IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

JAKE MAGGARD, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 25AC-CC09120
	)	
STATE OF MISSOURI, et al.,	)	
	)	
Defendants.	)	

DEFENDANTS' OPPOSITION TO PLAINTIFFS' PRELIMINARY-INJUNCTION SCHEDULE AND TO CONSOLIDATION OF TRIAL ON THE MERITS WITH THE PRELIMINARY-INJUNCTION HEARING[1]

Two days ago, Plaintiffs Jake Maggard and Gregg Lombardi moved for a preliminary injunction and consolidation of the trial on the merits with the preliminary-injunction hearing. *See* MPI (Jan. 14, 2026). Plaintiffs also submitted an untimely notice for a January 20 hearing on their Motion. *See* Notice of Hearing (Jan. 14, 2026); § 506.060, RSMo. But Plaintiffs themselves waited nearly *two weeks* after H.B.1 became effective to bring this lawsuit. And, even after they sued, Plaintiffs waited over *three weeks* to move for a preliminary injunction. Plaintiffs now seek a hearing on their Motion just three business days after they filed it.[2] This Court should reject Plaintiffs' maneuver for four reasons.

First, Plaintiffs provided inadequate notice. Plaintiffs filed their motion and notice of a hearing on Wednesday, January 14, and they demand a hearing on

[1] This opposition is not a substantive response to the motion for preliminary injunction. Defendants will submit a substantive response once this Court sets a schedule for preliminary-injunction briefing.
[2] January 19, 2026 is Martin Luther King Jr. Day — a State holiday.

Tuesday, January 20. To be sure, § 506.060.4 provides that a "written motion" and "notice of the hearing thereof shall be served not later than five days before the time specified for the hearing." But § 506.060.1 also provides that "[i]n computing any period of time prescribed or allowed by this code," "intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation" when "the period of time prescribed or allowed is less than seven days." January 17 and 18 are a Saturday and a Sunday, and January 19 is Martin Luther King Jr. Day.[3] Plaintiffs thus provided only three days' notice of the hearing on their Motion, and their notice is therefore untimely.

Second, Plaintiffs' motion for preliminary injunction with a consolidated trial on the merits flouts this Court's scheduling instructions. This Court was abundantly clear at the January 8 hearing: The Court will not set a trial date until after it rules on Defendants' and Interveners' Motions to Dismiss. The Court also instructed that it would take up the Motions to Dismiss at the hearing on January 20, 2026. But Plaintiffs now demand that this Court also consider a preliminary injunction and consolidated trial on the merits on January 20, 2026. This maneuver flouts the Court's express instructions. Further, as the Court found at the scheduling hearing, it would waste judicial and party resources to litigate the merits of this case without first resolving standing and ripeness. Indeed, Plaintiffs' Motion for a Preliminary

[3] Rule 44.01(a), Mo. S. Ct. R., also requires exclusion of these dates from the time computation. Rule 44.01(c) provides, "A written motion … and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing." But Rule 44.01(a)—which governs computation of "any period of time prescribed or allowed by these rules"—provides that "intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation" when "the period of time prescribed or allowed is less than seven days."

Injunction skates over ripeness and standing—ignoring those issues altogether. The Court should resolve those issues before considering the merits.

Third, Plaintiffs sudden motion for a preliminary injunction—filed *five* weeks after H.B.1 went into effect—is a thinly veiled attempt to deprive Defendants of the ability to raise an estoppel defense. Plaintiffs suddenly moved for a preliminary injunction just days after learning that Defendants will raise judicial estoppel and collect related discovery. Judicial estoppel protects the "dignity" and the "integrity of the judicial process." *Vacca v. Missouri Dep't of Lab. & Indus. Rels.*, 575 S.W.3d 223, 231 (Mo. banc 2019). Courts apply judicial estoppel when, as here, an estopped non-party seeks to use the plaintiff as a proxy and is "involved in the genesis and the hoped-for end of th[e] suit." *See Grochocinski v. Mayer Brown Rowe & Maw, LLP*, 719 F.3d 785, 796–97 (7th Cir. 2013); *Toyo Tire & Rubber Co. v. Hong Kong Tri-Ace Tire Co.*, 281 F. Supp. 3d 967, 983 (C.D. Cal. 2017) (estopping a plaintiff where the estopped non-party stood to "receive the lion's share of the recovery"); *Deutsche Bank Nat'l Tr. Co. as Tr. for Am. Home Mortg. Inv. Tr. 2006-3 v. Luna*, 655 S.W.3d 820, 832 n.8 (Mo. App. W.D. 2022) (corporation estopped based on representations of shareholders in prior litigation).

Defendants discussed estoppel extensively at the January 8, 2026 hearing, but Plaintiffs' conspicuously ignore estoppel in their Motion. As explained in the Defendants' Motion to Dismiss, Defs.' SIS MTD at 7–11, People Not Politicians (the proponent of the referendum challenging H.B.1) told a federal court that H.B.1 "would go into effect" even after submission of the referendum petition, and the

federal court "expressly found that PNP affirmatively waived … any argument to the contrary in future litigation." *Missouri Gen. Assembly v. Von Glahn*, No. 4:25-CV-1535-ZMB, 2025 WL 3514277, at *4 n.4 (E.D. Mo. Dec. 8, 2025). In light of the parties' agreement, the federal court held that H.B.1 would not freeze until *after* the Secretary verified PNP's referendum petition for legal sufficiency:

> ***After*** the timely submission of a final petition, the Secretary of State must "examine the petition to determine whether it complies with the Constitution of Missouri and with [Chapter 116]" and verify whether there are enough valid signatures to trigger a statewide vote. § 116.120. ***If*** the Secretary finds that the petition satisfies ***both*** requirements, § 116.150, the challenged law is displaced and will only "take effect when approved by a majority of the votes cast thereon," Mo. Const. art. III, § 52(b).

Id. at *1 (emphasis added). PNP agreed with this proposition of law, which is why they have not sued in their own name. Even still, PNP and their lawyer told the media that this lawsuit would come just before Plaintiffs Maggard and Lombardi suddenly appeared.[4] Both Plaintiffs are represented by Missouri ACLU counsel who

[4] See, e.g., Jason Rosenbaum, *Missouri's stack of redistricting lawsuits expected to grow over whether new map is in effect*, St. Louis Public Radio (Dec. 16, 2025) ("[Von Glahn, PNP's executive director,] said if state officials 'actually take steps to try to implement this law illegally – ***yeah, there will be a lawsuit***.' 'The point here is that the secretary of state must act,' von Glahn said. 'He has to issue a certificate of sufficiency or insufficiency, and until that point, the law is suspended.'" (emphasis added)), https://www.stlpr.org/government-politics-issues/2025-12-16/missouris-redistricting-lawsuitswhether-new-map-effect; Jason Rosenbaum, *Missouri redistricting foes may have dealt a big blow to Trump-backed congressional map*, St. Louis Public Radio (Dec. 9, 2025) ("Hatfield agreed that if a court finds that Hoskins and Hanaway are wrong that the map wasn't frozen as soon as People Not Politicians turned in their signatures, then there's no way for the map to go into effect during the 2026 election cycle. 'If it turns out that they're going to ***make us go to court*** on every single step of this process, I guess that's what we'll do,' he said." (emphasis added)), https://peoplenotpoliticiansmo.org/missouri-redistricting-foes-may-have-dealt-big-blow-totrump-backed-congressional-map/.

has recently partnered with PNP's lawyer in several lawsuits.[5] Plaintiffs are also represented by highly sophisticated, nationwide counsel, suggesting that someone other than the individual plaintiffs may be funding (and organizing) this litigation. And, if that's not a enough, Plaintiffs moved for a preliminary injunction and a consolidated trial on the merits as soon as they learned that Defendants would collect discovery targeting collusion between Plaintiffs and PNP. *See* MPI.

Despite this mountain of circumstantial evidence, Plaintiffs never deny in their Motion that PNP was "involved in the genesis and the hoped-for end of th[e] suit." *Grochocinski*, 719 F.3d at 796–97. Plaintiffs would rather ignore the dispositive estoppel issue altogether. Their silence is deafening.

Defendants stand ready to proceed with the preliminary injunction motion and a trial on the merits once Defendants obtain the requisite discovery from Plaintiffs, PNP, and PNP's agents. But until that discovery is turned over and Defendants have adequate time for depositions, Defendants object to proceeding on the preliminary injunction motion and to a consolidated trial on the merits.[6]

Fourth and finally, if Plaintiffs (and PNP) would like a quick decision, they should respond to Plaintiffs' discovery requests. All defendants have a right to collect discovery and put on a defense. *See* Mo. S. Ct. R. 56.01(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter

[5] *See, e.g.*, *Fitz-James v. Hoskins*, No. WD 88392, 2025 WL 3481349 (Mo. Ct. App. W.D. Dec. 4, 2025) ("Charles Hatfiled," "Tori Mae Schafer," and "Jonathan Schmid" partnering as co-counsel for Appellant); *Coleman v. Ashcroft*, 696 S.W.3d 347, 351 (Mo. banc 2024) (same).

[6] Alternatively, the Court could simply give substantial weight to Defendants' estoppel argument and find Plaintiffs are unlikely to succeed on the merits because of that defense.

involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party…"). This case is no different. If anything, rigorous discovery is more important here. Plaintiffs' "attack on the constitutionality of a statute is of such dignity and importance that the record touching such issues should be fully developed." *Land Clearance for Redevelopment Auth. of Kansas City, Missouri v. Kansas Univ. Endowment Ass'n*, 805 S.W.2d 173, 176 (Mo. banc 1991).

Defendants therefore respectfully request that this Court deny the motion for consolidation and to refrain from scheduling a preliminary injunction hearing until Plaintiffs, PNP, and their agents produce discovery. Plaintiffs themselves waited *five weeks* to move for a preliminary injunction, and PNP still has not sued (despite its public representations that it would do so). Allowing Defendants *at least* five weeks to prepare their own defense, including by collecting discovery, is only fair.

Date: January 16, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2026, a true and accurate copy of the above was electronically filed by using the Court's CM/ECF system to be served via operation of the Court's electronic filing system upon all counsel of record.

Louis J. Capozzi III