IN THE SUPREME COURT OF MISSOURI

TERRENCE WISE, et al.,

Appellants,

v.

STATE OF MISSOURI, et al.,

Respondents.

Case No. SC101572

STATE'S RESPONSE TO APPELLANTS' MOTION TO EXPEDITE AND CONSOLIDATE

Early in this litigation, Appellants made a strategic choice *not* to seek preliminary injunctive relief on the claims at issue before the Court. Instead, they sought preliminary relief only on their claim that the General Assembly lacked authority to redistrict mid-decade—in expectation of obtaining a quick injunction against the new congressional map. Their gambit failed. Ever since, Appellants have scrambled to make up for the lost time by insisting that the State give up its opportunity to prepare a defense. For the most part, the State has accommodated Appellants' growing demands. The State consented to multiple joint scheduling orders, the result of which enabled the parties to complete intensive fact discovery involving multiple expert depositions, a four-day bench trial, and post-trial briefing—all within less than two and half months.[1]

Nevertheless, Appellants want even more. They now demand that the State answer two separate appellate briefs in nine (9) days, over the Easter holiday, on a fact-intensive record,

[1] The State and Appellants jointly proposed a scheduling order to the Court on December 17, 2025 and completed trial on February 20, 2026.

while reserving for themselves more than double that time. And they want the Court to rush a decision in a fact-intensive appeal—all for a remedy they cannot obtain. With candidate filing closing in just a few days, the *Purcell* principle strongly counsels against courts ordering a new congressional map to be used for the imminent 2026 elections. *See, e.g.*, *Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025) (applying *Purcell* principle shortly after candidate filing opened to bar changes to Texas congressional map in 2026).

The Court should deny Appellants' unreasonable and futile expedition request. Alternatively, Respondents respectfully request that this Court amend Appellants' proposed schedule to allow the State 28 days to respond to Appellants' briefing. Adopting Appellants' proposed schedule would short-circuit the appellate process established in this Court's Rules, prejudice the State, inhibit a fulsome response on a key matter of public concern, and ultimately waste judicial resources. In light of the proceedings below and the needs of judicial economy, the State does not object to Appellants' request to consolidate the appeals. The State provides the following support of its objections:

I. Appellants' request to expedite prejudices Respondents.

This Court should generally disfavor requests to shorten default briefing deadlines. As the Eastern District noted concerning Rule 84.04, "compliance with the briefing requirements is required, not only so the appellant may give notice of the precise matters at issue, but also so that unnecessary burdens are not imposed on the appellate court and to ensure that appellate courts do not become advocates for the appellant." *Hoock v. SLB*

Acquisition, LLC, 620 S.W.3d 292, 303 (Mo. App. E.D. 2021) (alteration in original) (quoting *Blanks v. Fluor Corp.*, 450 S.W.3d 308, 324 n.1 (Mo. App. E.D. 2014)).

Following ordinary rules is especially warranted here—for at least two reasons. *First*, Appellants' radically accelerated timeline ignores the complexity of the record below. The trial court reached its decision after a four-day bench trial with three-days of evidentiary presentation, including testimony from six expert witnesses. The record also includes over 100 exhibits and the claims at issue involve detailed findings of law and fact. The *four* volumes of transcripts speak to this. In addition, whereas Appellants are responsible for preparing one opening brief each, the State must respond to both briefs. Limiting the State to a nine-day window to prepare its briefing in this complex case is inequitable and highly prejudicial to the State.

Second, it would be inequitable to grant Appellants' request in light of their failure to pursue speedy relief below. Appellants had months to file for preliminary injunctive relief on their Count II, III, and IV claims. They declined. Notably, Appellants asked the Circuit Court for a preliminary injunction on Count I of their complaint on September 12, 2025. They did *not* ask for a preliminary injunction on their other claims—the only ones at issue in this appeal. Although Appellants now complain about a lack of time to resolve this case before the 2026 election season (which is already well underway), *see* Appellants' Mot. ¶ 12, that reality is due primarily to Appellants' own decision not to pursue a preliminary injunction back in September. *Cf. Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 589 U.S. 423, 424 (2020) (per curiam) (finding it erroneous to grant equitable relief where party failed to ask for relief in a preliminary injunction motion in trial court).

Instead, Appellants proceeded into fact-intensive discovery and a full evidentiary trial in late February 2026. After the trial court ruled on March 12, 2026—ten days after the filing of proposed findings of fact and conclusions of law by the Parties—Appellants waited a full week to file their notice of appeal on March 19, 2026. Now, Appellants demand a compressed schedule with only nine days (seven working days and the Easter weekend) for the State to prepare full responsive briefing to the Appellants' two opening briefs. Appellants have had since March 12 to prepare their own opening brief but want to restrict the State's ability to respond to just over a week—a *70 percent reduction* from the time afforded for responsive briefing under Rule 84.05. This is improper and prejudicial, and alone warrants denial of Appellants' request.

In response, Appellants absurdly suggest that the State has "consistently sought to delay the Circuit Court proceedings at every stage." Appellants' Mot. ¶ 17. This is patently false. The State has strained its resources at every turn in this litigation to comply with Appellants' scheduling needs. Every scheduling order below was either filed jointly or consented to by the State. And the State proceeded through intensive-fact discovery at a break-neck speed, agreeing to shortened response deadlines, and conducting all depositions, including experts, in three weeks. The State also consented to the original trial date set by the court—despite significant conflicts for the State's only expert. And contrary to Appellants' insinuation, the State did not move for a change of judge. In any event, the right to change of judge is a unilateral right afforded to Missouri litigants, unlike the extraordinary request which Appellants now seek.

Under these circumstances, it would be extraordinarily inequitable to give the State a mere nine days to respond to Appellants' two opening briefs in this complex case.

II. Other equitable factors strongly favor denying Appellants' request.

Even if this Court considers factors beyond the clear prejudice to the State that will result from granting Appellants' extraordinary motion, equitable principles strongly favor denial. Helpfully, Appellants acknowledge the existence of equitable principles that forbid disturbing an election too close to the election date. Appellants' Mot. ¶¶ 12, 16. But under those principles, it is far too late to change the congressional map for the 2026 elections. Indeed, candidate filing ends in just a few days, and changing the congressional map after candidate filing is done would impose extraordinary harms on candidates and voters. *See Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025) (staying injunction under *Purcell* following start of candidate filing period). Accordingly, any relief in favor of Plaintiffs should not be implemented until after the 2026 midterm election in any case. Thus, an expedited proceeding at this stage would unnecessarily strain judicial resources and fruitlessly rush briefing.

As the U.S. Supreme Court has long advised, "where an impending election is imminent and a State's election machinery is already in progress, equitable considerations might justify a court in withholding the granting of immediately effective relief in a legislative apportionment case, even though the existing apportionment scheme was found invalid." *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). And in Missouri, the election gears are turning in full force. The candidate filing period began on February 24 and it closes on

March 31. § 115.349, RSMo. Candidates across the State have filed in reliance on that map. The public already relies on the enacted 2025 map.[2]

Under these circumstances, this Court should apply the *Purcell* principle. The current map has been in effect December 2025. Although litigants filed a series of challenges to the map, no court has enjoined its use. Consequently, candidates have been preparing to run under the 2025 map for several months. In the lead-up to candidate filing, candidates made decisions about what congressional district seat to run for, planned their campaign strategies, and have publicly announced their candidacy in reliance on the 2025 map. And as the candidate filing period closes in a few days, congressional candidates have announced their campaigns in all of Missouri's congressional districts.

Even before Appellants' suggested hearing date of April 15, candidate filing will have been closed for more than two weeks. *See* § 115.349.1, RSMo. At that point in the election cycle, any change to the districts will damage voters' "confidence in the fairness of the election" and sow chaos. *Democratic Nat'l Comm. v. Wis. State Legislature*, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay); *see also*, *State ex rel. Ellis v. Creech*, 259 S.W.2d 372, 374 (Mo. banc 1953) (discussing the discretionary nature of injunctive relief that is "to be exercised in accordance with well settled equitable principles"). Among other things, such relief would almost certainly

[2] While the Kansas City Elections Board and Jackson County Elections Board have not administratively moved district boundaries in the Missouri Centralized Voter Registration Database (MCVR), local election authorities across the state received the 2025 data from the Secretary of State in December 2025. Local election officials may thus have already started relying on the new map.

result in candidates running in districts in which they do not actually live, confusing voters and undermining public confidence in the fairness of Missouri's elections. *See Wis. State Legislature*, 141 S. Ct. at 29 (Gorsuch, J., concurring in denial of application to vacate stay) (highlighting this risk when courts order late changes to election rules).

Courts facing almost identical circumstances have exercised restraint and have prohibited relief under the *Purcell* principle. For example, the U.S. Supreme Court recently applied *Purcell* to prohibit changes to Texas's congressional map during 2026 shortly *after* candidate filing opened. *See Abbott*, 146 S. Ct. 418, 419 (2025). If *Purcell* applies *while* candidate filing is ongoing, it certainly must apply *after* it closes. If this Court follows the lead of the federal courts—and other state courts—any ruling finding that Appellants met their burden to reverse the trial court's findings of fact and conclusions of law should apply only after the 2026 elections. *See, e.g.*, *Moore v. Lee*, 644 S.W.3d 59, 65–66 (Tenn. 2022) (holding that a state analogue to the *Purcell* principle called for "restraint when asked to enjoin the effectiveness of constitutionally suspect reapportionment plans" and vacating a lower court injunction impacting "the electoral process in [the] State"); *Liddy v. Lamone*, 919 A.2d 1276, 1288 (Md. App. Ct. 2007); *Chi. Bar Ass'n v. White*, 898 N.E.2d 1101, 1107–08 (Ill. App. Ct. 2008).

Thus, even if Appellants succeed on appeal, the soonest they can obtain relief is after the 2026 general election. Consequently, an expedited appeal would serve only to strain judicial resources and stunt the parties' ability to fully brief the appeal. Because any relief should not take effect until after the 2026 election, it would be to the benefit of all parties

that this case is carefully briefed and fully considered by this Court. Thus, this Court should deny Appellants' request to expedite this appeal.

III. The State requests 28 days to respond to Appellants' briefing.

In the event this Court desires to expedite this litigation, the State requests that this Court at least schedule 28 days for the Respondents to respond to Appellants' briefs. This request shortens the default timeline under Rule 84.05(a) and aligns with the expedited schedule implemented by this Court in *Luther v. Hoskins*, No. SC101412 (Jan. 9, 2026).

In *Luther*, this Court expedited proceedings, but allotted 28 days for the State's response. The necessity for four-weeks to respond is even more critical in this case. The record in *Luther* was significantly leaner than the record in this case. *Luther* was a one-day bench trial on stipulated facts and exhibits. As discussed above, in contrast, this case involved a four-day bench trial with three days of evidentiary presentation. The issues in *Luther* were purely legal whereas the issues here are much more fact-intensive. The complex nature of the issues in this appeal necessitates at least 28 days for the State to prepare its briefs in response.

* * *

Ever since litigation against the 2025 congressional map began in September, the State has been amenable to rushed proceedings. For example, before this Court in *Luther*, the State *consented* to the appellants' proposed expedited schedule. Appellants' current request, however, is unreasonable and simply a bridge too far. Appellants made a strategic decision not to expedite proceedings at the beginning of the lawsuit. Under such circumstances, penalizing the State's appellate rights would be highly inequitable.

The State respectfully requests that this Court deny Appellants' request for an expedited appeal. Alternatively, the Court should at least amend Appellants' proposed schedule to allow the State 28 days to respond and adjust the remaining deadlines as the Court sees fit.

Dated: March 27, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on March 27, 2026, a true and correct copy of the above was filed with the Court's electronic filing system to be served by electronic methods on counsel for all parties entered in the case.

/s/ Louis J. Capozzi III
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