State's interest in running an orderly, efficient election and in giving citizens (including the losing candidates and their supporters) confidence in the fairness of the election," *Democratic Nat'l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring), this Court should decline to order any changes to 2025 Plan for the 2026 election.

CONCLUSION

The Court should enter judgment for Defendants and deny Plaintiffs' request for relief.

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via the Court's electronic filing system on February 11, 2026 on all parties of record.

/s/ Marc H. Ellinger