

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

ELIZABETH HEALEY, *et al.*,

Plaintiffs,

v.

STATE OF MISSOURI, *et al.*,

Defendants.

Case No. 2516-CV31273

Division 8

**SUGGESTIONS IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION AND CONSOLIDATION
OF TRIAL ON COUNT I WITH PRELIMINARY INJUNCTION HEARING**

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INTRODUCTION

The Missouri Constitution is unequivocal: the General Assembly’s authority to redistrict congressional seats is triggered only once a decade, and only after census results are certified to the governor. Mo. Const. art. III, § 45. This plain reading has been affirmed by the Missouri Supreme Court, is reinforced by surrounding constitutional text, and is confirmed by the drafting history of Section 45 itself. Missouri followed this constitutional directive when it enacted a congressional map in 2022, after certification of the 2020 census. Now, three years later, without any new census results, Governor Mike Kehoe and Republican lawmakers have rushed to enact *another* congressional map—House Bill 1 (“HB 1”)—which drastically changes the boundaries of several of the state’s pre-existing congressional districts. This new map stands in clear violation of Missouri law, which forbids this unprecedented, ungrounded, and undemocratic mid-decade redistricting.

Plaintiffs are registered voters across the state, including from the communities most fractured by the new map, who will suffer severe, irreparable harm absent judicial relief. As a result, Plaintiffs seek a preliminary injunction based on Count I of their complaint, which asserts that the Missouri Constitution prohibits the enactment or enforcement of a new mid-decade congressional map. Because Plaintiffs’ motion turns solely on a question of law, this Court should

advance a trial on the merits of Count I and consolidate it with a preliminary injunction hearing. Consolidation will ensure swift and efficient resolution of the core constitutional issue in the case—and should resolve the litigation in its entirety.¹

BACKGROUND

The Missouri Constitution provides that the General Assembly shall divide the state into congressional districts “when the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor.” Mo. Const. art. III, § 45. The new districts “shall be composed of contiguous territory as compact and as nearly equal in population as may be.” *Id.* Since the enactment of the 1945 Constitution, the Missouri General Assembly has consistently abided by the limitation to redraw congressional districts only once per decade, absent a court order requiring remedial redistricting mid-decade.

On April 26, 2021, the 2020 census results were certified to then-Governor Mike Parson. *See* Ex. A. The General Assembly subsequently passed a congressional map which then-Governor Parson signed into law on May 18, 2022

¹ In their Complaint, Plaintiffs also separately allege in Count II that HB 1 violates Article III, Section 45’s requirement that the General Assembly divide the state into districts that are as “compact . . . as may be,” Mo. Const. art. III, § 45, but Plaintiffs do not presently seek a preliminary injunction as to that Count as it may be obviated by a ruling in Plaintiffs’ favor on Count I.

(the “2022 Map”). See Ex. B. That map governed congressional elections in Missouri in 2022 and 2024.

On Sunday, September 28, 2025, Missouri enacted a new congressional map in HB 1. See Exs. C, D.

LEGAL STANDARD

A court may grant a preliminary injunction where the movant demonstrates (1) they are likely to succeed on the merits; (2) they will suffer irreparable harm absent relief; (3) the balance of harms favors an injunction; and (4) an injunction is in the public interest. See *Comprehensive Health of Planned Parenthood Great Plains v. State*, No. SC101176, --- S.W.3d ---, 2025 WL 2346611, at *2 (Mo. banc Aug. 12, 2025). Circuits courts’ injunctive authority includes the authority to issue “injunctions to compel the undoing of something wrongfully done.” *Allsberry v. Flynn*, 628 S.W.3d 392, 399 (Mo. banc 2021) (quotation omitted).

A “trial court may order a consolidation of [a] preliminary injunction with the trial on the merits at any time for whatever reason the judge may find suitable, so long as such ruling is made explicitly.” *Est. of Hutchison v. Massood*, 494 S.W.3d 595, 605 (Mo. App. W.D. 2016) (cleaned up).

ARGUMENT

I. **Plaintiffs are likely to succeed on their claim that HB 1 violates the Constitution’s limitation on when congressional redistricting can occur.**

Plaintiffs are likely to succeed on their claim that the Missouri Constitution prohibits the mid-cycle congressional redistricting that resulted in HB 1. This conclusion follows from the plain constitutional text of Article III, Section 45, which explicitly defines the entirety of the General Assembly’s authority in congressional redistricting. It is further supported by the context of other constitutional provisions and the provision’s evolution prior to its final adoption.

A. **The Constitution’s plain text prohibits mid-decade congressional redistricting.**

A court need not rely on canons of construction “when the language of a constitutional provision is plain and unambiguous.” *Robust Mo. Dispensary 3, LLC v. St. Louis Cnty.*, No. SC 100898, --- S.W.3d. ---, 2025 WL 2053566, at *3 (Mo. banc July 22, 2025). Article III, Section 45 plainly and unambiguously specifies *when* the General Assembly is authorized to engage in congressional redistricting.

It provides:

When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, **the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled**

Mo. Const. art. III, § 45 (emphasis added). Based on the plain text of this

provision, the General Assembly has authority to engage in congressional redistricting only upon a single triggering event: the certification of census results to the governor. By imposing a condition precedent to the General Assembly's redistricting authority, Section 45 necessarily forbids redistricting under any other circumstance. *See State ex inf. Major v. Kansas City*, 134 S.W. 1007, 1011 (Mo. 1911) (“Wherever the language gives a direction as to the manner of exercising power, it was intended that the power should be exercised in the manner directed, and in no other manner.” (quotation omitted)). Pursuant to the Missouri Constitution, only when a certification occurs does the General Assembly have any power to adopt a new congressional map.²

The Missouri Supreme Court affirmed this plain reading of the constitutional text during the 2010 redistricting cycle when it held that the state's congressional redistricting power is “triggered when the results of the . . . United States Census [are] revealed.” *Pearson v. Koster*, 359 S.W.3d 35, 37 (Mo. banc 2012) (“*Pearson P*”). As the Court reasoned, once new congressional districts are enacted based on decennial census data—as occurred following the 2020 census—“[t]he new

² Upon a court order invalidating a map as unlawful, the governing case law provides the General Assembly an opportunity to enact a remedial map. *See Preisler v. Sec’y of State of Mo.*, 257 F. Supp. 953, 982 (W.D. Mo. 1966), *aff’d sub nom. Kirkpatrick v. Preisler*, 385 U.S. 450 (1967) (ruling Missouri’s congressional district map was constitutionally null and void and allowing the General Assembly to enact a remedial map); *Preisler v. Sec’y of State of Mo.*, 279 F. Supp. 952, 970 (W.D. Mo. 1967), *aff’d sub nom. Kirkpatrick v. Preisler*, 394 U.S. 526 (1969) (same).

districts will take effect . . . and remain in place for the next decade or until a Census shows that the districts should change.” *Id.* at 37–38.

Because no new federal census has occurred since 2020, Section 45 mandates that the congressional map enacted in 2022 remains operative until the next nationwide census, slated to occur in 2030. The General Assembly has no authority under the Missouri Constitution to reconstitute congressional districts in the interim. *See State ex rel. Gordon v. Becker*, 49 S.W.2d 146, 147 (Mo. banc 1932) (recognizing that the General Assembly’s legislative power is “subject to the limitations contained in the Constitution”). The General Assembly’s adoption of HB 1—just three years after it drew a congressional map based on the 2020 census and without any new certification of a federal census—disregards the explicit procedural limitations in Section 45. This overreach renders HB 1 unconstitutional.

B. The broader constitutional context further supports the conclusion that mid-cycle congressional redistricting is forbidden by the Constitution.

Because the text of Section 45 is plain and unambiguous, the Court need not look beyond it to ascertain its meaning. *See Robust Mo. Dispensary 3*, 2025 WL 2053566, at *3. But even if it did, a review of the Constitution “as a whole, considering other sections that may shed light on the provision in question,” *Pestka v. State*, 493 S.W.3d 405, 409 (Mo. banc 2016) (quotation omitted), results in the same conclusion: the Missouri General Assembly has no discretion to voluntarily

revise its congressional map between census cycles.

Section 45's limitation on mid-decade congressional redistricting is undeniable when read in conjunction with Article III, Section 10, which governs state legislative redistricting. Unlike Section 45, Section 10 does *not* include a temporal trigger; it merely instructs that “[t]he last decennial census of the United States shall be used” in redrawing senatorial and representative districts. Mo. Const. art. III, § 10 (emphasis added). Section 10 *also* allows state legislative district lines to be “altered from time to time as public convenience may require.” *Id.* This express grant of authority to redraw state house and senate districts between censuses is conspicuously absent from Section 45, the provision governing congressional redistricting.

The fact that the Constitution allows redistricting “from time to time” for state legislative districts while tying congressional redistricting to the certification of new federal census results indicates the framers’ deliberate choice to preclude mid-decade congressional redistricting. Indeed, even with respect to the more permissive language that applies to state legislative redistricting, the Supreme Court has interpreted it to mean “only one valid apportionment is intended for each decennial period,” reasoning that “[t]his must be true because the decennial census is made the basis of reapportionment.” *Preisler v. Doherty*, 284 S.W.2d 427, 436–37 (Mo. banc 1955). It would be completely illogical to conclude that the far more

restrictive language of Section 45 could or should be read more broadly to allow for multiple congressional redistrictings in each decennial period.

Section 45's requirement that congressional districts be "as nearly equal in population as may be," Mo. Const. art. III, § 45, further supports the conclusion that mid-decennial redistricting is not permitted, because this standard can only be verified when the legislature uses recent census results to divide populations among and between districts. This "numerical equality" requirement for congressional redistricting is "mandatory" under the Missouri Constitution, and, "to the extent [it is] achieved, numerous other constitutional problems are avoided." *Pearson I*, 359 S.W.3d at 39. The Missouri Supreme Court has explained that the Constitution strikes a balance between ensuring population equality and the stability of district lines "to obviate conceived oppressions" by "contemplat[ing] immediate action" upon the certification of decennial census data and mandating that "the Legislature can in no event act oftener than once in 10 years." *State ex rel. Major v. Patterson*, 129 S.W. 888, 890–91 (Mo. 1910); see also *id.* at 889 ("Indeed, if full latitude be given to the[] contention such districts might be remoulded at each session . . . , a thing unreasonable within itself."). And while courts may "allow for minimal and practical deviations" from numerical equality "required to preserve the integrity of the existing lines of our various political subdivisions," *Pearson I*, 359 S.W.3d at 40, the deliberate disregard of a

constitutional limitation tying the creation of new congressional districts to the certification of census data in pursuit of lawmakers' political whim imposes a numerical deviation that is neither "practical" nor "required." *Cf. Patterson*, 129 S.W. at 890 ("The latter day idea of striking down constitutional provisions to meet public emergencies or imaginary public emergencies must find a check in the courts of last resort, or constitutional government might as well be abandoned.").

C. Section 45's history eliminates any doubt as to the unconstitutionality of mid-cycle congressional redistricting.

The drafting history of Section 45 further underscores the provision's intent and effect of prescribing the time at which the General Assembly may redraw congressional districts. *See State ex rel. Smith v. Atterbury*, 270 S.W.2d 399, 405 (Mo. banc 1954) (noting that courts may examine the historical development of a provision to understand its meaning).

A provision governing congressional redistricting first appeared in the 1945 Constitution. The first proposed iteration read in relevant part:

At its first session following the adoption of this Constitution, and after each decennial census of the United States, the General Assembly shall by law divide the State into districts corresponding with the number of Representatives to which it may be entitled in the House of Representatives of the Congress of the United States

See Ex. E (Proposal No. 170) (emphasis added). This language would have authorized a map in 1945 and then again in 1950—in other words, two maps in five years. Delegates rejected this approach. They amended the provision to

remove all references to the census and instead generally granted the General Assembly apportionment power without any temporal condition or limitation. The amended provision read in relevant part:

The general assembly shall by law apportion the state into districts corresponding with the number of representatives to which it may be entitled in the house of representatives of the Congress of the United States

Ex. F (File No. 21, Supplemental Report at 13–14). A few months later, delegates amended the provision to add back in a temporal trigger to the General Assembly’s congressional redistricting authority. The amended version read:

The General Assembly immediately following the decennial census of 1950 and the General Assembly immediately following each succeeding decennial census and the determination of the number of representatives in Congress to which the state is entitled shall by law apportion the state into districts corresponding with the number of representatives to which it may be entitled in the house of representatives of the Congress of the United States

Ex. G (Amendment No. 7 at 10). (emphasis added). The convention’s Committee on Phraseology, Arrangement, and Engrossment then further edited the provision to its current form, which reads:

When the number of representatives to which the state is entitled in the house of the congress of the United States **under the census of 1950 and each census thereafter is certified to the governor**, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled

Ex. H (File No. 21, Report No. 1 at 22–24) (emphasis added). This change aligned

the state’s congressional redistricting process with federal law, under which the final step of the decennial census culminates in apportionment information being delivered to each state’s governor. *See id.* at 23 (citing 13 U.S.C. §§ 201-202 and 2 U.S.C. § 2(a)-(b) as they existed in 1944).

This history is conclusive. Delegates of the constitutional convention considered—and then rejected—language that would have allowed the General Assembly unfettered authority to engage in congressional redistricting whenever it sees fit. In its place, they drafted text that ties the General Assembly’s authority to a single, decennial trigger—census certification. This choice was neither accidental nor semantic. The ultimate decision to expressly delineate “when” congressional redistricting shall occur makes clear the framers’ intent to tether the General Assembly’s redistricting authority to the federal census. *See Patterson*, 129 S.W. at 889, 891 (noting the word “when” at the beginning of a constitutional clause “fixes the time when the [government entity] shall act” and “is equivalent to ‘at that time that’”); *see also Barnes v. Bailey*, 706 S.W.2d 25, 28 (Mo. banc 1986) (“The fundamental rule of constitutional construction is that courts must give effect to the intent of the people in adopting the amendment.”).

* * *

The plain language, context, and historical development of Article III, Section 45 all speak with one voice: The General Assembly is authorized to engage

in congressional redistricting only upon certification of a decennial census, not whenever it deems it politically expedient. Because no such trigger has occurred since the General Assembly enacted the 2022 Map, its attempt to redraw a congressional map in HB 1 is unconstitutional.

II. The remaining factors favor a preliminary injunction.

A. Plaintiffs will suffer irreparable harm absent injunctive relief.

For the reasons stated above, Plaintiffs are likely to establish that HB 1 violates the Constitution's prohibition on redistricting between censuses. If HB 1 is not enjoined, Plaintiffs will suffer irreparable harm. This conclusion is beyond dispute: "[B]eing subject to an unconstitutional statute, 'for even minimal periods of time, unquestionably constitutes irreparable injury.'" *Rebman v. Parson*, 576 S.W.3d 605, 612 (Mo. banc 2019) (as modified June 25, 2019) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). And it is, of course, black letter law that "[i]rreparable harm is established if monetary remedies cannot provide adequate compensation for improper conduct." *Glenn v. City of Grant City*, 69 S.W.3d 126, 130 (Mo. App. W.D. 2002) (quoting *Walker v. Hanke*, 992 S.W.2d 925, 933 (Mo. App. W.D. 1999)); see also *Beber v. NavSav Holdings, LLC*, 140 F.4th 453, 461 (8th Cir. 2025) ("Irreparable harm occurs when a party has no adequate remedy at law, typically because its injuries cannot be fully compensated through an award of damages." (quoting *Cigna Corp. v. Bricker*, 103 F.4th 1336, 1346 (8th Cir. 2024))).

Once an election occurs under an unlawful map, “there can be no do over and no redress” for voters. *League of Women Voters of United States v. Newby*, 838 F.3d 1, 9 (D.C. Cir. 2016). Accordingly, the implementation of HB 1 in the fast-approaching 2026 congressional elections will cause irreparable injury.

This injury belongs to the Plaintiffs. Not only has the Missouri Supreme Court stated with “unmistakable clarity that the right to vote is fundamental to Missouri citizens,” *Weinschenk v. State*, 203 S.W.3d 201, 211 (Mo. banc 2006), it has specifically held “protection” of Section 45 “applies to each Missouri voter, in every congressional district.” *Pearson I*, 359 S.W.3d at 39 (citing *Burdick v. Takushi*, 504 U.S. 428, 441 (1992)). HB 1 casts off those protections for Plaintiffs, who are registered Missouri voters from every congressional district. Instead, as a result of the State’s enactment of an unconstitutional mid-cycle map, Plaintiffs—some of whom have been sorted into new, drastically altered districts under HB 1—will be forced to vote in new districts that tear them apart from their local and longtime communities that they voted alongside under the lawful 2022 Map. *See* Ex. I (Healey Decl. ¶¶ 2–8); Ex. J (Anatol Decl. ¶¶ 2–7); Ex. K (Bussey Decl. ¶¶ 2–10); Ex. L (Sapp. Decl. ¶¶ 2–7); Ex. M (Wright Decl. ¶¶ 2–7).

These voters include Plaintiffs Elizabeth Healey, Giselle Anatol, Marques Bussey, Mary Sapp, and Louie Wright, who live in the 2022 Map’s CD 5, which HB 1 has splintered. *Compare* Ex. B (2022 Map), *with* Ex. N (2025 Map); *see* Ex.

I (Healey Decl. ¶¶ 2–3); Ex. J (Anatol Decl. ¶¶ 2–3); Ex. K (Bussey Decl. ¶¶ 2–3); Ex. L (Sapp Decl. ¶¶ 2–3); Ex. M (Wright Decl. ¶¶ 2–3). These Plaintiffs were previously placed with their neighbors and community members in one district, in which they could organize and advocate for their shared local interests such as education, *see* Ex. I (Healey Decl. ¶ 8); diversity, *see* Ex. J (Anatol Decl. ¶ 7); healthcare and community assistance, *see* Ex. K (Bussey Decl. ¶ 6); LGBTQ rights, *see* Ex. L (Sapp Decl. ¶ 7); and union rights, *see* Ex. M (Wright Decl. ¶ 7). But HB 1 has walled Plaintiffs off from their communities and placed them into districts that sprawl across the state, lumping them in with far-flung voters with disparate interests. Plaintiffs Giselle Anatol and Mary Sapp reside in Hyde Park, a historic Kansas City neighborhood in the narrow corridor of Kansas City that HB 1 draws into CD 4, which reaches down 120 miles toward the state’s southern border and encompasses voters from the seat of Barton County, Lamar, which has less than one percent the population of Kansas City. *Compare* Ex. B (2022 Map), *with* Ex. N (2025 Map); *see also* Ex. O (Lamar U.S. Census Bureau population data); Ex. J (Anatol Decl. ¶¶ 2, 4); Ex. L (Sapp Decl. ¶¶ 2, 4). Plaintiff Marques Bussey, also a Kansas City resident, remains in CD 5 under HB 1, which now extends to the center of the state, over one hundred miles away. *See* Ex. N (2025 Map); Ex. K (Bussey Decl. ¶ 4). And Plaintiffs Elizabeth Healey and Louie Wright are drawn into new CD 6, which runs northwest all the way to the Illinois border. *See* Ex. N

(2025 Map); *see also* Ex. I (Healey Decl. ¶ 4); Ex. M (Wright Decl. ¶ 4). Despite the fact that all of these Plaintiffs live in the same city, they are now carved up into different congressional districts drawing them out of their communities to instead share representation with rural voters hours outside of Kansas City with very different interests. *See* Ex. I (Healey Decl. ¶¶ 4–8); Ex. J, (Anatol Decl. ¶¶ 4–7); Ex. K (Bussey Decl. ¶¶ 4–10); Ex. L (Sapp. Decl. ¶¶ 4–7); Ex. M (Wright Decl. ¶¶ 4–7).

Plaintiffs have no adequate remedy at law because they have “no other way to challenge the constitutional validity of” HB 1 other than this action. *See Rebman*, 576 S.W.3d at 612; *see also Mo. State Conf. of NAACP v. State*, 601 S.W.3d 241, 247 (Mo. banc. 2020). Monetary damages cannot provide adequate compensation for harms caused by unlawful enforcement of HB 1. *See Glenn*, 69 S.W.3d at 129 (“Injunctive relief is available to prevent irreparable injury . . . resulting from enforcement of an unconstitutional or invalid ordinance.”).

B. The balance of harms favors Plaintiffs.

The balance of equities strongly favors granting the requested injunction because the harm to Plaintiffs of the enforcement of HB 1 far outweighs any harm or burden to Defendants of its enjoinder. The purpose of a preliminary injunction is “to preserve the status quo until the trial court adjudicates the merits of the claim for a permanent injunction.” *Cook v. McElwain*, 432 S.W.3d 286, 292 (Mo. App.

W.D. 2014) (quotation omitted); *see also Comprehensive Health of Planned Parenthood Great Plains*, 2025 WL 2346611, at *3 (noting a preliminary injunction’s purpose is to “preserve the relative positions of the parties” (quotation omitted)). Here, the status quo is continued implementation of the 2022 Map, which the General Assembly lawfully adopted and under which two congressional elections have already occurred. Without an injunction returning to status quo, Plaintiffs will suffer immense harm from being subject to an unconstitutional congressional map. *See City of St. Louis v. State*, 643 S.W.3d 295, 300 (Mo. banc. 2022) (“The interest of being free from the constraints of an unconstitutional law is an interest that is entitled to legal protection.” (cleaned up)); *see supra* Argument § II.A. And time is of the essence: Unless an injunction is entered, Defendants will begin implementing the unlawful map created by HB 1 ahead of the February 2026 candidate filing deadline. *See* § 115.349(2), RSMo.

Defendants, by contrast, will not be harmed by a preliminary injunction. Government officials have “no interest in enforcing” provisions “that likely violate the Constitution.” *Dakotans for Health v. Noem*, 52 F.4th 381, 392 (8th Cir. 2022); *see also Missouri v. Trump*, 128 F.4th 979, 997 (8th Cir. 2025) (holding officials’ “interest in implementing” challenged agency rule was “minimal given [plaintiffs’] strong likelihood of success in showing” the rule was unlawful). Issuance of an injunction would mean Defendants would simply continue to implement the lawful

congressional map that has been used since 2022.

C. A preliminary injunction will serve the public interest.

A preliminary injunction of HB 1 would protect Missourians' interest in electing congressional representatives under a lawful map and would also advance the public's interest in ensuring that the General Assembly does not violate constitutional limitations. "[I]t is always in the public interest to prevent the violation of a party's constitutional rights." *D.M. by Bao Xiong v. Minn. State High Sch. League*, 917 F.3d 994, 1004 (8th Cir. 2019) (quotation omitted). Similarly, "[t]here is generally no public interest in the perpetuation of unlawful" government action. *See Missouri*, 128 F.4th at 997 (citation omitted).

Allowing the implementation of HB 1's congressional map would hurt Missourians across the state. This rushed mid-cycle redistricting attempt has caused confusion and division—including among Missouri legislators and party leaders. *See, e.g.*, Ex. P (Republican State Senator Joe Nicola commenting of the process that "I don't appreciate being handed one map or one piece of legislation without the ability to be able to make changes on it in a special session like this, because that's what I was elected to do. When I don't have my voice, then 185,000 people I represent also lose their voice. And that's extremely irritating to me."); Ex. Q (Republican Senator Lincoln Hough commenting about his removal as

chairman of the Senate Appropriations Committee 20 minutes after he voted no against HB 1).

The public interest is plainly not served by a rushed implementation of a hastily adopted and imprecise plan in violation of the Missouri Constitution and decades of historical practice. *See* Ex. R (then-Speaker of the Missouri House Chad Perkins explaining “We do redistricting every 10 years. We’ve already done that. To do it again would be out of character with the way Missouri operates.”). Additionally, HB 1’s unlawfully enacted congressional map rips apart historically united communities and would unquestionably undermine the public interest. *See* *Preisler v. Doherty*, 265 S.W.2d 404, 409 (Mo. banc. 1954) (“The rights of the whole state are linked up with the representation of the several districts.”); *see also* Ex. S (then-Chairman of the House Select Committee on Redistricting Representative Dan Shaul praising the 2022 Map for “giving continuity and consistency to the state of Missouri” and helping prior districts “maintain[] their identity”).

III. The Court should consolidate the preliminary injunction hearing with a trial on the merits of Count I.

Missouri judicial rules allow courts to “[a]t any time. . . order the trial of the action on the merits to be advanced and consolidated with the hearing of the application for a preliminary injunction.” Mo. S. Ct. R. 92.02(c)(3). The Court should enter such an order here. Count I raises a purely legal question: Does

Article III, Section 45 of the Missouri Constitution permit the General Assembly to engage in mid-cycle redistricting in 2025? Advancing and consolidating the trial on the merits of this singular question together with the preliminary injunction hearing will ensure efficient resolution and could resolve this litigation entirely. Advancing and consolidating these issues will also increase the likelihood that potential appellate review of a final judgment can occur in advance of upcoming election deadlines. *See supra* Argument § II.B. The Court should therefore enter a “clear and unambiguous” order accelerating the trial on the merits for Count I and consolidating it with the preliminary injunction hearing. *See State ex rel. Cohen v. Riley*, 994 S.W.2d 546, 548 (Mo. banc 1999).

CONCLUSION

For the foregoing reasons, the Court should preliminarily enjoin Defendants and anyone acting in concert with them from implementing, enforcing, or giving any effect to HB 1, including conducting any congressional elections under the bill, because it violates the Missouri Constitution’s prohibition on mid-cycle congressional redistricting. The Court should also advance and consolidate a trial on the merits of Count I with a preliminary injunction hearing because the core constitutional issue is a question of law that could obviate the need to resolve

Count II.

Dated: September 29, 2025

Respectfully submitted,

/s/ J. Andrew Hirth

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