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IN THE SUPREME COURT OF MISSOURI

TERRENCE WISE, *et al.*,)
)
Appellants,)
)
v.) Case No. SC101572
)
STATE OF MISSOURI, *et al.*,)
)
Respondents.)

RESPONDENT/INTERVENOR MISSOURI REPUBLICAN STATE COMMITTEE'S SUGGESTIONS IN OPPOSITION TO APPELLANTS' MOTION TO EXPEDITE AND CONSOLIDATE

Intervenor, Missouri Republican State Committee (hereinafter "Intervenor"), by and through counsel, respectfully moves this Court to deny Appellants' Motion to Expedite and Consolidate on the basis that it causes unjust prejudice to Intervenor, denying it the ability to fully avail itself of the appeals process.

1. The *Wise* Appellants challenged the constitutionality of H.B. 1 on the theory that Article III, §45 of the Missouri Constitution prohibits mid-decade redistricting (Count I), and that the newly drawn Congressional Districts 4 and 5 violated Article III, §45's compactness requirement (Count II), equal population requirement (Count III), and contiguity requirement (Count IV).

2. In a separate case, the *Healey* Appellants challenged the constitutionality of H.B. 1 on the theory that Article III, §45 of the Missouri Constitution prohibits mid-decade redistricting (Count I), and that Congressional Districts 4, 5, and 6 violated Article III, §45's compactness requirement (Count II).

3. February 17 to 20, 2026, a bench trial on *Wise* Counts II through

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IV and *Healey* Count II was held in front of the Circuit Court. By agreement of the parties and order of the Circuit Court, the evidence presented at trial constitutes a single, joint record applicable to both matters.

4. On March 12, 2026, the Circuit Court entered an Order and Judgment denying the *Wise* Appellants' request for relief on Counts II through IV and the *Healey* Appellants' request for relief on Count II and entering judgment in favor of Defendants.

5. On March 19, 2026, the *Wise* Appellants filed a Notice of Appeal of the March 12, 2026, Order and Judgment.

6. On March 20, 2026, the *Healey* Appellants filed a Notice of Appeal of the March 12, 2026, Order and Judgment.

7. The same day, both Appellants filed Motions to Shorten Time pursuant to Rule 81.045; both Motions were granted by the Circuit Court the same day.

8. On March 24, 2026, the *Wise* and *Healey* Appellants filed a Motion to Expedite Appellate Proceedings and Consolidate their appeals.

9. On March 25, 2026, this Court ordered Respondents to respond to both Appellants' Motion to Expedite be filed by 12:00 p.m. on March 27, 2026.

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DISCUSSION

I. Appellants' Motion to Expedite Should be Denied

Pursuant to rule, once an appellate brief is filed, the respondent is afforded thirty days to prepare and submit a responsive brief. Mo. Sup. Ct. R. 84.05(a). While this Court, pursuant to Rule 84.05(b), retains discretion to "shorten or lengthen the time prescribed" in particular cases, that discretion is not unbounded. It must be exercised in a manner consistent with the fundamental guarantees of due process—namely, that each party is afforded a fair, non-prejudicial, and meaningful opportunity to be heard. Any

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modification that undermines those guarantees exceeds the proper exercise of that authority. Appellants' proposed schedule does precisely that.

Appellants' proposal accords them 19 days from the date of the Circuit Court's judgment to file their brief—a schedule Appellants state requires them to work "with all deliberate speed." Mot. at 5, ¶ 16. Yet Appellants' proposal would grant Intervenor *less than half* that time to complete its brief. In particular, Appellants' proposal affords the Respondents and Intervenor a mere nine days—which also run over the Easter weekend—to review Appellants' brief, analyze the issues presented, examine the record, develop counterarguments, and draft a response. Such a truncated timeline, especially over a holiday, would demand a Herculean effort even in an ordinary case; here, given the breadth of the appeal and the myriad factual issues presented, it offers Intervenor at best a diminished opportunity to be heard. Appellants' proposal thus is not an exercise in efficiency; it is an exercise in asymmetry.

That inequity is compounded by the sheer scope of the record. Appellants' record on appeal alone includes one hundred and eighteen documents. It is supplemented by three full days of trial proceedings and testimony from six expert witnesses and eight fact witnesses, producing a transcript spanning nearly one thousand pages along with 145 exhibits consisting of hundreds of pages. Meaningful engagement with such a record requires careful, deliberate review—not a rushed and perfunctory response under severe time constraints.

Yet Appellants contend that their proposed schedule prejudices no one. That assertion cannot withstand scrutiny. They seek to wield this Court's authority to shorten briefing deadlines as a sword to eviscerate Intervenor's opportunity for meaningful review. A schedule that denies Respondents and Intervenor a realistic chance to engage with the record, formulate arguments, and present them to this Court does more than inconvenience—it inflicts

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prejudice of a constitutional magnitude, depriving Intervenor of due process.

The issues presented here underscore precisely why such haste is unwarranted. This case raises complex factual challenges to redistricting, thoughtful weighing of expert testimony, and meticulous engagement with an extensive record. These are not matters suited to rushed advocacy. Intervenor seeks only the opportunity to present these issues fully and faithfully, grounded in both the record and the realities of this State. The ordinary thirty-day period exists for that very purpose—to ensure that this Court's review is informed, deliberate, and just. To accelerate that process, as Appellants propose, serves no legitimate end. It does not aid this Court, it does not serve the State, and it does not advance justice. It serves only the Appellants.

Appellants control the timing of their briefs and the their reply briefs. That allows them to control the bulk of the time under Rule 84.05(b), they can utilize that control to shorten the time for briefing, but they should not be graced with the opportunity to shorten Respondent/Intervenor's time.

Nor are Appellants correct that the Court can grant them relief on the their claims, or make any changes to the governing 2025 districts enacted in H.B. 1, for the ongoing 2026 congressional elections. Candidate filing under the 2025 Plan commenced on February 24, 2026. Candidates have already filed to run, and have begun campaigning, in the 2025 districts. *See* Missouri Secretary of State, UNOFFICIAL Candidate Filing, 2026 Primary Election.[1] 95. Any judicially ordered changes to the map at this late juncture would harm candidates preparing for the upcoming primary elections, "result in voter confusion and consequent incentive to remain away from the polls," and erode the "[c]onfidence in the integrity of our electoral processes . . . essential to the functioning of our participatory democracy." *Purcell v. Gonzalez*, 549 U.S. 1, 4-

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[1] Available at https://s1.sos.mo.gov/candidatesonweb/.

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5 (2006). Indeed, just a few months ago, the U.S. Supreme Court stayed a three-judge federal district court's injunction and restored Texas's 2025 redistricting map for the 2026 congressional elections because candidate filing had already commenced when the injunction issued. *Abbott v. League of United Latin American Citizens*, 607 U.S. ----, 146 S. Ct. 418, 419 (2025).

For all of these reasons, Intervenor respectfully requests that this Court deny Appellants' request for shortened briefing. Appellants invoke the exigency of an election as a fig leaf to obscure what is, in substance, an effort to deprive Intervenor of a fair and meaningful opportunity to be heard.

II. Appellants' Motion to Consolidate Should Likewise be Denied

> "When civil actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all matters in issue in the civil actions; it may order all the civil actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

Mo. Sup. Ct. R. 66.01(b).

Under this rule, consolidation is appropriate only where the appeals share a common question of law or fact. At the trial court level, this common question was Count I. However, both sets of Appellants have since voluntarily dismissed this claim. Accordingly, no such common question is now present, and consolidation is improper.

The *Healey* Appellants currently present a single, discrete issue: whether Congressional Districts **4, 5, and 6**, as enacted in H.B. 1, satisfy the compactness requirement of Article III, § 45 of the Missouri Constitution. The *Wise* Appellants, by contrast, advance a different claim—challenging only Congressional Districts **4 and 5** under the same constitutional provision. While both invoke compactness, the similarity ends there. The claims do not

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merely differ in scope—they differ in kind, because the analytical framework each necessarily employs is not the same.

Compactness is a statewide requirement. But it operates in a constrained way: the drawing of one district may affect the configuration, and thus the compactness, of another. It is precisely for that reason that the number and identity of districts under review matter. Appellants themselves argued below that compactness should be evaluated through comparative analysis, measuring districts against one another and against prior iterations. Under that framework, a challenge limited to Districts 4 and 5 presents a fundamentally different inquiry than one that includes District 4, 5 **and** 6.

This lack of commonality is further underscored by the additional claims advanced by the *Wise* Appellants. Their appeal does not stop at compactness; it also challenges H.B. 1 under the equal population requirement (Count III) and the contiguity requirement (Count IV). Each of those claims demands its own distinct legal framework and factual inquiry, turning on different metrics, different evidence, and different constitutional standards altogether. These are not ancillary issues; they are independent constitutional challenges that expand the case well beyond the narrow question of compactness presented by the *Healey* Appellants.

Accordingly, the superficial overlap in invoking Article III, §45, cannot sustain consolidation. Missouri courts do not consolidate cases merely because they arise under the same constitutional provision; the operative question is whether they present the same issues. They do not. A challenge to compactness, an inquiry into equal population, and an assessment of contiguity are analytically distinct—even if they concern the same map. To hold otherwise would be akin to consolidating two cases simply because both arise under the Missouri Constitution, despite turning on wholly different doctrines and proofs.

Because Appellants' own theory of the case depends on comparative analysis, and because the *Wise* Appellants' additional claims introduce entirely separate legal and factual questions, these appeals do not present a shared question of law or fact. Consolidation would not streamline the issues; it would conflate distinct inquiries, risk analytical distortion, and force the parties to litigate frameworks not properly at issue in their respective appeals.

Wherefore, Intervenor prays that this Court deny Appellants' Motion.

Respectfully submitted,

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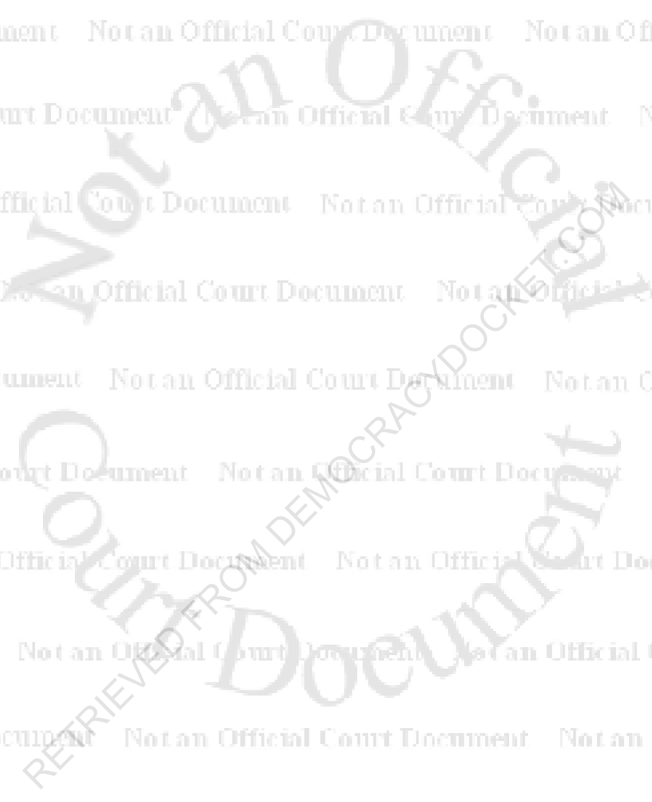
CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via the Court's electronic filing system on March 27, 2026 on all parties of record.

/s/ Marc H. Ellinger



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