

**IN THE CIRCUIT COURT OF JACKSON COUNTY
STATE OF MISSOURI, AT KANSAS CITY**

TERRENCE WISE, et al.,

Plaintiffs,

v.

STATE OF MISSOURI, et al.,

Defendants.

Case No. 2516-CV29597

Division 15

**PLAINTIFFS' REPLY SUGGESTIONS IN SUPPORT OF MOTION FOR SCHEDULING
CONFERENCE, PRELIMINARY INJUNCTION HEARING, AND ORDER
CONSOLIDATING SEPARATE TRIAL ON COUNT 1 WITH PRELIMINARY
INJUNCTION HEARING**

Come now Plaintiffs, by and through their counsel of record, and hereby reply in support of their request for a scheduling conference, preliminary injunction hearing, and order consolidating separate trial on Count 1 with the preliminary injunction hearing. In support, Plaintiffs state:

1. Plaintiffs submit that, at a minimum, a scheduling conference is appropriate and necessary given the issues raised in this case and the pending motions before this Court. Plaintiffs request that this conference be scheduled as soon as practicable but on or before October 2, 2025.

2. With respect to a briefing schedule, State Defendants incorrectly frame their filing as a response to Plaintiffs' "Request for Expedited Briefing Schedule." Plaintiffs did not move for expedited briefing. Rather, Plaintiffs requested a scheduling conference and a preliminary injunction hearing, while noting the ordinary briefing schedule under Local Rule 33.5.

3. Under Local Rule 33.5, suggestions in opposition to the pending Motion for Preliminary Injunction must be filed within 10 days following service and filing of such motion,

and reply suggestions must be filed within 5 business days thereafter. *See* Rule 44.01 (“When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.”).

4. All named Defendants received courtesy copies of the pleadings and motion filings through counsel on September 12, 2025. Most Defendants, including State Defendants and both election boards, were formally served on September 16, 2025, and the remaining Defendants were served on September 18, 2025. Affidavits of service have been filed with this Court.

5. Thus, pursuant to Local Rule 33.5, State Defendants’ suggestions in opposition to Plaintiffs’ preliminary injunction motion are due by September 26, 2025, and Plaintiffs’ reply suggestions are due by October 3, 2025.

6. It is State Defendants—not Plaintiffs—who seek to depart from the local rules.

7. Specifically, State Defendants seek to delay their response deadline on Plaintiffs’ preliminary injunction motion pending resolution of their “Suggestions in Support of Defendants’ Motion to Dismiss” filed on September 19, 2025.

8. While the “Suggestions in Support of Defendants’ Motion to Dismiss” were filed with this Court on September 19, 2025, there was no accompanying motion to dismiss. *See* Local Rule 33.5.1 (“A party filing any motion, except motions for new trial, shall serve and file at the same time brief written suggestions in support thereof together with authorities relied upon and any affidavits to be considered in support of the motion.”).

9. In the “Suggestions in Support of Defendants’ Motion to Dismiss,” State Defendants seek dismissal pursuant to Rule 55.27(a)(1) (“[l]ack of jurisdiction over the subject matter”) and (a)(9) (“[t]hat there is another action pending between the same parties for the same cause in this state”).

10. Pursuant to Local Rule 33.5, Plaintiffs will file suggestions in opposition to State Defendants' presumptive motion to dismiss on or before September 29, 2025.

11. Because it is improper for Defendants to inject substantive arguments in support of dismissal into their response to Plaintiffs' Motion for Scheduling Conference, Plaintiffs do not address the substance of those arguments here. Plaintiffs will instead address them in their suggestions in opposition and will do so within the timeline set forth in the local rules. Plaintiffs do not require, and so do not request, additional time.

12. Pursuant to Local Rule 33.5, State Defendants' reply suggestions in support of their motion to dismiss are due on or before October 6, 2025.

13. The remaining Defendants did not join State Defendants' motion to dismiss and therefore their Answer or responsive pleadings are due on or before October 16, 2025, and October 20, 2025, respectively depending on their date of service.

14. State Defendants filing a motion to dismiss does not absolve them of the requirement to respond to Plaintiffs' pending Motion for Preliminary Injunction within ten days under Local Rule 33.5. Nor is there any basis to delay adjudication of the Motion for Preliminary Injunction pending the motion to dismiss.

15. The pendency of a motion to dismiss does not stay briefing or consideration of a preliminary injunction motion. Indeed, courts routinely consider motions for preliminary injunction and motions to dismiss in parallel, especially in voting rights and redistricting cases where elections proceed on fixed schedules. *See, e.g., Fletcher v. Lamone*, 831 F. Supp. 2d 887, 890 (D. Md. 2011), *aff'd*, 567 U.S. 930 (2012) (considering preliminary injunction and motion to dismiss at the same time); *Lower Brule Sioux Tribe v. Lyman Cnty.*, 625 F. Supp. 3d 891, 900 (D.S.D. 2022) (same); *Clark v. Holbrook Unified Sch. Dist. No. 3 of Navajo Cnty.*, 703 F. Supp.

56, 58 (D. Ariz. 1988) (same); *see also Pascua Yaqui Tribe v. Rodriguez*, No. CV-20-00432-TUC-JAS, 2020 WL 6203523, at *1 (D. Ariz. Oct. 22, 2020) (considering preliminary injunction motion before motion to dismiss). This practice ensures timely resolution of both motions and prevents the strategic use of delay tactics to push the litigation up against or beyond key election deadlines.

16. State Defendants' reliance on *State ex rel. Church & Dwight Co., Inc. v. Collins*, 543 S.W.3d 22, 26 (Mo. banc 2018), is misplaced. That case involved whether the prosecuting party had stated a claim at all. *Id.* (noting, in a writ proceeding that, "[i]f the complaint is insufficient to justify court action, it is fundamentally unjust to force another to suffer the considerable expense and inconvenience of litigation' in addition to being a waste of judicial resources and taxpayer money" (internal quotation and citation omitted)).

17. Here, State Defendants do not contend that Plaintiffs have failed to state a claim; their arguments instead center on ripeness and venue.

18. Ripeness and venue address the proper time and place of adjudication, not whether a claim entitled to adjudication has been stated at all. Furthermore, with respect to ripeness, if State Defendants are taking the position that the Governor intends to veto H.B. 1, they have not made that claim. Indeed, the Governor has publicly defended the map and indicated that he will sign it this weekend. *See* Governor Kehoe to Sign House Bill 1 (Sep. 25, 2025), <https://governor.mo.gov/press-releases/archive/governor-kehoe-sign-house-bill-1>.

19. Nor are State Defendants entitled to additional response time as a matter of fairness. Plaintiffs' Motion for Preliminary Injunction turns on a single, purely legal question that was extensively debated during the legislative process: whether Article III, § 45 permits the state to enact a new congressional map mid-decade. The Attorney General's Office—which serves as

counsel for the State, the Governor (who proposed the new map), and the General Assembly (that enacted the map)—has long had notice of this issue and ample opportunity to prepare a response.

20. Thus, sequential consideration of the motion to dismiss and preliminary injunction motion is not required, and Plaintiffs request that this Court, pursuant to Local Rule 33.5, require any response to Plaintiffs' pending Motion for Preliminary Injunction be filed within ten days from service (as noted *supra*) and any reply be filed within five business days from service. The most efficient and fair course is for this Court then to consider both motions simultaneously. Plaintiffs also submit that the motions could be heard at the same hearing to assist in using the Court and counsel's time most efficiently.

21. If this Court determines that it is appropriate to decide the motion to dismiss before Plaintiffs' pending motion for preliminary injunction, Plaintiffs request that a hearing on the motion to dismiss be scheduled at the earliest practicable time for this Court.

22. To ensure that Plaintiffs' request for injunctive relief is heard with sufficient time before the next congressional election, Plaintiffs also respectfully request a scheduling conference at the Court's earliest available date, for the purpose of scheduling a hearing on Plaintiffs' pending Motion for Preliminary Injunction and State Defendants' presumptive motion to dismiss.

23. Plaintiffs also continue to request a scheduling order setting the date of a preliminary injunction hearing on or before October 14, 2025, or as soon as possible thereafter.

24. Absent preliminary injunctive relief, Plaintiffs will suffer irreparable harm. H.B. 1 violates Plaintiffs' fundamental right to vote in lawful election districts by radically transforming their congressional districts mid-decade, contrary to constitutional command. State Defendants also wrongly minimize the imminence of the candidate filing period set to commence in February 2026. The start of candidate filing for the 2026 election may seem distant, but it is mere months

away, and with appeals and further proceedings likely, there is little time to ensure complete resolution of this case before election season begins. Moreover, all voters are harmed so long as the lawfulness of the congressional maps remains unresolved. Plaintiffs respectfully request that this Court resist any effort to forestall timely adjudication.

25. To promote judicial efficiency, Plaintiffs likewise continue to request an order of consolidation of that hearing with a separate trial on the merits of Count I pursuant to Rules 66.02 and 92.02(c)(3). Count I is a purely legal issue, and the Court may enter a consolidation order under Rule 92.02(c)(3) “[a]t any time.”

26. Plaintiffs continue to request that attorneys be permitted to appear at the scheduling conference remotely via Webex. Plaintiffs will also have one or more attorneys available to appear in person. Counsel for plaintiffs will appear in person for any motion hearing if that is required by this Court.

27. Finally, although State Defendants are not entitled to additional response time under Local Rule 33.5, Plaintiffs would not object if the Court were to permit State Defendants 14 days from service to respond to the pending preliminary injunction motion. But Plaintiffs do not agree that the time for responding should toll until the motion to dismiss is decided. If this Court is inclined to grant their request for more than the 10 days required to respond, Plaintiffs would thus agree to a deadline for Defendants’ response to the preliminary injunction of September 30, 2025, with a reply deadline of October 7, 2025.

28. Plaintiffs do not oppose State Defendants’ request to meet and confer to set discovery and trial deadlines for Plaintiffs’ additional claims.

Respectfully submitted,

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Certificate of Service

I certify that a copy of the foregoing was filed on case.net and served electronically to all counsel of record, which includes counsel for State Defendants, and also served by email on September 26, 2025, to the following:

JACKSON COUNTY BOARD OF ELECTION COMMISSIONERS; MICHAEL K. WHITEHEAD, HENRY R. CARNER, COLLEEN M. SCOTT, and LYLE K. QUERRY, in their official capacities as commissioners of the Jackson County Board of Election Commissioners; TAMMY BROWN and SARAH ZORICH, in their official capacities as directors of the Jackson County Board of Election Commissioners

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KANSAS CITY BOARD OF ELECTION COMMISSIONERS; SARAH (SALLY) MILLER, SHARON TURNER BUIE, and RALPH F. MUNYAN II, in their official capacities as commissioners of the Kansas City Board of Election Commissioners; and SHAWN KIEFFER and LAURI EALOM, in their official capacities as directors of the Kansas City Board of Election Commissioners,

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/s/ Gillian R. Wilcox