

**IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI**

MISSOURI STATE CONFERENCE OF THE  
NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED PEOPLE;  
LEAGUE OF WOMEN VOTERS OF  
MISSOURI; D. RENE POWELL;  
KIMBERLY MORGAN; and JOHN T.  
O’CONNOR;

Plaintiffs,

v.

STATE OF MISSOURI;

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

Defendants.

Case No. 22AC-CC04439

Division I

**FIRST AMENDED PETITION FOR INJUNCTIVE AND DECLARATORY RELIEF**

Plaintiffs, Missouri State Conference of the National Association for the Advancement of Colored People, League of Women Voters of Missouri, D. Rene Powell, Kimberly Morgan, and John T. O’Connor, hereby allege for this petition for injunctive and declaratory relief:

**INTRODUCTION**

1. The Missouri Constitution guarantees that “all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Mo. Const. Art. I, § 25.

2. The Missouri Constitution also clearly defines voter qualifications: “All citizens of the United States, including occupants of soldiers’ and sailors’ homes, over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people....” Mo. Const. Art. VIII, § 2.

3. The Missouri Constitution further provides that: “[A]ll constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry; that all persons are created equal and are entitled to equal rights and opportunity under the law; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails in its chief design.” Mo. Const. Art. I, § 2.

4. The right to vote and the right to equal protection under the laws “are the core of Missouri’s constitution and, hence, receive state constitutional protections even more extensive than those provided by the federal constitution.” *Weinschenk v. State*, 203 S.W.3d 201, 204 (Mo. banc 2006).

5. In *Weinschenk*, 203 S.W.3d 201 and *Priorities USA v. State*, 591 S.W.3d 448 (Mo. banc 2020), *reh’g denied* (Jan. 30, 2020), the Missouri Supreme Court confirmed the fundamental right to vote and struck down laws requiring that only limited forms of photographic identification (“photo ID”) must be presented to cast a regular ballot. The Missouri Supreme Court has “made clear that requiring individuals to present photo identification to vote is unconstitutional.” *Priorities*, 591 S.W.3d at 459. A provisional ballot alternative with a signature-matching requirement does not overcome the constitutional infirmities. *See id.* at 458–59.

6. Following the *Priorities* decision, Missouri voters maintained multiple options for voting in person at their polling place on election day: (1) providing a form of photo ID, (2) providing an alternative secondary form of ID (e.g., a voter registration or notification card from the local election authority, a Missouri student ID, or a copy of a current utility bill or bank statement), or (3) casting a provisional ballot. § 115.427, RSMo (2016).

7. House Bill 1878, effective August 28, 2022 (HB 1878), impinges upon the fundamental right to vote by restricting the identification options that registered voters may present to vote a regular ballot both in person at the polls and in-person absentee to certain forms of photo ID. For those casting ballots at the polls on Election Day, the measure provides an inadequate provisional ballot as the only alternative if a voter does not have one of the limited required forms photo ID. Voters who cast provisional ballots must incur the additional burden of either retrieving an approved photo ID and returning to the polling place that same day or subject their constitutional right to vote to an entirely subjective and standardless signature-matching process. *See* HB 1878, § A (codified at § 115.427, RSMo and § 115.277, RSMo) (the “Voter ID Restrictions”).<sup>1</sup>

8. In-person absentee voters without a required photo ID do not have an option to vote provisionally and are unable to cast a ballot.

9. The instant Voter ID Restrictions eliminate the second option of providing a form of secondary ID (e.g., a voter registration or notification card from the local election authority, a Missouri student ID, or a copy of a current utility bill or bank statement), and instead, require all registered voters in Missouri to either: (1) provide a non-expired acceptable Missouri or federal photo ID, or (2) cast a provisional ballot, which requires the voter to either return the same day with an acceptable Missouri or federal photo ID or rely upon an arbitrary, standardless, and unreliable signature-matching process in order to count.

10. The Voter ID Restrictions will require those who lack one of the specified forms of photo ID, including the individual Plaintiffs and members of organizational Plaintiffs, to

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<sup>1</sup> Section 115.277 provides that a person may cast an in-person absentee ballot if they meet certain requirements. Section 115.277 further provides that “[a] registered voter casting a ballot under the provisions of this subsection shall provide a form of personal photo identification that is consistent with subsection 1 of section 115.427.”

expend time, resources, and effort navigating bureaucracies to acquire the requisite underlying documentation and then take the steps to obtain an acceptable form of photo ID to vote.

11. For some whose underlying documentation does not exist, is located in a state that requires a photo ID to obtain, was destroyed or has errors, this effort can prove insurmountable and impossible.

12. These burdens in obtaining the now required photo ID to vote will be faced by voters who have already overcome the bureaucratic hurdles necessary to register to vote and who have been deemed eligible to vote by the State.

13. Moreover, simply because *some* voters may be able to overcome the burdens and obtain the requisite photo ID ahead of an election, like Plaintiff John T. O'Connor, that does not mean that the burdens are not substantial and therefore an unconstitutional barrier to voting in Missouri.

14. Civic organizations that represent and, as part of their missions, assist populations who disproportionately lack one of the acceptable forms of a non-expired photo ID to vote and face significant barriers to obtaining one (e.g., racial minorities, people living in poverty, rural Missourians, students, senior citizens, Missourians with disabilities, Missourians returning from incarceration, and unhoused Missourians), including the Missouri State Conference of the National Association for the Advancement of Colored People ("Missouri NAACP") and the League of Women Voters of Missouri ("LWVMO"), are now required to expend and divert resources to ameliorate confusion among voters related to what identification will be needed to vote and to assist voters with understanding the complex and sometimes costly processes of how to obtain acceptable forms of identification as well as documentation needed to acquire a non-expired acceptable photo ID.

15. The Voter ID Restrictions substantially and severely burden the fundamental right to vote by restricting the ability to cast a regular ballot to only those who possess certain limited, narrow forms of photo ID, by providing an inadequate provisional ballot alternative to casting a regular ballot, by imposing unnecessary obstacles to voting for the population of Missourians who lack an acceptable form of photo ID, and by requiring civic organizations to expend and divert resources towards educating their members and the public about the new Voter ID Restrictions.

16. Because the Voter ID Restrictions impose a severe, substantial, and heavy burden on fundamental right to vote protected by the Missouri Constitution, they are subject to strict scrutiny. These onerous restrictions cannot satisfy any level of judicial scrutiny, however, as they are neither necessary nor narrowly tailored to advance any compelling state interest.

17. The Voter ID Restrictions are unconstitutional both facially and as applied to all Missourians who lack the limited photo ID required by this law to cast a regular ballot or who have to overcome substantial burdens to obtain the now required photo ID to cast a regular ballot, including members of Plaintiffs the Missouri NAACP and the LWVMO and Plaintiffs D. Rene Powell, Kimberly Morgan, and John T. O'Connor.

18. Plaintiffs request that this Court declare the Voter ID Restrictions unconstitutional and enjoin their application in all future elections.

### **JURISDICTION AND VENUE**

19. This Court maintains original subject-matter jurisdiction over this action under §§ 526.030 and 527.010 of the Missouri Revised Statutes and Missouri Rule of Civil Procedure 87.01.

20. Venue is proper in this Court because Secretary of State John R. Ashcroft maintains an office in Cole County, Missouri.

## PARTIES

### **A. Plaintiffs**

21. The Missouri NAACP is a statewide membership organization.

22. In Missouri, the Missouri NAACP is the chief unit of the National Association for the Advancement of Colored People (“NAACP”), whose mission is: (i) to ensure the political, education, and economic equality of rights of all persons; (ii) to achieve equality of rights and eliminate racial prejudice among the citizens of the United States; (iii) to remove all barriers of racial discrimination through democratic processes; (iv) to seek the enactment of federal, state, and local laws securing civil rights; to inform the public of the adverse effects of racial discrimination and to seek its elimination; (v) to educate persons as to their constitutional rights and to take all lawful action to secure the exercise thereof; and (vii) to take any other lawful action utilizing the tools available to a 501(c)(4) organization in furtherance of these objectives.

23. The Missouri NAACP has thousands of members across the state, divided into more than twenty local units.

24. The mission of the Missouri NAACP, which aligns with the NAACP, is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination. Its objectives include seeking enactment and enforcement of laws securing civil rights as well as educating people as to their rights.

25. The issues upon which the Missouri NAACP and the NAACP are largely focused, include: Race & Justice (fighting racial injustice by building Black political, social, and economic power), Education Innovation (a world-class education for all students),

Environmental & Climate Justice (an environmental, social and economic revolution), Inclusive Economy (mobility and a thriving Black economy), Health & Well-being (an inclusive culture of health and equitable social health systems), Next Generation Leadership (support for young leaders and change agents), Advocacy & Litigation (fair and just representation for all by standing up for the rights of Black Americans in the courts and in Congress).

26. A key objective for the Missouri NAACP and NAACP is to make sure that Black voters and other underserved communities are engaged and encouraged to vote in every election.

27. Voting is a foundational value of the Missouri NAACP. The organization believes that enabling all Missourians to exercise their fundamental right to vote is vital to ensuring equal citizenship and achieving the organization's substantive policy goals.

28. The Missouri NAACP is an active member of the Missouri Voter Protection Coalition, which works to secure the rights of all voters in Missouri.

29. The Missouri NAACP conducts substantial voter engagement and education work in furtherance of its mission, including outreach and activities that communicate and advance its views about the importance of voter registration and access to absentee voting.

30. The population that the Missouri NAACP strives to support and encourage to vote (marginalized and underserved populations) stand to be disproportionately impacted by the implementation of HB 1878 and, specifically, the Voter ID Restrictions.

31. The Missouri NAACP provides voting-related outreach to, and advocacy on behalf of, its members and community, including outreach and advocacy related to voting requirements under Missouri law.

32. In order to fulfill its mission and increase voter turnout among its members and the communities it serves, the Missouri NAACP is expending and diverting resources responding to many inquiries about what forms of identification are now required to vote, educating its members around the state as well as the public on the Voter ID Restrictions, and assisting those who need support obtaining an acceptable form of identification or the underlying documents necessary to obtain that form of identification, including organizing special meetings, printing materials, hiring teams to take information around the state and meet with marginalized communities and other measures taking time and resources from other election related work.

33. The LWVMO is a statewide membership organization.

34. The LWVMO is a state chapter of the League of Women Voters (“LWV”).

35. Rooted in the suffrage movement that secured the right to vote for women, the LWVMO has worked to foster civic engagement and enhance access to the vote since the organization was founded in 1920.

36. The LWVMO works to ensure every citizen has the information and resources necessary to register and exercise their right to vote.

37. The LWV and the LWVMO seek to expand voter access and fight voter suppression.

38. For almost 100 years, the LWVMO has been dedicated to ensuring a free, fair, and accessible electoral system for all eligible citizens.

39. The LWVMO’s goal is to safeguard the rights of all qualified voters—specifically those from traditionally underrepresented or underserved communities, including first-time voters, youth (both college and non-college), people with disabilities, new citizens, minorities, seniors, those with low income, and women—populations who stand to be disproportionately impacted by the Voter ID Restrictions.

40. The LWVMO is an active member of the Missouri Voter Protection Coalition, which works to secure the rights of voters in Missouri.

41. As a membership organization, the LWVMO is the state chapter and has nine local league chapters throughout the state.

42. The LWVMO's more than 1,300 members reside throughout Missouri.

43. LWV members who reside in Missouri are members of the LWVMO as well as their local league chapter.

44. The LWVMO provides voting-related outreach to and advocacy on behalf of its members and community members, including outreach and advocacy related to voting requirements under Missouri law, including the Voter ID Restrictions.

45. The LWVMO has members and works with communities that include individuals who do not have a photo ID that satisfies the Voter ID Restrictions.

46. In order to fulfill its mission and increase voter turnout among its members and the communities it serves, the LWVMO is expending and diverting resources responding to many inquiries about what forms of identification are now required to vote, educating its members the public on the Voter ID Restrictions, including drafting and printing materials, and assisting those who need support obtaining an acceptable form of identification or the underlying documents necessary to obtain that form of identification.

47. D. Rene Powell is a resident of Columbia, Boone County, Missouri.

48. Ms. Powell is an eligible Missouri voter and is registered to vote in Missouri.

49. Ms. Powell is fifty-two years old and is disabled due to epilepsy and mobility issues.

50. Ms. Powell was diagnosed with epilepsy as a teen and the condition impacts her ability to participate in certain activities. She cannot drive, climb ladders, or take a bath, as those activities put her life at significant risk should she have a seizure while engaging in them.

51. Because all activities incur some risk, Ms. Powell is extremely cautious.

52. Because of her disability and mobility issues, Ms. Powell strongly prefers to stay within pedestrian friendly areas.

53. In addition to putting her life at risk, seizures can cause physical injuries. Last summer, Ms. Powell fractured her T10 vertebrae during a seizure in her home.

54. Ms. Powell's mobility issues require that she uses a rollator (a walker with wheels) to move around.

55. Ms. Powell's left leg is completely stiff and therefore throws her gait off. This places pressure on her right hip. The rollator helps with the pressure and prevents her from falling.

56. Ms. Powell's mobility issues began approximately seven years ago.

57. Ms. Powell lives alone.

58. Because she is unable to drive, she must rely upon public transportation, transportation services like Uber and Lyft, or the assistance of friends to get around.

59. Ms. Powell does not have a Missouri driver's license.

60. Ms. Powell does not have a passport.

61. Ms. Powell has never served in the Missouri National Guard or United States Armed Forces.

62. Ms. Powell has a Missouri state non-driver's ID that expired on December 29, 2021.

63. Ms. Powell also has alternative forms of non-photo ID that she could use to vote prior to implementation of the Voter ID Restrictions (e.g., a voter registration or notification card and current utility bills).

64. The only reason that Ms. Powell would need to get her expired photo ID renewed would be to vote.

65. Ms. Powell has voted regularly in all local, state, and national elections for the past 20 years.

66. Ms. Powell voted in the August 2022 Primary Election and plans to vote in the November 2022 General Election as well as in subsequent elections in 2023 and 2024 and beyond.

67. It is important to Ms. Powell that she be able to cast her vote in person.

68. The Voter ID Restrictions will prevent Ms. Powell from relying upon her expired state-issued photo ID or alternative forms of identification to cast a regular ballot in elections after the November 2022 General Election, including upcoming elections in 2023 and 2024.

69. To obtain a new form of ID that complies with HB 1878 and to cast a regular ballot in future elections, Ms. Powell must undertake significant time, effort, and planning, including arranging transportation, complying with bureaucratic requirements, and making physical efforts to visit and wait at the appropriate agencies.

70. Ms. Powell prefers not to travel very far from her home.

71. While there is a bus stop a couple of blocks from Ms. Powell's home, the bus comes every 45 minutes and there is often a wait for it to arrive. To take the bus to the DMV, she will have to get off at a stop that is not safe for her because it is on a busy road and there is no

sidewalk. She would have to walk a longer distance than she is comfortable with in an area of town that is not pedestrian friendly.

72. Ms. Powell's polling place is within walking distance from her home, and she can safely walk there with her rollator on sidewalks.

73. Ms. Powell is lefthanded and has motor difficulties with her left hand that started at the same time she began experiencing leg stiffness. This stiffness in her hand has caused her signature to change over time and she is concerned it may not match the signature on file at her polling place.

74. The last time Ms. Powell renewed her non-driver's license was in 2015.

75. Ms. Powell is a current member of the LWVMO and a board member of the LWV of Columbia-Boone County league chapter.

76. Kimberly Morgan is a resident of Fenton, Jefferson County, Missouri.

77. Ms. Morgan is an eligible Missouri voter and is registered to vote in Missouri.

78. Ms. Morgan is thirty-five years old and stays at home raising her three young children.

79. Ms. Morgan does not drive.

80. Ms. Morgan's husband works fulltime.

81. Because of an error in 2003, Ms. Morgan's birth certificate incorrectly spells her first name as "Kimberley."

82. Ms. Morgan's current state issued non-driver's photo ID also spells her first name incorrectly as "Kimberley" as she had used her birth certificate to obtain her first state issued ID.

83. It was not until after Ms. Morgan had received her first state issued ID that she noticed the spelling error.

84. Ms. Morgan is married but did not change her name.

85. Ms. Morgan's marriage license also includes the incorrect spelling of her first name.

86. Ms. Morgan's social security card has the correct spelling of her name but does not include her date of birth, the date it was issued, or her middle name (only a middle initial).

87. Ms. Morgan does not have a passport.

88. Ms. Morgan has never served in the Missouri National Guard or the United States Armed Forces.

89. Ms. Morgan believes that the correct spelling of her first name was reflected on her original birth certificate, as it also appears on her social security card that was issued shortly after her birth, but despite her attempts, Ms. Morgan has been unable to locate the original birth certificate and the only copy the department of vital records provided to her upon request includes the incorrect spelling of her first name.

90. Ms. Morgan was born in the City of St. Louis.

91. Ms. Morgan is registered to vote using her legal first name spelled correctly as "Kimberly."

92. Ms. Morgan votes with her voter registration card.

93. Ms. Morgan has never voted with her state issued ID that spells her name incorrectly.

94. Ms. Morgan has made attempts to correct the name spelling on her documents through administrative and bureaucratic means but has been unable to do so.

95. Through the Missouri Secretary of State's website, in an attempt to comply with the new Voter ID Restrictions, Ms. Morgan filled out an online form indicating that she needs an

amended birth certificate so that she can obtain the required form of identification to vote. The Missouri Secretary of State's Office responded that they will not assist Ms. Morgan with amending her birth certificate and she will instead need to contact the Missouri Vital Records office.

96. Ms. Morgan has contacted the Department of Health and Senior Services (which is where the Missouri Vital Records office is located) and been informed that to amend her birth certificate, she must submit a notarized affidavit and provide additional documentation that was established at least 5 years before the date of the application to amend, contains her correct full name, contains her age or date of birth, and contains the date the document was prepared.

97. Ms. Morgan does not believe that she has this required documentation to support an application to amend her birth certificate in her possession. Therefore, to amend her birth certificate, she will either have to determine whether the underlying required documentation exists somewhere and obtain it or file legal paperwork with a court seeking a court order, which could require her to pay for legal counsel and filing fees.

98. In addition, having an affidavit notarized is difficult for Ms. Morgan. She has located a notary at her public library, but it is approximately 5 miles from her house.

99. Ms. Morgan does not have extra income to pay for transportation to a notary or to any of the government agencies or businesses where the underlying documentations he needs might exist.

100. Because she does not drive and cares for three young children, it is not easy for Ms. Morgan to get to a government agency or business during the hours they are open. In the part of town where she lives, she does not have access to a bus system or other public transportation.

101. Ms. Morgan has voted regularly in local, state, and national elections for several years using her voter registration card.

102. Ms. Morgan voted in the August 2022 Primary Election and wants to vote in the November 2022 General Election as well as in subsequent elections in 2023 and 2024 and beyond.

103. The Voter ID Restrictions will prevent Ms. Morgan from using her voter registration card to vote. Her only other option is to use a photo ID that spells her name incorrectly and hope that the person accepting her ID at the polling place believes that it substantially conforms to her signature on record. If the poll worker does not believe her name substantially conforms, then she will be required to cast a provisional ballot.

104. Ms. Morgan's signature varies, especially if she is signing something in a hurry or signing electronically, and therefore she is concerned that her signature on a provisional ballot will not match her signature on file.

105. John T. O'Connor is a resident of Columbia, Boone County, Missouri.

106. Mr. O'Connor is an eligible Missouri voter and is registered to vote in Missouri.

107. Mr. O'Connor is 89 years old and lives with his wife.

108. Mr. O'Connor has been voting in Missouri since 1975 and has consistently used his voter registration card as his form of identification.

109. Mr. O'Connor has glaucoma, is blind in one eye, and has deteriorating vision in the other eye.

110. Mr. O'Connor is also hearing impaired.

111. Mr. O'Connor has stability issues and requires assistance when walking.

112. While Mr. O'Connor is largely homebound because of his physical limitations; one of the reasons he does leave his home is to vote in person.

113. Voting in person is very important to Mr. O'Connor and he intends to vote in person so long as he is physically able to do so with the assistance of others.

114. Mr. O'Connor's passport is expired and his Missouri driver's license expired in February 2016. Mr. O'Connor does not have a military ID.

115. The only reason Mr. O'Connor would need to obtain a state-issued ID in Missouri is to vote.

116. Because of the uncertainty with the new Voter ID Restrictions and knowing that he did not have one of the required forms of identification to vote in the upcoming November 8, 2022 election, to avoid being disenfranchised, Mr. O'Connor took great measures to gather all of the forms of identification he could locate, and, on October 5, 2022, he and his wife went to the DMV in Columbia, Missouri.

117. Mr. O'Connor and, more principally, his wife, searched for many hours to locate the forms of identification needed to try to obtain a state-issued non-driver's license solely for the purposes of voting. Together, they were ultimately able to locate his birth certificate (which he did not believe they would find), his 2022 Missouri professional engineer's registration card that expires at the end of 2022, a Medicare card with his social security number on it, a recent utility bill, and a voter registration card.

118. Mr. O'Connor would not have been able to locate these documents without his wife's assistance.

119. Mr. O'Connor would not have been able to get to the DMV without assistance. Here, again, his wife drove him and assisted him in and out of the DMV. Because he and his wife are retired, they could get to the DMV during the week.

120. After waiting for his number to be called, Mr. O'Connor approached a DMV agent. Because he has both vision and hearing impairments, his wife amplified and repeated the instructions of the DMV agent.

121. Mr. O'Connor's wife also assisted him in reviewing the data on the small tablet screen presented by the agent to make sure that the address and other personal information was correct. Mr. O'Connor could not have read the screen without assistance.

122. To Mr. O'Connor's surprise, he was asked for his expired driver's license, a document that pursuant to the online instructions, should not be used as proof of identification to obtain the ID because it was not within 184 days of expiring, and it was that document that was ultimately accepted by that particular DMV location as proof of his identity. *See* <https://dor.mo.gov/driver-license/documents/NONRID.pdf>.

123. Mr. O'Connor had his photo taken and was given a temporary Missouri non-driver's license. His photo ID later arrived in the mail to his home.

124. Mr. O'Connor would not have been able to locate his underlying documents, get to the DMV, or navigate the bureaucracies without his wife's assistance.

125. Mr. O'Connor is a longtime member of the LWVMO.

126. Although the state continues to provide one free non-driver's license for voting as well as underlying documents needed to obtain that ID for certain specified applicants, this assistance does not alleviate the additional burdens imposed on voters who, as demonstrated

herein, have to expend significant time and effort and navigate complicated bureaucratic processes to exercise their fundamental right to vote.

127. Moreover, if a voter has a driver or non-driver's license in the system that is not expired but not in their possession—i.e., it was destroyed in a fire or flood or was lost—they will not be provided with a free ID for voting. Similarly, if a voter obtained a no-cost ID previously, but it has since expired, or has been lost, they are not eligible for a no-cost ID from the state. Additionally, like Ms. Morgan, the state will not assist voters to amend or correct their birth certificates or other underlying documents, or support court filings to reconcile inconsistencies among their underlying documentation, in order to obtain an ID.

128. Even if a voter knows what state agency to contact to obtain a copy of their birth certificate, they must apply for it (an application that will often require notarization), return the application, and then wait for the birth certificate to arrive before attempting to use it to obtain an ID.

## **B. Defendants**

129. Defendant State of Missouri is the entity responsible for enforcement of Missouri's voting statutes, including the Voter ID Restrictions. It also provides state-issued IDs and certain underlying documents for voters who lack them.

130. Defendant John R. Ashcroft is the Missouri Secretary of State, the state's chief elections official, and responsible for implementation of laws related to voting, the Voter ID Restrictions, across the State. He is sued in his official capacity.

## GENERAL FACTUAL ALLEGATIONS

### *Missouri's Constitutional Provisions and Established Legal Prohibition upon ID Laws*

131. Missouri's "constitutional provisions establish with unmistakable clarity that the right to vote is fundamental to Missouri citizens." *Weinschenk*, 203 S.W.3d at 211; accord *Priorities*, 591 S.W.3d at 452; see also Mo. Const. Art. I, § 25; Mo. Const. Art. I, § 2; Mo. Const. Art. I, § 10; Mo. Const. Art. VIII, § 2.

132. The Missouri Constitution enumerates an exclusive list of qualifications that a person must have in order to have the right to vote in Missouri elections, guaranteeing that right to: "All citizens of the United States ... over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if ... they are registered within the time prescribed by law." Mo. Const. Art. VIII, § 2. This exclusive list of qualifications establishes that individuals who are: (1) citizens of the United States; (2) over the age of eighteen; (3) residents of Missouri; (4) residents of the political subdivision in which they offer to vote; and (5) registered within the time prescribed by the law, "are entitled to vote at all elections by the people." *Id.*

133. The Missouri Constitution also provides the exclusive list of disqualifications to vote in Missouri: (1) a person who has a court-appointed guardian of his or her estate by reason of mental incapacity; and (2) a person who is involuntarily confined in a mental institution pursuant to a court adjudication. Mo. Const. Art. VIII, § 2.

134. Mo. Const. Art. VIII, § 2 grants the Missouri General Assembly the authority to make only one determination on qualifications to vote: the General Assembly may, if it chooses to do so, exclude by law from voting "persons convicted of a felony, or crime connected with the exercise of the right of suffrage." *Id.*

135. In *Weinschenk*, 203 S.W.3d 201, the Missouri Supreme Court invalidated strict voter identification provisions implemented by S.B. 1014, 93rd Gen. Assemb., 2d Reg. Sess. (2006), which required Missouri voters to present certain limited forms of government-issued photo ID, specifically a document issued by a state or federal government that contains the person's name as listed in the voter registration records, the person's photograph, and an expiration date showing that the ID is not expired. § 115.427.1 (2005) (the court noted that “[i]n practical effect, the only documents that most Missourians would have that could meet these requirements are a Missouri driver's or non-driver's license or a United States passport”).

136. The *Weinschenk* court held that the ID requirements under SB 1014 violated fundamental voting rights and equal protection under the Missouri Constitution. *Id.* at 204.

137. The *Weinschenk* court emphasized the “practical costs” that would be incurred by Missouri voters seeking an acceptable form of photo ID, who would have to navigate complicated bureaucracies simply to exercise their constitutional right to vote, and the time it would take for a voter to receive the required documents—burdens that the individuals most likely to lack the required documentation were least likely to be able to surmount. *Id.* at 208–09, 214–15.

138. The *Weinschenk* court also found that the State's asserted interest in preventing voter fraud could not justify this burden for purposes of the strict scrutiny analysis because the photo ID requirement “could only prevent a particular type of voter fraud [(voter impersonation)] that the record d[id] not show [wa]s occurring in Missouri.” *Id.* at 218.

139. Ten years after *Weinschenk*, Missouri legislators again attempted to implement strict photo identification requirements for voting by amending § 115.427, in H.B. 1631, 98th Gen. Assemb., 2d Reg. Sess. (2016).

140. HB 1631 maintained photo ID requirements, but also included an alternative option: otherwise-qualified voters who lacked one of the prescribed forms of ID could vote with a secondary form of ID, including: (1) any ID issued by the state of Missouri or the federal government, a state or federal agency, or a local election authority, (2) ID issued by a university, college, vocational, or technical school within the state of Missouri, or (3) a copy of a current utility bill, bank statement, government check, paycheck, or other government document showing the voter's name and current address. However, a voter using a secondary form of ID was required to sign an affidavit confirming their identity and averring that they "do not possess personal identification approved for voting, are eligible to receive a Missouri nondriver's license free of charge, and are required to present a form of personal identification to vote." § 115.427 (2016).

141. In *Priorities*, the Missouri Supreme Court struck down the affidavit requirement of HB 1631's photo ID scheme. The court held that the affidavit language used for secondary IDs was unconstitutional because it was "misleading and contradictory." 591 S.W.3d at 455. While the court invalidated the affidavit requirement, it maintained alternative secondary ID options despite the State's objections, determining that voters could present any of the enumerated secondary forms of ID instead of limiting the statute to strict photo ID requirements (e.g., a voter registration card, a student ID, or a copy of a utility bill or bank statement). *Id.* at 458–59.

142. In preserving alternative secondary ID requirements, the *Priorities* court reaffirmed the fundamental voting rights established by *Weinschenk*.

143. The *Priorities* court found that removing the option to vote with a secondary ID, which would leave only the narrower photo ID provision (identical to those required by HB1878) and the provisional ballot signature-matching alternative (which is what HB 1878

also does with the mostly recently enacted Voter ID Restrictions), posed the same constitutional problems as the scheme invalidated in *Weinschenk* and “could not have been adopted by this Court.” *Id.* at 459.

144. The *Priorities* court noted substantial evidence that the inadequacy of signature-matching necessary to count a provisional ballot cast by a voter without a photo ID—lack of training or uniform standards, age, and illness—“could result in an over-rejection of legitimate signatures[,]” *id.* at 458, n.15, leaving voters who wanted to be certain their ballots were counted with the same, singular option they had under the statute challenged in *Weinschenk*: obtain a photo ID. *Id.* at 458.

145. The *Priorities* court reaffirmed that obtaining proper ID requires “appropriate documentation, time, and the ability to navigate bureaucracies.” *Id.* at 359. These hurdles “require substantial planning in advance of an election to preserve the right to vote,” burdening even those voters who successfully overcome them and disenfranchising those who cannot. *Id.* (quoting *Weinschenk*, 203 S.W.3d at 215).

146. The HB 1631 version of the statute also allowed an eligible voter to obtain one non-driver’s license and a copy of each the requisite underlying documents at no cost. *Id.*

147. The *Priorities* court rejected the dissent’s attempt to distinguish the two laws because HB 1631, unlike its predecessor, required the state to provide one non-driver’s license without cost as well as free underlying documentation necessary to get a Missouri ID, such as a certified birth certificate. *Id.* at n.16. As there was record evidence of a plaintiff wrongly having to pay for a non-driver’s license, and as only the first state ID was free (as in the instant case), the court concluded that HB 1631 still unconstitutionally attached direct financial cost to the fundamental right to vote (e.g., if someone possessed a non-expired ID but lost or could not

locate it or had an expired ID on file with the state). *Id.* Moreover, the Court concluded that the severe practical burdens that accompany obtaining an ID were just as important to SB 1014's unconstitutionality as its financial burden was. *Id.* Because of these burdens, and because “[i]n *Weinschenk* [the] Court made clear that requiring individuals to present photo identification to vote is unconstitutional,” the Court determined that HB 1631 could not have survived without the secondary ID alternative. *Id.* at 458-59.<sup>2</sup>

148. The Voter ID Restrictions imposed by HB 1878 implement a scheme that Missouri Supreme Court refused to accept in *Weinschenk* and *Priorities*: requiring a photo ID for in-person voting; eliminating all previously permissible secondary forms of ID; and offering as the only alternative casting a provisional ballot, which will only be counted if the voter returns to their polling place the same day with a photo ID or can have their signature accepted via the arbitrary signature-matching process. *Id.*

### ***The Voter ID Restrictions***

149. On May 12, 2022, the Missouri General Assembly truly agreed to and passed House Bill 1878, 101st Gen. Assemb., 2d Reg. Sess. (2022).

150. Governor Michael Parson signed HB 1878 into law on June 29, 2022.

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<sup>2</sup> Specifically, the *Priorities* court wrote:

“In effect, the dissenting opinion’s proposal to sever option two in its entirety would result in individuals having to present government-issued photo identification to ensure their votes are counted. In *Weinschenk*, this Court made clear that requiring individuals to present photo identification to vote is unconstitutional. 203 S.W.3d at 219. *Weinschenk* emphasized that some individuals, due to their personal circumstances, experience hurdles when attempting to obtain photo identification, *id.* at 215, a concern that remains relevant in the instant case. Obtaining photo identification requires appropriate documentation, time, and the ability to navigate bureaucracies. *Id.* “Those things that require substantial planning in advance of an election to preserve the right to vote can tend to ‘eliminate from the franchise a substantial number of voters who did not plan so far ahead.’” *Id.* (quoting *Harman v. Forssenius*, 380 U.S. 528, 539-40 (1965)). For these reasons, the dissenting opinion’s first proposed remedy poses constitutional concerns and could not have been adopted by this Court.”

151. The provisions of HB 1878 will go into effect on August 28, 2022.

152. HB 1878 introduces sweeping restrictions on voting rights, including new limitations upon voter identification, voter registration efforts, and absentee voting.

153. Plaintiffs challenge the provisions of HB 1878 that effectively require a specific form of photo ID for all in-person voting at the polling place on election day under amended § 115.427 and for in-person absentee voting under amended § 115.277 (the “Voter ID Restrictions”).

154. HB 1878 repeals and amends certain voting identification provisions of § 115.427.

155. The newly effective provisions of 115.427.1 will establish the following photo ID requirements:

Persons seeking to vote in a public election shall establish their identity and eligibility to vote at the polling place or, if voting absentee in person under section 115.277, at the office of the election authority or other authorized location designated by the election authority by presenting a form of personal photo identification to election officials. No form of personal photo identification other than the forms listed in this section shall be accepted to establish a voter's qualifications to vote. Forms of personal photo identification that satisfy the requirements of this section are any one of the following:

- (1) Nonexpired Missouri driver's license;
- (2) Nonexpired or nonexpiring Missouri nondriver's license;
- (3) A document that satisfies all of the following requirements:

- (a) The document contains the name of the individual to whom the document was issued, and the name substantially conforms to the most recent signature in the individual's voter registration record;
- (b) The document shows a photograph of the individual;
- (c) The document includes an expiration date, and the document is not expired, or, if expired, the document expired after the date of the most recent general election;
- and
- (d) The document was issued by the United States or the state of Missouri; or

- (4) Any identification containing a photograph of the individual which is issued by the Missouri National Guard, the United States Armed Forces, including the Space Force, or the United States Department of Veteran Affairs to a member or former member of the Missouri National Guard or the United States Armed Forces, including the Space Force, and that is not expired or does not have an expiration date.

156. HB 1878 establishes a new requirement that persons voting absentee in person under § 115.277, at the office of the election authority or other authorized location designated by the election authority, must also show an acceptable form of personal photo ID.<sup>3</sup>

157. HB 1878 also repeals the previously available alternative secondary ID options under § 115.427 (2016) that were preserved by the *Priorities* court, which allowed a voter to cast a regular, non-provisional ballot if they signed an affidavit and could present certain specified secondary forms of ID (e.g., a voter registration card, a Missouri student ID, or a copy of a utility bill or bank statement).

158. Voting by provisional ballot does not alleviate the burdens imposed by HB 1878.

159. Sections 115.427.2–4 and 115.427.3, as amended, provide the provisional ballot process for a voter who does not present the required photo ID at the polling place. To be counted, the affidavit on the provisional ballot envelope must be complete, must be signed by the voter, must be signed by a poll worker from each political party. *Id.* The provisional option is not made available to in-person absentee voters who lack a qualifying ID.

160. A provisional ballot cast under this section shall not be counted unless the voter returns during polling hours with a valid and acceptable form of personal photo ID, or “[t]he

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<sup>3</sup> Section 115.277 provides that a person may cast an in-person absentee ballot if they meet certain requirements. Section 115.277 further provides that “[a] registered voter casting a ballot under the provisions of this subsection shall provide a form of personal photo identification that is consistent with subsection 1 of section 115.427.”

election authority verifies the identity of the individual by comparing that individual's signature to the signature on file with the election authority and determines that the individual was eligible to cast a ballot at the polling place where the ballot was cast." § 115.427.2–4.

161. A voter who casts a provisional ballot must incur the additional burden of retrieving their acceptable form of photo ID, if they have one, and making another trip to the polling place before the polls close on election day (with the hope that their provisional ballot gets re-categorized to count), or subject their fundamental right to vote to the vagaries of an entirely subjective, standardless, unreliable, and arbitrary signature-matching process, along with ensuring the affidavit on the provisional ballot envelope is complete and signed by multiple individuals.

162. Provisional ballots that are not guaranteed to be counted are not an acceptable substitute for voters whose eligibility to vote is not in question but who lack one of the limited required IDs. The voter ID provisional ballot conditions the right to vote on a standardless, subjective process in which election officials compare a voter's wet signature on the provisional ballot to the signature the local election authority retains on file with the voter's registration record. This process occurs after election day during the time the election authorities are certifying the ballots in advance of the certification deadline.

163. Signatures and handwriting not only change because of age, health, native language, and disability, but vary depending on the writing conditions. The writing instrument, paper quality, writing surface, and the position of the writer when signing their name may change how someone signs their name. Emotional factors such as excitement, anger, and fatigue can also change how a person signs their name. For voters who registered to vote

online, the comparative signature may be an electronic signature inscribed with a finger or stylus.

164. There are no formalized state standards, training, or procedures for election officials and their staff to evaluate whether a voter's signature on a provisional ballot matches the signature the local election authority has on file, and each of Missouri's 116 local election authority can effectuate their own process and procedure for signature matching, which must be completed prior to the certification deadline.

165. Missouri election officials or their staff are significantly more likely than trained handwriting examiners to make an incorrect signature comparison determination and are particularly likely to incorrectly decide that the signatures are *not* signed by the same person, resulting in the incorrect rejection of the voters' advance voting ballot.

166. Because the signature verification involves human reviewers, it is necessarily fallible. *See, e.g.*, Rory Conn, Gary Fielding, et al., Signature Authentication by Forensic Document Examiners, 46 JOURNAL OF FORENSIC Ser. 884-88 (2001). Studies have repeatedly found that signature verification by laypersons is inherently unreliable, and that non-experts are significantly more likely to misidentify authentic signatures as forgeries. In one study, laypersons falsely declared authentic signatures to be inauthentic at least 26 percent of the time, despite having access to six authentic reference signatures for comparison. K. Gummadidala, Signature authentication by forensic document examiners, J. FORENSIC Ser., 46(4) 884-88 (2001).

167. It is inevitable that authorities will erroneously reject legitimate ballots due to misperceived signature mismatches, resulting in the disenfranchisement of Missouri voters.

168. HB 1878 requires all in-person voters to provide an acceptable form of photo ID to cast a regular, non-provisional ballot.

169. The Voter ID Restrictions do not provide any exceptions for voters who face barriers to obtaining a current Missouri or federal photo ID for various reasons, such as voters who are disabled, ill, elderly, hold religious objections, lack the underlying documentation necessary to get a state ID, or lack transportation or ability to get to a motor vehicle office.

170. The Voter ID Restrictions significantly interfere with the fundamental right to vote. The state's interests in passing HB1878 do not support such a significant interference with this right.

171. Voters, including Plaintiffs and members of Plaintiff organizations, face severe burdens because of the Voter ID Restrictions and they will either not be able to exercise their fundamental right to vote or they will be forced to overcome the severe burdens associated with obtaining an acceptable photo ID if the Voter ID Restrictions remain the law in Missouri.

172. By imposing a substantial and severe burden on the fundamental right to vote under the Missouri Constitution, the Voter ID Restrictions suffer from the same infirmities that the Missouri Supreme Court addressed in *Weinschenk* and *Priorities* and are therefore unconstitutional.

173. The Missouri NAACP and the LWVMO have been and will be forced to continue to shift their resources to provide education and assistance to their members, the communities served by their missions, and to the public regarding the Voter ID Restrictions.

174. Shifting and diverting resources is necessary for the Missouri NAACP and the LWVMO because their members and the communities they serve are confused about the new requirements under HB1878 and this confusion has been brought to their attention by members

and others in the community and they now have to spend significant time answering questions and drafting printing and providing educational materials to inform the public, including their members, about the Voter ID Restrictions and what will be required to vote in future elections.

175. The Voter ID Restrictions are causing confusion to voters leading up to the upcoming November 2022 Missouri statewide General Election and will continue to cause confusion in future elections, particularly as they have been enacted mid-way through the 2022 election cycle and just two months before the November 2022 election.

176. The Voter ID Restrictions are creating significant burdens for voters attempting to navigate the complex processes necessary to obtain a state ID and face barriers to doing so.

177. The Voter ID Restrictions will result in severe burdens and disenfranchisement of eligible voters during the upcoming November 2022 Missouri statewide General Election and future elections.

178. The November 2022 Missouri statewide General Election ballot will include elections for the offices of U.S. Senator, U.S. Representative, State Senator, State Representative, State Auditor, Justices of the Missouri Supreme Court, and intermediate appellate court judges, along with local office and multiple statewide ballot measures.

***The Voter ID Restrictions Impose a Severe and Substantial Burden  
Upon the Fundamental Right to Vote***

179. An individual seeking to obtain personal photo ID in order to vote must obtain and provide multiple forms of underlying documentation providing proof of identity and lawful status, proof of social security and proof of residency, documents which may include: (a) a certified birth certificate; (b) a marriage license or certificate; (c) a divorce decree; (d) a certificate of decree of adoption; (e) a court order changing the person's name; (f) a social security card reflecting an updated name; (g) naturalization papers or other documents from the

United States Department of State proving citizenship; and/or (h) a valid non-expired United States passport or passport card, tax records and utility bills or lease agreements. Individuals whose documents are held by other states will need to navigate the various procedures of those other states, including in some cases, providing a copy of a photo ID, to obtain those underlying documents, which can take months to obtain, before they can undertake the process of getting an ID in Missouri.

180. Obtaining underlying documentation needed to apply for personal photo ID acceptable for voting may require the voter to identify, determine the requirements of, communicate with, and visit various federal, state, and local agencies, such as the local health or vital records departments, the Missouri Department of Health and Senior Services, the Recorder of Deeds for the applicable county, the Circuit Court for the applicable county, the Social Security Administration, and the United States Department of State. Those whose underlying documents have errors or inconsistencies undertake additional administrative processes, including, in some cases, obtaining a court order, which can incur costs.

181. The Voter ID Restrictions do not provide any exception or alternative for eligible voters who are unable to obtain the underlying documentation or undertake the process to get an ID at a Missouri motor vehicle office to cast a regular, non-provisional ballot in person.

182. Although amended § 115.427.6 provides generally that an individual may obtain one free copy of a nondriver's license and of certain specific underlying documents for voting purposes and "may request the secretary of state to facilitate the acquisition of such documents," the statute does not provide specific guidance on how an individual may make or how the Secretary of State must fulfill such a request nor would this cover someone who possesses such identification but lost or misplaced it or cannot locate it because it has been

destroyed (e.g., in a fire or flood), or someone who needs to correct inconsistent or erroneous information.

183. As Ms. Morgan has learned, the Secretary of State will assist a person obtain a birth certificate but will not assist someone amend their birth certificate.

184. Amended § 115.427.6 does not provide for a free copy of a Missouri driver's license for voting purposes. Individuals with valid out of state driver's licenses must forfeit their driver's license to obtain a non-driver ID in Missouri. If those individuals wish to continue to have driving privileges, they must pay out of pocket for a Missouri driver's license.

185. Hundreds of thousands of Missouri voters are likely to be impacted by the Voter ID Restrictions.

186. A February 2017 No-Match Analysis conducted at the request of Secretary of State Ashcroft comparing the voter rolls against those with state IDs on file with the Missouri Department of Revenue found: 137,723 registered voters in Missouri did not have a Department of Revenue ID (*i.e.*, a driver's license, non-driver's license, or instruction permit); 140,073 registered voters had an expired Department of Revenue ID (*i.e.*, a driver's or non-driver's license); and 2,040 registered voters had forfeited their driver's licenses.

187. The Voter ID Restrictions will likely increase the number of provisional ballots cast and lead to voter confusion. *See* L.R. No. 4557S.05T, Comm. on Leg. Research, Oversight Division, Fiscal Note (HB 1878), at 14 (June 3, 2022) ("Requiring photo ID for voters would likely increase the amount of provisional votes cast which would need to be processed by election board staff within the certification period... This provisions also eliminates the duty of the SOS to inform the public of the new ID requirement; lack of information would likely lead to confusion on the part of the voter; and lead to casting of more provisional ballots.").

188. A former Missouri Secretary of State has noted that provisional ballots are not an acceptable substitute for voters lacking appropriate ID because they are so rarely counted. For example, “[i]n the 2012 Presidential Election, fewer than 3 in 10 provisional ballots were counted.” Office of the Missouri Secretary of State, *House Bill 1073 Impact Report: The Effect on Missouri Voters*, at 4 (Feb. 2014), <https://www.sos.mo.gov/CMSImages/NewsReleases/2014ImpactReport.pdf>.

189. A study of votes in recent elections “shows that strict photo identification laws have a differentially negative impact on the turnout of Hispanics, Blacks, and mixed-race Americans in primaries and general elections. Voter ID laws skew democracy in favor of whites and those on the political right.” Zoltan Hajnal, et al., *Voter Identification Laws and the Suppression of Minority Votes*, 79 J. OF POLITICS 2 (2017).

190. The Voter ID Restrictions will require Plaintiff Ms. Powell to expend substantial time, effort, and planning, and take safety risks that she would not normally take, to obtain a new photo ID in compliance with the Voter ID Restrictions, including arranging transportation, determining and complying with bureaucratic requirements, and making physical efforts to visit and wait at the appropriate agencies. If she does not engage in efforts to navigate bureaucracies and undertake the processes of acquiring the proper documentation and applying for a photo ID, Ms. Powell will be prevented from exercising her fundamental right to vote in all elections after November 8, 2022.

191. The Voter ID Restrictions will require Plaintiff Ms. Morgan to expend substantial time, effort, and planning in order to amend her birth certificate in order to obtain the necessary underlying documentation and then a photo ID that reflects her correct legal name and complies with the new law. If she does not engage in efforts to navigate bureaucracies and

undertake the same time-consuming and confusing processes of acquiring the proper underlying documentation to amend her birth certificate and then obtain a photo ID, Ms. Morgan will be have to cast a provisional ballot or use a form of ID that spells her name incorrectly and puts her at risk of either being denied the right to vote or investigated for possible voter fraud if a poll worker is suspicious of the spelling discrepancy.

192. The Voter ID Restrictions have caused Plaintiff Mr. O'Connor, with the assistance of his wife, to expend substantial time, effort, and planning to find the underlying documents necessary to obtain a non-expired non-driver's license, and expend substantial time, effort, and planning to get to and navigate the DMV in order to obtain the non-expired non-driver's license. All of this would not have been necessary had the new Voter ID Restrictions not been in effect as Mr. O'Connor would have then been able to vote in person, as he has done for decades, with either his voter registration or voter notification card.

193. Members of the Missouri NAACP and the LWVMO do not have acceptable photo ID that complies with the Voter ID Restrictions and will be prohibited from voting in future elections.

194. Cynthia Jewel Chapel is a seventy-four-year-old resident of Jefferson City and a registered Missouri voter. She is a lifetime member of the NAACP, and therefore member of the Missouri NAACP. It is important to Ms. Chapel that she be able to cast a regular ballot in person. Ms. Chapel's driver's license expired in April 2022 and she does not have a passport or military ID. Ms. Chapel is widowed, lives alone, and has limited mobility. Ms. Chapel does not know where her birth certificate or social security card are located and renewing her ID for the purposes of voting in future elections would be burdensome. Ms. Chapel's signature has

changed over time and she is concerned that if she is forced to cast a provisional ballot her signature may not match the signature on file and her vote may not be counted.

195. Tracy Heath is a sixty-one-year-old resident of Springfield and registered Missouri voter. She is a member of the LWVMO. For the past thirty-five years, up until early 2022, she was a resident of Florida. In early 2022, Ms. Heath and her husband moved back to Missouri—where she was born and raised—to care for her aging mother who passed in August 2022. Ms. Heath has a Florida driver’s license that will not expire until 2028. Ms. Heath does not know where her documentation is that she will need to obtain a Missouri driver’s license and she does not know where her passport is located and would have to expend significant time and resources replacing it. She does not have a military ID. Ms. Heath’s social security card, if she could locate it, does not have her married name as she never updated it when she got married thirty-five years ago. Her birth certificate misspells her name and likewise may not be sufficient documentation to obtain a Missouri photo ID. Ms. Health also lacks documentation proving her residency. It is important to Ms. Heath that she be able to cast a regular ballot in Missouri. Ms. Heath is concerned that if she casts a provisional ballot her signature will not match what the local election authority has on file and will therefore not be counted, as opposed to casting a regular ballot which is guaranteed to be counted.

196. Plaintiffs Ms. Powell and Mr. O’Connor are members of the LWVMO.

197. Members of the Missouri NAACP and the LWVMO face uncertainty and confusion about the scope and requirements of the Voter ID Restrictions and will be dissuaded from exercising their right to vote and burdened by the Voter ID Restrictions.

198. Plaintiffs the Missouri NAACP and the LWVMO and other civic organizations are diverting resources, and will continue to do so, to educate and assist their members and eligible

voters throughout Missouri to address confusion, uncertainty, and compliance with the Voter ID Restrictions.

199. In response to questions and concerns from members and the public, the Missouri NAACP prepared public service announcements to air on local radio stations to educate their members and others in the community about the Voter ID Restrictions.

200. In response to questions and concerns from members and the public, the Missouri NAACP helped to create ID clinics that will assist those who need acceptable forms of ID for voting obtain them and helping pay for underlying documents for voters.

201. In response to questions and concerns from members and the public, the Missouri NAACP has and will continue to develop educational materials to distribute to members and the public related to the Voter ID Restrictions. These materials would typically focus on increasing voter turnout and educating members on substantive issues and ballot measures in upcoming elections, but resources have now been shifted from those efforts to inform the public about the Voter ID Restrictions because the majority of questions coming to the NAACP related to the upcoming election relate to the Voter ID Restrictions and the confusion members and the public have about the new requirements.

202. In response to questions and concerns from members and the public, the LWVMO is participating in education, outreach, and other trainings to inform its members and the community about the Voter ID Restrictions.

203. The LWVMO's current website contains information about HB 1878 and the Voter ID Restrictions. This was added to the website after HB 1878 passed because the confusion about what ID is required to vote was already apparent and members and the community began

asking questions of LWV leadership and volunteers as soon as they learned of the passage of the law.

204. In response to questions and concerns from members and the public, the LWVMO created paid media communications on social media as well as in print media to notify members and other voters about the Voter ID Restrictions. The LWVMO has also printed and mailed thousands of flyers with information about the Voter ID Restrictions at the request of members and the public and in order to educate voters about what is required. The LWVMO has also paid to air public service announcements on the Voter ID Restrictions.

205. In response to questions and concerns from members and the public, the LWVMO has trained interested members on the availability of resources to help registered voters who lack the necessary underlying documents to obtain an acceptable photo ID for voting.

206. If the Voter ID Restrictions were not in effect, the LWVMO would be spending the time and resources currently being diverted to respond to questions and concerns from members and the public about the law on efforts related to voter registration and educating the public about the important issues that voters will be called upon to cast a vote.

***The Voter ID Restrictions Cannot Satisfy Any Level of Scrutiny***

207. The Voter ID Restrictions impose severe and substantial burdens on the fundamental right to vote which are not justified by a sufficient state interest.

208. No change in any purported state interest has occurred since the Missouri Supreme Court held in *Weinschenk* that “the Photo-ID Requirement could only prevent a particular type of voter fraud that the record does not show is occurring in Missouri, yet it would place a heavy burden on the free exercise of the franchise for many citizens of this State.” *Weinschenk*, 203 S.W.3d at 218 (finding that photo ID requirement was not narrowly tailored to accomplish

purpose of preventing voter impersonation fraud); *see also Priorities*, 591 S.W.3d at 455 (finding affidavit requirement scheme did “not pass muster under any level of scrutiny”).

209. While legislative proponents have cited the prevention of voter fraud as the purported justification for the Voter ID Restrictions, there has been no evidence of voter impersonation fraud at the polls in the past twenty years since Missouri introduced its first voter ID law in 2002.

210. To the contrary, Secretary of State Ashcroft repeatedly confirmed that the General Election in 2020 was “secure[]”<sup>4</sup> and “successful”<sup>5</sup> despite the many challenges to voting presented by the COVID-19 pandemic. Two rare cases of alleged voter fraud in Missouri in the 2020 election involved allegedly double voting rather than voter impersonation fraud, the only irregularity potentially addressed by the Voter ID Restrictions, and “Secretary Ashcroft is confident these isolated issues are not indicative of problems with Missouri elections.”<sup>6</sup>

211. The Voter ID Restrictions are not narrowly tailored to combating voter impersonation fraud, which is virtually non-existent in Missouri.

212. Additionally, HB 1878 eliminates the requirement under the pre-amended version of § 115.427.8, RSMo (2016), that voters sign a precinct register. This existing signature requirement already provided a safeguard for confirming a voter’s identity and qualification to

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<sup>4</sup> Jason Hancock, *Jay Ashcroft Touts Integrity of Missouri’s 2020 Election, but Supports an Audit*, Mo. Indep. (Nov. 22, 2021), <https://missouriindependent.com/2021/11/22/jay-ashcroft-touts-integrity-of-missouris-2020-election-but-supports-an-audit>.

<sup>5</sup> Press Release, John R. Ashcroft, Mo. Sec’y of State, *Ashcroft Applauds Missourians for Smooth Election, High Turnout* (Nov. 4, 2020), <https://www.sos.mo.gov/default.aspx?PageId=9966>.

<sup>6</sup> Press Release, John R. Ashcroft, Mo. Sec’y of State, *Ashcroft Uncovers Voter Fraud and Demands Prosecution* (Aug. 26, 2021), <https://www.sos.mo.gov/Ashcroft-Uncovers-Voter-Fraud-Demands-Prosecution>.

vote. *Priorities*, 591 S.W.3d at 457 (finding that precinct register requirement made affidavit for voters presenting alternate forms of non-photo ID futile).

## COUNT I

### ***The Voter ID Restrictions Violate the Fundamental Right to Vote under the Missouri Constitution***

213. Plaintiffs reallege and incorporate by reference the allegations of the preceding paragraphs.

214. The Missouri Constitution expressly guarantees that “all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Mo. Const. Art. I, § 25.

215. The Missouri Constitution provides an exclusive list of qualifications necessary to vote in Missouri. Mo. Const. Art. VIII, § 2 (“All citizens of the United States ... over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if ... they are registered within the time prescribed by law”).

216. The Voter ID Restrictions burden fundamental voting rights in violation of Article I, § 25 of the Missouri Constitution by eliminating the option to provide certain alternative non-photographic forms of ID to vote, and requiring qualified Missouri voters, including Plaintiffs Ms. Powell, Ms. Morgan, and Mr. O’Connor, as well as members of the Missouri NAACP and the LWVMO, to either: (i) present a limited form of photo ID, which require significant time, effort, and advance planning to obtain; or (ii) cast a provisional ballot, which will be subject to an arbitrary review process and the risk of rejection. *Weinschenk*, 203 S.W.3d 201; *Priorities*, 591 S.W.3d 448.

217. There is no compelling state interest that justifies the burdens upon the fundamental right to vote imposed by the Voter ID Restrictions.

218. The Voter ID Restrictions constitute an unconstitutional scheme that cannot withstand judicial scrutiny, as confirmed in *Weinschenk*, 203 S.W.3d 201 and *Priorities*, 591 S.W.3d 448.

219. Plaintiffs expressly state that they are not asserting or attempting to assert any claim under the United States Constitution or any federal statute.

220. Plaintiffs face irreparable injury to their—and, for Plaintiffs the Missouri NAACP and the LWVMO, their members’—fundamental right to vote absent an injunction of the Voter ID Restrictions.

## COUNT II

### ***The Voter ID Restrictions Unduly Burden the Fundamental Right to Vote in Violation of the Equal Protection Clause of the Missouri Constitution***

221. Plaintiffs reallege and incorporate by reference the allegations of the preceding paragraphs.

222. Article I, Section 2 of the Missouri Constitution provides that “all persons are created equal and are entitled to equal rights and opportunity under the law.”

223. The Voter ID Restrictions impose severe and substantial burdens on the fundamental right to vote of a significant number of eligible voters that are neither justified by, nor necessary to promote any substantial or compelling state interest that is not already being adequately protected by existing election laws and procedures, or which could not have been advanced using other, less restrictive and less burdensome alternatives.

224. Defendants have not advanced any substantial or compelling state interest that justifies the severe burdens imposed by the Voter ID Restrictions upon Missouri voters,

including Plaintiffs Ms. Powell, Ms. Morgan, and members of Plaintiffs the Missouri NAACP and the LWVMO, who do not possess an acceptable form of photo ID, or upon Plaintiff Mr. O'Connor, who was required to obtain an acceptable form of photo ID.

225. The Voter ID Restrictions are not strictly necessary nor narrowly tailored to any State interest.

226. The Voter ID Restrictions will disproportionately impact protected classes of people, particularly voters who are people of color and voters with disabilities.

227. The Voter ID Restrictions burden fundamental voting rights by eliminating the option to provide certain alternative non-photographic forms of ID to vote, and requiring qualified Missouri voters, including Plaintiffs Ms. Powell, Ms. Morgan, and Mr. O'Connor, as well as members of the Missouri NAACP and the LWVMO, to either: (i) present a limited form of photo ID, which require significant time, effort, and advance planning to obtain; or (ii) cast a provisional ballot, which will be subject to an arbitrary review process and the risk of rejection. *Weinschenk*, 203 S.W.3d 201; *Priorities*, 591 S.W.3d 448.

228. The Voter ID Restrictions have deprived and will continue to deprive Missouri voters of fundamental rights secured to them by the Missouri Constitution.

229. Plaintiffs expressly state that they are not asserting or attempting to assert any claim under the United States Constitution or any federal statute.

230. The Missouri NAACP and the LWVMO are membership organizations and protecting voting rights and increasing voter participation is germane to their purpose.

231. The Missouri NAACP and the LWVMO have already and will continue to divert resources to educate and assist their members and eligible voters throughout Missouri to address confusion, uncertainty, and compliance with the Voter ID Restrictions.

WHEREFORE, Plaintiffs pray this Court:

- A. Enter a declaratory judgment that the Voter ID Restrictions imposed by HB 1878, as codified at § 115.427, RSMo and § 115.277, RSMo, violate the Missouri Constitution both facially and as applied and may not be enforced;
- B. Issue a permanent injunction prohibiting Defendants and anyone acting in concert with them from enforcing the Voter ID Restrictions imposed by HB 1878, as codified at § 115.427, RSMo and § 115.277, RSMo; and
- C. Allow such other and further relief as is proper under the circumstances.

Respectfully submitted,

/s/ Gillian R. Wilcox

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**Certificate of Service**

The foregoing was filed electronically using the Missouri case.net e filing system on November 4, 2022, and thereby served on all counsel of record.

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