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U.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

IN THE UNITED STATES DISTRICT COURT

EASTERN MISSOURI

PAUL BERRY III,

Division: Eastern Division

Plaintiff,

v.

Case Number: 4:26-CV-01419 JAR

DENNY HOSKINS,
in his official capacity as
Missouri Secretary of State, et al.,

Three-Judge Panel Requested
28 U.S.C. § 2284(a)

Defendants.

VERIFIED TEMPORARY RESTRAINING ORDER
MEMORANDUM OF SUPPORT

HERE COMES, Plaintiff Paul Berry III with his VERIFIED TEMPORARY RESTRAINING ORDER MEMORANDUM OF SUPPORT ("TRO Application") on Counts IV thru VII of the underlying Complaint, states as follows:

INTRODUCTION

In what may go down as the "Kobayashi Maru" of United States congressional map controversies challenging the constitutionality of Missouri's congressional maps, Plaintiff Paul Berry III seeks this Honorable Court to enforce the provisions of 2 U.S. Code § 2a(c)(5) and order Missouri to utilize an at-large statewide congressional election to conduct the 2026 MissouriGeneral congressional election. Since Missouri lost one congressional seat and went

from nine (9) congressional seats to eight (8) congressional seats after the congressional reappropriations based upon the 2010 United States Census Bureau decennial resident canvass, Missouri has failed to enact a single congressional map that withstands the Complaint's charges of constitutional violations.

After 4:00pm on September 3, 2026, the State of Missouri by its Supreme Court issued a 7-0 decision prohibiting the use of the 2025 Missouri Congressional District Map to conduct the 2026 Missouri General congressional election after Missouri utilized the 2025 Missouri Congressional District Map to conduct the 2026 Missouri Primary congressional election. Plaintiff Paul Berry III took notice that the Missouri Supreme Court ordered the 2022 Missouri Congressional District Map to conduct the 2026 Missouri General congressional election.

Plaintiff Berry was the winner of the 2026 Missouri Republican Primary congressional election for Missouri Congressional District One and is the 2026 Republican nominee for Missouri Congressional District One during the 2026 Missouri General congressional election. Plaintiff Berry was personally aware that the 2022 Missouri Congressional District Map was unconstitutionally racially gerrymandered and the 2011 Missouri Congressional District Map on its face is unconstitutional because its utilizes Missouri census data the is not constitutional to utilize in the year 2026.

STATEMENT OF VERIFIED FACTS

Parties to the Complaint

1. Plaintiff Paul Berry III ("Plaintiff Berry") is an African American resident of Missouri

over the age of twenty-one years old and a registered voter of Missouri Congressional District One. Plaintiff Berry is the certified Missouri Congressional District One Republican nominee for the 2026 Missouri General congressional election. Plaintiff Berry voted during the 2026 Missouri Primary congressional election and intends to vote during the 2026 Missouri General congressional election and is the Plaintiff on the underlying Complaint.

2. Defendant Denny Hoskins ("Missouri" or "Missouri Secretary of State") is the current Secretary of State of the State of Missouri and a Defendant to the underlying Complaint. The foundational Missouri constitutional authority establishing the election duties of the Missouri Secretary of State lies with Article IV, Section 14 of the Missouri Constitution, which states:

> "The secretary of state shall be custodian of the seal of the state, and authenticate therewith all official acts of the governor except the approval of laws. The seal shall be called the "Great Seal of the State of Missouri," and its present emblems and devices shall not be subject to change. He shall keep a register of the official acts of the governor, attest them when necessary, and when required shall lay copies thereof, and of all papers relative thereto, before either house of the general assembly. He shall be custodian of such records, and documents and perform such duties in relation thereto, and in relation to elections and corporations, as provided by law, but no duty shall be imposed on him by law which is not related to his duties as prescribed in this constitution." (underline added)

3. The Missouri Secretary of State conducted the 2026 Missouri Primary congressional election and intends on conducting the 2026 Missouri General congressional election for Missouri Congressional District One on behalf of the State of Missouri under Missouri Supreme Court Order after threat of contempt order incarceration after a Missouri Supreme Court hearing on September 10, 2026.

4. Defendant State of Missouri ("Missouri") is the 24th state to join the Union in the year 1820 and a Defendant to the underlying Complaint, and is responsible for the appointment of

United States congressional legislative districts on behalf of Missouri and ultimately responsible to ensure a ballot election is conducted to select United States congressional representatives on behalf of Missouri.

Relevant Congressional Redistricting Legal Authorities

5. Article I, Section 4, Clause 1 of the United States Constitution (the "Elections Clause"), states "(t)he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

6. 2 U.S.C. § 7 states "(t)he Tuesday next after the 1st Monday in November, in every even numbered year, is established as the day for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress commencing on the 3d day of January next thereafter."

7. 2 U.S. Code § 2a states verbatim:

> "(a) On the first day, or within one week thereafter, of the first regular session of the Eighty-second Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the seventeenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one Member.
>
> (b) Each State shall be entitled, in the Eighty-third Congress and in each Congress thereafter until the taking effect of a reapportionment under this section or subsequent statute, to the number of Representatives shown in the statement required by subsection (a) of this section, no State to receive less than one Member. It shall be the duty of the Clerk of the House of Representatives, within fifteen calendar days after the receipt of such statement, to send to the executive of each State a certificate of the number of

> Representatives to which such State is entitled under this section. In case of a vacancy in the office of Clerk, or of his absence or inability to discharge this duty, then such duty shall devolve upon the Sergeant at Arms of the House of Representatives.
> (c) Until a State is redistricted in the manner provided by the law thereof after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner: (1) If there is no change in the number of Representatives, they shall be elected from the districts then prescribed by the law of such State, and if any of them are elected from the State at large they shall continue to be so elected; (2) if there is an increase in the number of Representatives, such additional Representative or Representatives shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; (3) if there is a decrease in the number of Representatives but the number of districts in such State is equal to such decreased number of Representatives, they shall be elected from the districts then prescribed by the law of such State; (4) if there is a decrease in the number of Representatives but the number of districts in such State is less than such number of Representatives, the number of Representatives by which such number of districts is exceeded shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; or (5) if there is a decrease in the number of Representatives and the number of districts in such State exceeds such decreased number of Representatives, they shall be elected from the State at large." (underline added)

8. Article III, Section 45 of the Missouri Constitution states:

> "Congressional apportionment. — 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, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be."

US Census Bureau Decennial Congressional Appropriations Census

9. On December 21, 2010, US Census Bureau certified the detailed local redistricting data files certified from the 2010 US Census Bureau decennial census canvass (the "2010 US Census") delivered to the President of the United States and subsequently certified to the Missouri Governor and utilized to draft and enact the 2011 Missouri Congressional District Map.

10. On August 12, 2021, US Census Bureau certified the detailed local redistricting data files certified from the 2020 US Census Bureau decennial census canvass (the "2020 US Census") delivered to the President of the United States and subsequently certified to the Missouri Governor and utilized to draft and enact the 2022 Missouri Congressional District Map.

Missouri Congressional District Maps

Missouri 2011 Congressional District Map

11. On May 4, 2011, former Missouri House Representative Speaker John Diehl introduced House Bill 193, which ultimately enacted the "2011 Missouri Congressional District Map".

12. The 2011 Missouri Congressional District Map was required pursuant to the decrease in the number of United States congressional representatives appointed to Missouri based upon the 2010 United States Census to construct a Missouri congressional district map reducing the number of United States congressional representatives from nine (9) congressional representatives to eight (8) congressional representatives.

13. House Bill 193 was enacted by a Missouri General Assembly's legislative override of Governor Nixon's veto of House Bill 193 and went into effect on August 28, 2022.

14. Missouri utilized the Missouri congressional district map created from the enactment of House Bill 193 to conduct each Missouri Primary and General Congressional election between the years of 2012 thru 2020.

15. At no temporal period prior to or after the 2011 Missouri Congressional District Map was enacted by the Missouri General Assembly did the African American resident or voter population within the boundaries of the First Congressional District of the State of Missouri reflected on the 2011 Missouri Congressional District Map exceeded forty-nine percent (49%).

16. Missouri does not maintain any official record at any temporal period prior the 2011 Missouri Congressional District Map was enacted by the Missouri General Assembly that reflects the Missouri General Assembly conducted any pre-enactment analysis suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2011 Missouri Congressional District Map.

17. Missouri does not maintain any official record of the Missouri Secretary of State or the Missouri Governor that at any temporal period prior the Missouri Governor signing the 2011 Missouri Congressional District Map into law that reflects the Missouri Governor was provided any pre-enactment analysis conducted by the Missouri General Assembly suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2011 Missouri Congressional District Map.

18. Since the Missouri General Assembly's enactment of the 2011 Missouri Congressional District Map drafted utilizing the 2011 United States Census, the United States Census Bureau has certified the 2020 United States Census to the Missouri Governor.

Missouri 2022 Congressional District Map

19. On March 1, 2022, former Missouri House of Representative Dan Shaul introduced House Bill 2909 entitled: "AN ACT To repeal sections 128.345, 128.346, and 128.348, RSMo, and to enact in lieu thereof twelve new sections relating to the composition of congressional districts, with an emergency clause."

20. On May 9, 2022, the Missouri House of Representatives passed House Bill 2909 by a vote of 101 Ayes to 47 Noes. The Emergency Clause attached to House Bill 2909 passed by the Missouri House of Representatives by a vote of 114 Ayes to 34 Noes.

21. On May 11, 2022, the Missouri Senate passed House Bill 2909 by a vote of 22 Ayes to 11 Noes. The Emergency Clause attached to House Bill 2909 passed by the Missouri Senate by a vote of 29 Ayes to 4 Noes.

22. On May 18, 2022, House Bill 2909 was delivered to Missouri Governor Mike Parson and was signed into law by Governor Parson on the same day.

23. House Bill 2909 (the "2022 Missouri Congressional District Map") was signed into Missouri law by Governor Parson with the Emergency Clause attached and went into immediate effect on May 18, 2022.

24. Missouri utilized the 2022 Missouri Congressional District Map to conduct the 2022 and 2024 Missouri congressional election cycles.

25. At no temporal period prior to or after the 2022 Missouri Congressional District Map was enacted by the Missouri General Assembly did the African American resident or voter

population within the boundaries of the First Congressional District of the State of Missouri reflected on the 2022 Missouri Congressional District Map exceeded forty-nine percent (49%).

26. Missouri does not maintain any official record at any temporal period prior the 2022 Missouri Congressional District Map was enacted by the Missouri General Assembly that reflects the Missouri General Assembly conducted any pre-enactment analysis suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2022 Missouri Congressional District Map.

27. Missouri does not maintain any official record of the Missouri Secretary of State or the Missouri Governor that at any temporal period prior the Missouri Governor signing the 2022 Missouri Congressional District Map into law that reflects the Missouri Governor was provided any pre-enactment analysis conducted by the Missouri General Assembly suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2022 Missouri Congressional District Map.

Missouri 2025 Congressional District Map

28. On August 29, 2025, Missouri Governor Michael Kehoe issued a Proclamation convening an extraordinary session of the Missouri General Assembly pursuant to Article IV, Section 9 of the Missouri Constitution set to commence on September 3, 2025: "(t)o enact legislation to establish new congressional districts for the State of Missouri."

29. On September 3, 2025, former Missouri House of Representative Dirk Deaton introduced House Bill 1 entitled: "An Act To repeal sections 128.345, and 128.348, RSMo, and to enact in lieu thereof twelve new sections relating to the composition of congressional districts."

30. On September 3, 2025, the Missouri House of Representatives passed House Bill 1 by a vote of 90 Ayes to 65 Noes. No Emergency Clause was attached to House Bill 1 upon passage by the Missouri House of Representatives.

31. On September 9, 2025, the Missouri Senate passed House Bill 1 by a vote of 21 Ayes to 11 Noes. No Emergency Clause was attached to House Bill 1 upon passage by the Missouri Senate.

32. On September 9, 2025, House Bill 1 was delivered to and signed into Missouri law by Missouri Governor Kehoe without any Emergency Clause.

33. Article III, Section 29 of the Missouri Constitution establishes when an enacted Missouri law goes into effect, which states:

> "Effective date of laws — exceptions — procedure in emergencies and upon recess. — No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess."

34. House Bill 1 went into effect in Missouri on December 11, 2025.

35. As of December 11, 2025, House Bill 1 repealed the 2022 Missouri Congressional

District Map enacted by House Bill 2909 by Missouri on May 18, 2022.

36. Missouri utilized the Missouri congressional district map created from the enactment of House Bill 1 to conduct the 2026 Missouri congressional Primary election on August 4, 2026.

37. At no temporal period prior to or after the 2025 Missouri Congressional District Map was enacted by the Missouri General Assembly did the African American resident or voter population within the boundaries of the First Congressional District of the State of Missouri reflected on the 2025 Missouri Congressional District Map exceeded forty-nine percent (49%).

38. Missouri does not maintain any official record at any temporal period prior the 2025 Missouri Congressional District Map was enacted by the Missouri General Assembly that reflects the Missouri General Assembly conducted any pre-enactment analysis suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2025 Missouri Congressional District Map.

39. Missouri does not maintain any official record of the Missouri Secretary of State or the Missouri Governor that at any temporal period prior the Missouri Governor signing the 2025 Missouri Congressional District Map into law that reflects the Missouri Governor was provided any pre-enactment analysis conducted by the Missouri General Assembly suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2025 Missouri Congressional District Map.

40. 2011 Missouri Congressional District Map, 2022 Missouri Congressional District Map and 2025 Missouri Congressional District Map are jointly referred to as the "Missouri Congressional District Maps".

Missouri Proposition A Referendum

41. House Bill 1 enacted on September 9, 2025, was codified as Missouri law under § 128.345, 128.346, 128.348, and 128.471 through 128.479 RSMo, with an effective date of December 11, 2025.

42. Article III, Section 49 of the Missouri Constitution states:

> "Reservation of power to enact and reject laws. — The people reserve power to propose and enact or reject laws and amendments to the constitution by the initiative, independent of the general assembly, and also reserve power to approve or reject by referendum any act of the general assembly, except as hereinafter provided."

43. Article III, Section 52 (a) of the Missouri Constitution states:

> "Referendum — exceptions — procedure. — A referendum may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety, and laws making appropriations for the current expenses of the state government, for the maintenance of state institutions and for the support of public schools) either by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state, or by the general assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded."

44. Article III, Section 52 (b) of the Missouri Constitution states:

> "The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people shall be had at the general state elections, except when the general assembly shall order a special election. Any measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise. This section shall not be construed to deprive any member of the general assembly of the right to introduce any measure."

45. On September 29, 2025, Richard von Glahn ("Missouri Proposition A Referendum Organizer") filed a referendum petition ("Missouri Proposition A Referendum") assigned Missouri Referendum Petition Number 2026-R004.

46. On August 4, 2026, the Missouri Secretary of State issued a certificate of insufficiency against the voter signatures attached to Missouri Proposition A Referendum pursuant to § 116.150, RSMo.

47. On August 4, 2026, Missouri Proposition A Referendum Organizer filed a declaratory judgment and injunctive relief petition before the Cole County Circuit Court of the State of Missouri (Missouri Circuit Court Case No: 26AC-CC00440 - "*VON GLAHN V HOSKINS*") pursuant to, inter alia, § 116.200.1, RSMo seeking the Cole County Circuit Court to adjudicate as to whether Missouri Proposition A Referendum is sufficient or insufficient for placement on the 2026 Missouri General election ballot pursuant to § 116.115, RSMo, which states:

> "1. After the secretary of state makes a determination on the sufficiency of the petition and if the secretary of state finds it sufficient, the secretary of state shall issue a certificate setting forth that the petition contains a sufficient number of valid signatures to comply with the Constitution of Missouri and with this chapter.
>
> 2. The secretary of state shall issue a certificate only for a petition approved pursuant to section 116.332. If the secretary of state finds the petition insufficient, the secretary of state shall issue a certificate stating the reason for the insufficiency.
>
> 3. The secretary of state shall issue a certificate pursuant to this section not later than 5:00 p.m. on the thirteenth Tuesday prior to the general election or two weeks after the date the election authority certifies the results of a petition verification pursuant to subsection 2 of section 116.130, whichever is later."

48. On August 19, 2026, the Cole County Circuit Court issued its decision in *VON GLAHN V HOSKINS*, with the following court docket text order:

> "WHEREFORE, this Court hereby issues its Judgment and Order in favor of Defendant Denny Hoskins and Intervenors Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee and against Plaintiff on Plaintiffs Petition for Declaratory Judgment and Injunctive Relief and further ORDERS, DECLARES, and ADJUDGES that: A. Missouri's referendum provisions in Article III, Sections 49 and 52 of the Missouri Constitution do not apply to congressional redistricting enacted by the General Assembly pursuant to Article III, Section 45; B. The Secretary of State's decision to not certify the referendum petition directed at HB 1 was lawful; C. HB 1 remains in full force and effect for the 2026 general election; D. The Petition is dismissed and judgment is entered for Defendant; E. The parties are to bear their own costs. F. As soon as a notice of appeal is filed, if any, this Court relinquishes its jurisdiction over this matter and deems this Judgment final for purposes of appeal. See Rule 81.045. SO ORDERED, this 19th day of August 2026. DRG/ado"

49. On August 19, 2026, a notice of appeal was filed before the Cole County Circuit Court in *VON GLAHN V HOSKINS* by Missouri Proposition A Referendum Organizer, to which, on August 20, 2026, the Missouri Supreme Court issued the following court docket text order:

> "Order issued: On August 19, 2026, Appellant filed a notice of appeal to this Court. Without determining whether this appeal invokes this Court's exclusive appellate jurisdiction, this Court, on its own motion, grants transfer of this case under Rule 83.01 because of the general interest or importance of the legal issues involved in this matter. An expedited briefing schedule is set as follows: The legal file and transcript are due on or before August 24, 2026; Appellant's brief is due on or before 12:00 p.m., August 25, 2026; Defendants' briefs are due on or before 12:00 p.m., August 27, 2026; and Appellant's reply brief, if any, is due on or before 12:00 p.m., August 31, 2026. This matter will be set for oral argument on September 2, 2026."

50. On September 2, 2026, *VON GLAHN V HOSKINS* was argued before and submitted for decision by the Missouri Supreme Court.

51. On September 3, 2026, the Missouri Supreme Court issued its opinion in *VON GLAHN V HOSKINS*, which states, inter alia, that House Bill 1 (2025) that established the 2025 Missouri Congressional District Map is suspended until a statewide referendum vote is conducted by the Missouri Secretary of State during the 2026 General election and because

House Bill 1 (2025) repealed House Bill House Bill 2909 (2022) that the Missouri congressional district map that was established by House Bill 2909 (2022) is in effect for the 2026 Missouri General congressional election.

Collateral Effects of Missouri Proposition A Referendum

52. Under the legislative mechanics of Article III, Sections 29, 49, 52(a) and 52 (b) of the Missouri Constitution judicially mandated by the Missouri Supreme Court's opinion in *MAGGARD V. STATE* and *VON GLAHN V. HOSKINS*, House Bill 1 not being in effect during the 2026 Missouri General congressional election now immediately causes the 2022 Missouri Congressional District Map to become the statutory Missouri congressional district map during the 2026 Missouri General Congressional Election.

53. Under the legislative mechanics of the District Court striking the 2022 Missouri Congressional District Map as unconstitutional will reenact the 2011 Missouri Congressional District Map for use during the 2026 Missouri General congressional election, because the 2022 Missouri Congressional District Map enacted by House Bill 2909 specifically repeals House Bill 193, which enacted the 2011 Missouri Congressional District Map.

54. Use of the 2011 Missouri Congressional District Map or any Missouri congressional map enacted by the Missouri General Assembly prior to the certification of the 2020 Census to conduct the 2026 Missouri General congressional election is strictly prohibited by the Missouri Constitution, Federal law and the United States Constitution due to the reduction in the number of congressional single districts Missouri is permitted to construct pursuant to the results of the

2010 Census required for Missouri to conduct the 2026 Missouri General congressional Election and the deviation in Missouri population between 2010 Census and 2020 Census.

Related Third-Party Federal Litigation

55. On September 4, 2026, Missouri filed its emergency application for a stay before the Supreme Court of the United States seeking review of the Missouri Supreme Court's opinion in *VON GLAHN V HOSKINS*, which was denied by the United States Supreme Court on September 8, 2026.

56. On September 4, 2026, the 2026 Republican nominees for United States Congress in the 3rd and 5th Missouri Congressional Districts, Dr. Robert ("Bob") Onder, Richard ("Rick") Bratton, with Missouri congressional voters from the 3rd and 5th congressional districts filed a Federal complaint before the United States District Court of Eastern Missouri ("Onder/Brattin Complaint"), inter alia, seeking to declare the use of the 2022 Missouri Congressional District Map unconstitutional for using during the 2026 Missouri General congressional election proceeding under United State District Court case number 4:26-CV-01419-SAC.

57. On September 8, 2026, Chief District Judge Clark issued a temporary restraining order (the "Onder/Brattin TRO") against the Missouri Secretary of State based upon Chief District Judge Clark's judicial determination that the 2022 Missouri Congressional District Map is likely unconstitutional to conduct the 2026 Missouri General congressional election.

58. After being affirmed by the Eighth Circuit, the Onder/Brattin TRO was appealed by intervenors to the Onder/Brattin Complaint before the United States Supreme Court, who stayed

the Onder/Brattin TRO until further consideration by the Eighth Circuit.

59. On September 8, 2026, the Eighth Circuit affirmed the Onder/Brattin TRO, declaring the 2022 Missouri Congressional District Map is likely unconstitutional to conduct the 2026 Missouri General congressional election upon statutory and constitutional legal charges not resolved by the Eighth Circuit's affirmation of the Onder/Brattin TRO, which has been stayed until 5:00pm central standard time on September 28, 2026, to permit appeal to the United States Supreme Court.

60. As of the date and time of this filing, the Onder/Brattin Complaint (and Eighth Circuit affirmation of the Onder/Brattin TRO) has not reached a final determination from the Federal court system.

Racial Gerrymandering of Missouri Congressional District One

61. Missouri substantially violated Section One of the Fifteenth Amendment of the United States Constitution when Missoui drafted and enacted the Missouri Congressional District Maps, because Missouri considered and utilized the race of African Americans in Eastern Missouri as a primary factor when drafting the jurisdictional boundaries of Missouri Congressional District One provided by the Missouri Congressional District Maps, purportedly, incorrectly and unconstitutionally to comply with the Voting Rights Act, without taking any official action by legislative vote or in fact that provides any preenactment analysis was conducted or voted upon that suggests that any Missourian suffered from intentional voter discrimination related to United States congressional voting in any manner whatsoever and Missouri's use of race to construct the

Missouri Congressional District Maps, specifically, utilizing the race of Missourians to create Missouri Congressional District One as a "race influence district", which is expressly forbidden by the Voting Rights Act of 2006, and Section One of both the Fourteenth and Fifteenth Amendments of the United States Constitution.

62. When drafting the Missouri Congressional District Maps enacted by the Missouri General Assembly, the Missouri General Assembly unconstitutionally utilized the racial demographic information provided by the 2010 United Census and 2020 United Census certified to the Missouri Governor to construct the congressional boundaries of Missouri Congressional District One in the manner currently presented by each Missouri Congressional District Map.

63. Missouri's Black population often seeks to migrate outside of the boundaries of the First Congressional District seeking different community interests than provided within the First Congressional District related to seeking better government services, employment opportunities, housing opportunities, educational opportunities and criminal justice services, all influenceable by Federal congressional appropriations and representation.

64. Missouri Congressional District One has been represented by an African American United States congressional representative for the last 58 years, since 1968 until the date of this Complaint and both Democrat and Republican voters have consistently nominated African American nominees for the First Congressional District of Missouri.

65. During the 21st Century, there has not been a single claim involving any local or state

legislative district within or adjacent to Missouri Congressional District One that international racial discrimination caused any African American the inability to elect the political candidate of their choice or otherwise abridged the vote of African Americans within or adjacent to Missouri Congressional District One.

66. At all relevant temporal periods, St. Louis County's African American population is approximately twenty-five percent (25%) of St. Louis County's population; an analysis of voting trends in St. Louis County of African American countywide political candidates Charlie Dooley, Wesley Bell and Paul Berry III with White countywide political candidates Steve Stegner, Sam Page and Melissa Price receiving the majority of votes from Black voters, which establishes an extraordinary number of White voters voted for African American political candidates and White candidates received more votes from African American voters than White voters in other instances.

67. Evidence that African Americans do not vote as a racial voter block in Missouri Congressional District One is evident from the 2025 Democrat Primary results for City of St. Louis Mayor and 2026 Democrat Primary election results for St. Louis County Executive. African American voters in St. Louis County failed to consolidate a St. Louis County Executive candidate and split large percentages of African American voters for St. Louis County Executive between one White and two African American candidates.

68. In fact, the Missouri Secretary of State, himself, has publicly discussed the exact same personal disdain Plaintiff Berry shares and in the instant seeks relief from during a press

statement related to Missouri's construction of Missouri's Congressional District One by utilizing the race of Missourians as published by Missouri Independent on May 12, 2026; Missouri Secretary of State Denny Hoskins states as published by Missouri Independent:

> "While he was speaking to reporters, Hoskins said he would be interested in another round of redistricting in 2027.
>
> Missouri's 1st District is the only one in the state that was drawn to meet the requirements of the Voting Rights Act. Hoskins said lawmakers should revise Missouri's map to eliminate the Black-majority district.
>
> **"The definition of racism," Hoskins said, "is drawing districts based on the color of one's skin. We don't want that in this state.""** (bold added)
>
> [https://missouriindependent.com/2026/05/12/no-perfect-map-missouri-ags-office-defends-gerrymandered-congressional-districts/]

69. Denny Hoskins as a Missouri Senator in 2022 voted on the 2022 Missouri Congressional District Map and as Missouri Secretary of State is well-qualified on behalf of Missouri to declare whether the Missouri congressional district maps enacted in the years 2022 and 2025 constructed and enacted Missouri Congressional District One utilizing the race of Missourians, to which, under a purported and unqualified assumption that Missouri was required to construct Missouri Congressional District One utilizing the race of Missourians as a mandatory obligation for compliance with the Voting Rights Act of 2006.

70. The Missouri Solicitor General in a Missouri court case argued without a factual determination or resolution by the Court in such Missouri court case that the 2022 Missouri Congressional District Map was illegally racially gerrymandered. (see "Missouri AG argues St. Louis congressional district is an unconstitutional racial gerrymander" by Jason Rosenbaum-

St. Louis Public Radio.)

[https://www.stlpr.org/government-politics-issues/2025-11-18/missouri-attorney-general-hanaway-1st-congressional-district-unconstitutional-racial-gerrymander]

71. Further, in *State of Missouri v. United States Department of Commerce*, before the United States District Court of Eastern Missouri, Missouri challenges the constitutionality of the 2022 Missouri Congressional District Map and before the 8th Circuit, admittedly based upon different legal theories, although a party can not claim a congressional district map is both constitutional and unconstitutional in the same breath before multiple courts, which Plaintiff Berry summarizes Missouri has no intention to do so before the 8th Circuit. (see Counts I-VI at):

[https://ago.mo.gov/wp-content/uploads/Missouri-v.-DOC-Complaint-1-30-2026-final.pdf]

72. In fact, you don't have to go any further than Missouri Governor Kehoe's special legislative session proclamation, signed as a matter of law by both Hoskins and Kehoe, to understand Missouri's position on whether race was utilized improperly to construct Missouri Congressional District One upon the 2022 Missouri General Congressional District Map in violation of the Voting Rights Act of 2006, which states in part:

> "The State of Missouri's current congressional district map may be vulnerable to a legal challenge under the Voting Rights Act and the Fourteenth Amendment, due to a lack of compactness in certain districts."

[https://governor.mo.gov/proclamations/governor-kehoe-convenes-second-extraordinary-session-first-regular-session-one]

73. Any involvement by the Missouri General Assembly related to a special legislative

session called for the specific purpose of constructing any Missouri congressional district as a legislative response to a "legal challenge under the Voting Rights Act" is absolutely being called to consider race under the Voting Rights Act when drafting such Missouri congressional district boundaries, and to address the Voting Rights Act violations that Plaintiff Berry has complained against since the original enactment of the 2022 Missouri Congressional District Map.

74. Further, the only region of Missouri that can be remotely subject to the Voting Rights Act of 2006 related to any Federal congressional district map is the Missouri region that at all relevant temporal periods maintained territory currently and formerly comprised of the Missouri Congressional District One.

75. Missouri has enacted three (3) Missouri Congressional District Maps since the number of United States Congressional District seats were decreased based upon the United States Census Bureau 2010 Decennial Canvas certified by the United States Census Bureau.

76. Because the 2011 Missouri Congressional District map was not drafted and enacted by Missouri utilizing data provided by the United States Census Bureau 2020 Decennial Canvas, the 2011 Missouri Congressional District Map is wholly illegal and unconstitutional to utilize to conduct the 2026 Missouri General congressional election.

77. Missouri constructed the boundaries of Missouri Congressional District One as unconstitutional "influence" or "opportunity" United States congressional districts that do not create in the instant a "fifty plus one vote" African American voter age population congressional

district utilizing race of Missourians when drafting and enacting the 2022 and 2025 Missouri Congressional District Maps.

78. Missouri is judicially estopped before the Court from arguing that the 2022 Missouri Congressional District One boundaries were not construed as an "opportunity" racially gerrymandered United States congressional district based upon Missouri court filings by the Missouri Attorney General within the last year.

79. Because the African American population provided by the 2025 Missouri Congressional District One boundaries increased as compared to the 2022 Missouri Congressional District One without attaining a "fifty plus one vote" African American voting population age United States congressional district, Missouri also admits by default that the 2025 Missouri Congressional District One boundaries are also an "opportunity" racially gerrymandered United States congressional district based upon Missouri court filings by the Missouri Attorney General within the last year.

80. Missouri's admittance before Missouri court system that the 2022 Missouri Congressional District One boundaries were constructed as a racially gerrymandered "opportunity" United States congressional district is an admission that Missouri utilized race to construct the 2022 Missouri Congressional District Map.

81. Missouri Governor's declaration calling for a special legislative session of the Missouri General Assembly responsible for enacting the 2025 Missouri Congressional District Map declared the purpose of such special legislative session of the Missouri General Assembly was

enact a map related to the Voting Rights Act, which declares with the force of Missouri law the purpose of the Missouri General Assembly, to utilize the race of Missourians to enact the 2025 Missouri Congressional District Map.

82. Under Chapter 490 of the Missouri Revised Statutes (RSMo 490.160), the printed journal itself acts as prima facie evidence in a court of law to prove that a legislative action or vote officially took place in the Missouri General Assembly and the Missouri Governor's resolution of the special extraordinary session regarding HB 1 is part of the official journal of the Missouri House.

83. In regards to HB 2909, the Missouri House of Representative conducted its First Floor Read on 03/01/2022, Second Floor Read on 03/02/2022 and on 03/31/2022 referred HB 2909 to the Missouri House of Representative committee on Special Committee on Redistricting for a public hearing as required by Missouri Sunshine Law.

84. The Missouri House of Representative official journal reflects that the Missouri House of Representative conducted one (1) public committee hearing regarding the contents of HB 2909 on 05/04/2025 and the official journal of the Missouri House of Representative reflects (a) ZERO report of any kind was adopted by such Missouri House of Representative committee, which means the Missouri House of Representative committee did not consider any historical, statistical or voter racial discrimination report related to African American congressional voters in Missouri, (b) ZERO witnesses testified on behalf of or for information purposes related to HB 2909, which means the Missouri House of Representative did not consider any expert or public

testimony related to any historical, statistical or voter racial discrimination witness testimony related to African American congressional voters in Missouri, (c) ZERO evidence of any kind was adopted by such Missouri Senate committee, which means the Missouri House of Representative committee did not consider any any historical, statistical or voter racial discrimination evidence related to African American congressional voters in Missouri, (d) ZERO mention by the Missouri House of Representative committee hearing cover page, the Missouri House of Representative committee action sheet or the Missouri House of Representative committee journal related to African American congressional voters in Missouri and (e) the Missouri House of Representative committee vote passing HB 2909 to the full Missouri House of Representative body for a Third Floor Reading and Do Pass Vote on 05/09/2022 did not vote upon any manner related to voter racial discrimination evidence related to African American congressional voters in Missouri.

85. In regards to HB 2909, the Missouri Senate conducted its First Floor Read on 05/09/2025, Second Floor Read on 05/10/2025 and on 09/10/2025 referred HB 2909 to the Missouri Senate committee on Select Committee on Redistricting for a public hearing as required by Missouri Sunshine Law.

86. The Missouri Senate official journal reflects that the Missouri Senate DID NOT CONDUCT ANY HEARING WHATSOEVER regarding the contents of HB 2909 on 09/11/2025 pursuant to Article III, Section 22 of the Missouri Constitution and Missouri Senate Rule 50, and as such, the official journal of the Missouri Senate reflects (a) ZERO report of any

kind was adopted by such Missouri Senate committee, which means the Missouri Senate committee did not consider any historical, statistical or voter racial discrimination report related to African American congressional voters in Missouri, (b) ZERO witnesses testified on behalf of or for information purposes related to HB 2909, which means the Missouri Senate did not consider any expert or public testimony related to any historical, statistical or voter racial discrimination witness testimony related to African American congressional voters in Missouri, (c) ZERO evidence of any kind was adopted by such Missouri Senate committee, which means the Missouri Senate committee did not consider any any historical, statistical or voter racial discrimination evidence related to African American congressional voters in Missouri, (d) ZERO mention by the Senate committee hearing cover page, the Senate committee action sheet or the Senate committee journal related to African American congressional voters in Missouri and (e) the Missouri Senate committee vote passing HB 2909 to the full Missouri Senate body for a Third Floor Reading and Do Pass Vote on 05/18/2022 did not vote upon any manner related to voter racial discrimination evidence related to African American congressional voters in Missouri.

87. Missouri Governor Parson signed HB 2909 into law on 05/18/2022, without being presented any preenactment analysis as to whether any suggestion existed that the right to vote by any Missourian for any Missouri congressional candidate had been denied or otherwise abridged based upon intentional race discrimination providing any justifiable conclusion that the use of race to draft and enact HB 1 was constitutionally permissible.

88. In regards to HB 1, the Missouri House of Representative conducted its First Floor Read on 09/03/2025, Second Floor Read on 09/04/2025 and on 09/04/2025 referred HB 1 to the Missouri House of Representative committee on Special Committee on Redistricting for a public hearing as required by Missouri Sunshine Law.

89. The Missouri House of Representative official journal reflects that the Missouri House of Representative conducted one (1) public committee hearing regarding the contents of HB 1 on 09/04/2025 and the official journal of the Missouri House of Representative reflects (a) ZERO report of any kind was adopted by such Missouri House of Representative committee, which means the Missouri House of Representative committee did not consider any historical, statistical or voter racial discrimination report related to African American congressional voters in Missouri, (b) ZERO witnesses testified on behalf of or for information purposes related to HB 1, which means the Missouri House of Representative did not consider any expert or public testimony related to any historical, statistical or voter racial discrimination witness testimony related to African American congressional voters in Missouri, (c) ZERO evidence of any kind was adopted by such Missouri Senate committee, which means the Missouri House of Representative committee did not consider any any historical, statistical or voter racial discrimination evidence related to African American congressional voters in Missouri, (d) ZERO mention by the Missouri House of Representative committee hearing cover page, the Missouri House of Representative committee action sheet or the Missouri House of Representative committee journal related to African American congressional voters in Missouri and (e) the

Missouri House of Representative committee vote passing HB 1 to the full Missouri House of Representative body for a Third Floor Reading and Do Pass Vote on 09/10/2022 did not vote upon any manner related to voter racial discrimination evidence related to African American congressional voters in Missouri.

90. In regards to HB 1, the Missouri Senate conducted its First Floor Read on 09/10/2025, Second Floor Read on 09/11/2025 and on 09/11/2025 referred HB 1 to the Missouri Senate committee on Local Government, Elections and Pensions for a public hearing as required by Missouri Sunshine Law.

91. The Missouri Senate official journal reflects that the Missouri Senate conducted one (1) public committee hearing regarding the contents of HB 1 on 09/11/2025 and the official journal of the Missouri Senate reflects (a) ZERO report of any kind was adopted by such Missouri Senate committee, which means the Missouri Senate committee did not consider any historical, statistical or voter racial discrimination report related to African American congressional voters in Missouri, (b) ZERO witnesses testified on behalf of or for information purposes related to HB 1, which means the Missouri Senate did not consider any expert or public testimony related to any historical, statistical or voter racial discrimination witness testimony related to African American congressional voters in Missouri, (c) ZERO evidence of any kind was adopted by such Missouri Senate committee, which means the Missouri Senate committee did not consider any any historical, statistical or voter racial discrimination evidence related to African American congressional voters in Missouri, (d) ZERO mention by the Senate committee hearing cover

page, the Senate committee action sheet or the Senate committee journal related to African American congressional voters in Missouri and (e) the Missouri Senate committee vote passing HB 1 to the full Missouri Senate body for a Third Floor Reading and Do Pass Vote on 09/11/2025 did not vote upon any manner related to voter racial discrimination evidence related to African American congressional voters in Missouri.

92. Missouri Governor Kehoe signed HB 1 into law on 09/11/2025, without being presented any preenactment analysis as to whether any suggestion existed that the right to vote by any Missourian for any Missouri congressional candidate had been denied or otherwise abridged based upon intentional race discrimination providing any justifiable conclusion that the use of race to draft and enact HB 1 was constitutionally permissible.

93. Because both the Democrat Party and Republican Party nominee for the 2026 Missouri General congressional elections are each African American, African Americans in the St. Louis region are not in jeopardy of being represented by a Congressman who is not African American and there is no racial discrimination between two African American congressional nominees for United States congressional seats enforceable by Missouri or Federal courts.

94. Missouri does not maintain a compelling state interest to segregate African Americans within one Missouri Congressional District One based upon race or ancestral bondage under slavery.

Constitutional Violations of the Missouri Constitution and Equal Protection Clause

95. Subject to this Court's determination adjudicating the underlying Complaint, permitting

Missouri to conduct the 2026 Missouri General congressional election utilizing the 2025 Missouri Congressional District Map will violate Article III, Sections 29, 49, 52(a) and 52 (b) of the Missouri Constitution, and the Election Clause.

96. Subject to this Court's determination adjudicating the underlying Complaint, the *VON GLAHN V HOSKINS* Missouri Supreme Court decision orders the Missouri Secretary of State to conduct the 2026 Missouri General congressional election utilizing the unconstitutional Missouri Congressional District Maps, which will disenfranchise the vote of a sizable number of Missourians who voted during the 2026 Missouri Primary congressional election.

97. In the event this Court permits the Missouri Secretary of State to conduct the 2026 Missouri General congressional election utilizing the unconstitutional 2022 Missouri Congressional District Maps and the Missouri Proposition A Referendum fails voter approval during the 2026 Missouri General congressional election, such an instance shall cause a clear unconstitutional election result in violation of the Elections Clause and the Equal Protection of the United States Constitution.

Failure to Enact a Constitutional Missouri Congressional Map

98. The 2011 Missouri Congressional District Map was required pursuant to the decrease in the number of United States congressional representatives appointed to Missouri based upon the 2010 United States Census to construct a Missouri congressional district map reducing the number of United States congressional representatives from nine (9) congressional representatives to eight (8) congressional representatives.

99. The 2011 Missouri Congressional District Map is unconstitutional for use during the 2026 Missouri General congressional election because:

a. The 2011 Missouri Congressional District Map is constitutionally defective, because the 2011 Missouri Congressional District Map was not enacted with the most recent Missouri voter resident population data provided by the 2020 United States Census.

b. The 2011 Missouri Congressional District Map provides a malappropriate resident population for to conduct the 2026 Missouri General congressional election established by the 2010 United States Census decennial canvas results certified to the Missouri Governor for use to construct and enact Missouri congressional districts provided by the 2011 Missouri Congressional District Map, in violation of the Equal Protection Clause of the United States Constitution.

c. Missouri drafted and enacted the 2011 Missouri Congressional District Map utilizing the race of Missourians without strict adherence to the Voting Rights Act of 2006 in violation of Section One of the Fourteenth of the United States Constitution and the Fifteenth Amendment of the United States Constitution.

100. The 2022 Missouri Congressional District Map is unconstitutional for use during the 2026 Missouri General congressional election because:

a. Use of the 2022 Missouri Congressional District Map to conduct the 2026 Missouri General congressional election violates the Equal Protection Clause of the United States Constitution because by Missouri utilizing the 2022 Missouri Congressional District Map

to conduct the 2026 Missouri Primary congressional election would posthumously cause a large percentage of Missouri Primary congressional election voters were clearly not provided equal weight towards their 2026 Missouri Primary congressional election vote as other similarly situated Missouri Missouri Primary congressional election voters.

b. In the event Missouri Proposition A Referendum fails enactment by Missouri statewide voters during the 2026 Missouri General congressional election, Missouri will be faced with an unprecedented situation of violating the Equal Protection Clause of the United States Constitution and potentially displacing all eight (8) United States congressional district seats entitled to Missouri as void until the Missouri Governor calls and conducts a special election to fill all eight (8) Missouri congressional district constitutionally vacated seats.

c. Missouri drafted and enacted the 2022 Missouri Congressional District Map utilizing the race of Missourians without strict adherence to the Voting Rights Act of 2006 in violation of Section One of the Fourteenth of the United States Constitution and the Fifteenth Amendment of the United States Constitution.

101. The 2025 Missouri Congressional District Map is unconstitutional for use during the 2026 Missouri General congressional election because:

a. Article III, Sections 49, 52(a) and 52(b) of the Missouri Constitution authorized by the Elections Clause prohibits Missouri from utilizing the 2025 Missouri Congressional District Map to conduct the 2026 Missouri General congressional election by order of the Missouri Supreme Court in *VON GLAHN V HOSKINS*.

b. Missouri drafted and enacted the 2025 Missouri Congressional District Map utilizing the race of Missourians without strict adherence to the Voting Rights Act of 2006 in violation of Section One of the Fourteenth of the United States Constitution and the Fifteenth Amendment of the United States Constitution.

102. Since Missoui does not have a constitutional congressional map to conduct the 2026 Missouri General congressional election after the decennial canvas results conducted by the 2010 Census Bureau was required pursuant to the decrease in the number of United States congressional representatives appointed to Missouri based upon the 2010 United States Census to construct a Missouri congressional district map reducing the number of United States congressional representatives from nine (9) congressional representatives to eight (8) congressional representatives to conduct the 2026 Missouri congressional district election, the Court is commanded by the United States Congress to order Missouri to conduct the 2026 Missouri General congressional election by the procedure set pursuant to by 2 U.S.C. § 2a(c)(5), which states:

> "**(c) Until a State is redistricted in the manner provided by the law thereof after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner:** (1) If there is no change in the number of Representatives, they shall be elected from the districts then prescribed by the law of such State, and if any of them are elected from the State at large they shall continue to be so elected; (2) if there is an increase in the number of Representatives, such additional Representative or Representatives shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; (3) if there is a decrease in the number of Representatives but the number of districts in such State is equal to such decreased number of Representatives, they shall be elected from the districts then prescribed by the law of such State; (4) if there is a decrease in the number of Representatives but the number of districts in such State is less than such number of Representatives, the number of Representatives by which such number of districts is exceeded shall be elected from the State at large and the other Representatives

> from the districts then prescribed by the law of such State; or (5) **if there is a decrease in the number of Representatives and the number of districts in such State exceeds such decreased number of Representatives, they shall be elected from the State at large**." (bold and underline added)

103. 2 U.S.C. § 2a(c)(5) is a self-executing ministerial Federal elections statute that commands Missouri to "until a State is redistricted in the manner provided by the law thereof after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner… if there is a decrease in the number of Representatives and the number of districts in such State exceeds such decreased number of Representatives, they shall be elected from the State at large."

104. Because 2 U.S.C. § 2a(c)(5) is a self-executing ministerial Federal elections statute, Missouri maintains an internal Federal statutory ministerial duty to self-enforce the provisions of 2 U.S.C. § 2a(c)(5) prior to and without a court order demanding such compliance and execution with 2 U.S.C. § 2a(c)(5) and Missouri's compliance with any self-executing ministerial Federal elections statute required by the Elections Clause may be enforced against Missouri by Federal writ application or injunctive relief independent (although very rarely necessary) of the appointment of a three-judge court or may be requested adjudicated by a single-judge court provided the underlying litigation challenges the redistricting process itself broke down and at a late date unavailable for the drafting a new constitutional congressional map prior to the eve of a United States congressional election.

105. Solely in the instant circumstances before the Court, Missouri Courts system is statutorily prohibited by various Missouri election laws from enforcing 2 U.S.C. § 2a(c)(5) after

September 8, 2026.

106. The Missouri General Assembly is NOT prohibited from enforcing 2 U.S.C. § 2a(c)(5) at any time pursuant to Missouri law.

107. The Missouri General Assembly is currently in veto session until Friday September 25, 2026.

108. Plaintiff Berry seeks this Court after due process afforded to Missouri by the underlying Complaint to order the Missouri Secretary of State to conduct the 2026 Missouri General congressional election pursuant to 2 U.S.C. § 2a(c)(5).

109. Enforcement of 2 U.S.C. § 2a(c)(5) is reserved for when as applied a constitutional United States congressional map is not enacted by Missouri since the last reduction of congressional seats on the eve of the election, which may be provided by a single-judge district court independent of a three-judge district court in the instance.

110. The date of the eve of the 2026 Missouri General congressional election is Monday September 21, 2026, because Missouri election law provides the first day of early voting is statutorily scheduled to begin on Tuesday September 22, 2026, and as of the date of the submission of the instant Trial Brief on Counts IV thru VII of the Complaint, **there is no more time on the eve of the 2026 Missouri General congressional election to enact a constitutional Missouri single district congressional district map prior to Tuesday September 22, 2026, the first day of early voting for the 2026 Missouri General congressional election.**

REASONS TO GRANT TRO APPLICATION AGAINST MISSOURI

I. LEGAL STANDARD FOR ISSUANCE OF A TRO APPLICATION

To obtain a TRO Application, Plaintiff Berry must demonstrate: (1) that he has or will suffer an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a TRO Application. *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006).

The United States Court of Appeals for the Eighth Circuit consistently applies this four-factor test. See, e.g., *Dataphase Sys., Inc. v. C L Sys.*, Inc., 640 F.2d 109, 114 (8th Cir. 1981) (en banc) (establishing the foundational framework for injunctive relief in the Eighth Circuit, which remains consistent with the *eBay* standard).

The facts and law alleged by Counts IV thru VII of the Complaint under the permanent injunction standard set by the Eighth Circuit entitles Plaintiff Berry as a matter of Federal law the underlying TRO Application requested before the Court.

II. MISSOURI'S OBLIGATION UNDER 2 U.S.C. § 2a(c)(5)

Under 2 U.S.C. § 2a(c)(5), when a state has not been redistricted in the manner provided by law following an apportionment—and the number of districts in the state exceeds the number of representatives to which the state is entitled—the representatives "shall be elected from the State at large." 2 U.S.C. § 2a(c)(5).

Plaintiff Berry argues that this statute is a self-executing, ministerial command. The facts indicate that Missouri is currently without a constitutional map and faces a time-sensitive crisis as the 2026 election approaches. Because the state has failed to enact a map that withstands constitutional scrutiny, the duty to conduct the election at-large is mandatory, requires no further legislative action by Missouri and as as any official state ministerial act, may be compelled by this Court when required by Federal statutory authority pursuant to 2 U.S.C. § 2a(c)(5).

III. PLAINTIFF BERRY DEMAND AND THE DISTRICT COURT'S DUTY TO CONVENE A THREE-JUDGE COURT

Plaintiff Berry filed a request for the empanelment of a three-judge district court pursuant to 28 U.S.C. § 2284(b)(1), which as of the date of the submission of the instant Trial Brief on Counts IV thru VII of the Complaint, the District Court has not fulfilled this mandatory statutory obligation. Under *Shapiro v. McManus*, 577 U.S. 39 (2015), a single district judge may only deny a request for a three-judge court if the constitutional claims are "insubstantial." The Supreme Court has defined "insubstantiality" narrowly, equating it with claims that are "obviously frivolous" or "essentially fictitious." *Goosby v. Osser*, 409 U.S. 512, 518 (1973).

Plaintiff Berry asserts that his claims, which involve complex constitutional questions regarding the validity of Missouri's congressional maps and racial gerrymandering, cannot be deemed "insubstantial" under the Goosby standard. Therefore, the Court's refusal to notify the Chief Judge of the Court to designate a three-judge panel constitutes a failure to perform a

non-discretionary statutory duty required pursuant to 28 U.S.C. § 2284(b)(1). **Plaintiff Berry again, demands the Court to refer the Complaint to the Chief Judge of the Court to designate a three-judge panel to try Counts IV of the VII of the underlying Complaint.**

Nevertheless, under protest and to do otherwise will extinguish the relief sought by Plaintiff Berry pursuant to Counts IV thru VII of the Complaint, Plaintiff Berry is in the alternative, requesting to have Counts IV thru VII of the Complaint tried by the Court as a single-judge court.

IV. THE COURT'S FINDING OF FACT BY THE TRO APPLICATION AND EVIDENCE SUBMITTED AT TRIAL SUPPORTS GRANTING THE TRO APPLICATION

A. THE FACTS PLEAD BY THE TRO APPLICATION PROVIDES THE EVIDENTIARY BASIS FOR THE COURT TO GRANT THE TRO APPLICATION

The undisputed record before this Court, established through the verified filings in the underlying Complaint and now before the Court, demonstrates that Missouri has failed to enact a constitutional congressional district map for the 2026 election cycle. As set forth in paragraphs 9-11, 19, and 28-29 herewithin, Missouri has repeatedly cycled through maps (2011, 2022, 2025) that fail to satisfy constitutional requirements, particularly in light of the state's reduction in congressional seats following the 2010 Census. The evidentiary record further establishes that at no temporal period did the Missouri General Assembly conduct the requisite pre-enactment analysis regarding potential racial voter discrimination.

With the 2026 General Election on the immediate horizon, and early voting having commenced (Complaint ¶ 92), the irreparable injury to the Plaintiff—disenfranchisement through the use of an unconstitutional map—is imminent and certain. Under Dataphase Sys., Inc. v. C L Sys., Inc., 640 F.2d 109, 113 (8th Cir. 1981) (en banc), a movant must demonstrate a likelihood of success on the merits and that the balance of equities tips in their favor; the facts as pled satisfy this standard as the state's failure to provide a constitutional map renders the current election administration a per se violation of the Equal Protection Clause.

B. MISSOURI FAILED TO PRODUCE ANY OFFICIAL RECORDS OR OTHER EVIDENCE CONTRARY TO OR CONTESTING THE FACTS PLEAD THE TRO APPLICATION

Missouri's silence in the face of these allegations constitutes a concession of the factual predicates necessary for relief. Despite the grave constitutional implications of using maps drawn without pre-enactment racial discrimination analysis, Missouri has produced no official record of such analysis. In the absence of evidence rebutting the Plaintiff's well-pleaded facts, this Court must accept them as true for the purposes of this application. Under 8th Circuit precedent, where a defendant fails to proffer evidence to contest facts demonstrating constitutional harm, the plaintiff's demonstration of irreparable injury is amplified. See, e.g., Planned Parenthood of Minn., N.D., S.D. v. Rounds, 530 F.3d 724, 732 (8th Cir. 2008) (en banc). The state's own official proclamations, such as the Governor's special session proclamation, acknowledge the map's vulnerability to legal challenge under the Voting Rights Act and the Fourteenth

Amendment, further confirming the absence of any contrary evidence or sound legal defense to the claims of constitutional non-compliance. Further, subpoenaed testimony of Missouri elected officials responsible for enacting the 2022 and 2025 Missouri Congressional District Maps to be presented at trial are identified, numerous and unequivocally confirm that the congressional district boundaries of Missouri Congressional District One were drafted utilizing the race of Missourians under a false unconstitutional belief that the United States Supreme Court fully-acknowledged that many states are vulnerable to that the Voting Rights Act required such without any preenactment analysis as to whether any suggestion existed that any Missouri congressional voter based upon race was being denied or abridged from voting for the United States congressional nominee of their choice, which when the Missouri General Assembly drafted the 2022 and 2025 Missouri Congressional District Map, Missouri did not conduct a single element of any preenactment analysis as to whether any suggestion existed that any Missouri congressional voter based upon race was being denied or abridged from voting for the United States congressional nominee of their choice, which makes the 2022 and 2025 Missouri Congressional District Map on their face unconditional pursuant to the Fourteenth and Fifteenth Amendments of the United States Constitution.

V. THE COURT'S CONCLUSIONS OF LAW CONSIDERED BY THE TRO APPLICATION SUPPORTS GRANTING THE TRO APPLICATION

A. THE MISSOURI CONSTITUTION SUPPORTS GRANTING THE TRO APPLICATION

The interplay between Articles III, 49, and 52 regarding the reservation of power by the people and the referendum process, as illuminated in the Missouri Supreme Court's *Von Glahn v. Hoskins* decision, establishes that the 2025 Missouri Congressional District Map is suspended under Missouri law for different reasons than alleged or otherwise plead by the instant TRO Application. In the manner stated by the Eighth Circuit's consideration of the Onder/Brattin TRO Appeal and for completely different reasons and legal conclusion alleged by the instant TRO Application, the 2022 Missouri Congressional District Map in unconstitutional for use by Missouri to conduct the 2026 Missouri General congressional election.

Any Federal judicial remedy that seeks to violate the Missouri Supreme Court's decision regarding the prohibition under Missouri election law to utilize the 2025 Missouri Congressional District Map to conduct the 2026 Missouri General congressional election must seek and be granted relief from such Missouri election law from the United States Supreme Court, which has not been effectively accomplished upon the appeal of the Defendants requesting the same, or bring claim before the United States District Court seeking redress of a Federal statutory or constitutional right that was directly caused or threatened by the enactment of such Missouri Supreme Court decision on Missouri's election law, to which, Plaintiff Berry has done a mer three (3) court hours after his plead injuries occurred, and the Court by the Elections Clause shall not interfere with Missouri election law unless it is absolutely necessary to prevent a violation of Federal statutory authority of the United States Congress or the United States Constitution, which in the instant, 2 U.S.C. § 2a(c)(5) trumps use of any unconstitutional Missouri

Congressional District Map out of respect for and in violation of the Missouri Supreme Court's judicial election law order in *Von Glahn v. Hoskins*.

B. FEDERAL LAW SUPPORTS SUPPORTS GRANTING THE TRO APPLICATION

The critical Federal statutory mechanism established by the United States Congress for resolving this impasse is 2 U.S.C. § 2a(c)(5). This statute is not discretionary; it is a self-executing, ministerial command. It expressly dictates that when a state has not been redistricted in the manner provided by law following an apportionment, and the number of districts exceeds the number of representatives to which the state is entitled, the representatives "shall be elected from the State at large." Id. Missouri's failure to enact a map that withstands constitutional scrutiny invokes this provision automatically. Federal courts have consistently held that statutory commands, particularly those regulating the time, place, and manner of elections, must be strictly enforced to ensure the integrity of the federal franchise. See, e.g., Branch v. Smith, 538 U.S. 254 (2003).

Therefore, this Court is authorized—indeed, commanded—to compel Missouri's compliance with this Federal mandate to ensure Missouri's 2026 congressional election proceeds according to Federal congressional elections statutes.

C. UNITED STATES CONSTITUTION SUPPORTS GRANTING THE TRO APPLICATION

The use of an unconstitutional map for the 2026 Missouri General congressional election

violates the Equal Protection Clause of the Fourteenth Amendment and the Elections Clause of Article I, Section 4, Clause 1 of the United States Constitution. By perpetuating maps (like the 2022 and 2025 Missouri Congressional District Map) that fail to utilize current census data or that were drawn with racially discriminatory intent, Missouri denies citizens "one person, one vote" protections. See *Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1964). Furthermore, because the state has failed to enact a map that provides for equal representation, the continued administration of the election under the current defective maps constitutes a state-sanctioned violation of constitutional rights, justifying the intervention of this Court under its equitable powers.

D. THE REMEDY REQUESTED BY THE TRO APPLICATION DOES NOT VIOLATE OR OFFEND THE MISSOURI CONSTITUTION, FEDERAL STATUTE OR THE UNITED STATES CONSTITUTION

The requested remedy—an at-large statewide election—is the precise remedy prescribed by 2 U.S.C. § 2a(c)(5) when a state fails to provide a constitutional district map. This Federal "deadman's switch" statutory remedy does not "violate" the Missouri Constitution; rather, it provides the necessary fallback mechanism when the state's legislative process has collapsed.

The Supremacy Clause of the United States Constitution, Art. VI, cl. 2, ensures that where a state law or process conflicts with a valid federal mandate regarding congressional elections, the federal law controls. There is no conflict here that would prevent this Court from enforcing 2 U.S.C. § 2a(c)(5 as an exercise of its authority to ensure a lawful United States

congressional election pursuant to the Election Clause of the United States Constitution.

The requested remedy also does not interfere with the Missouri Supreme Court's decision regarding its determination of Missouri election law that permits Missouri statewide referendum votes regarding the enactment of United States congressional district maps by the Missouri General Assembly and ensures the statewide election results from such Missouri statewide referendum votes regarding the enactment of United States congressional district maps does not cause the unconstitutionality of the entire 2026 Missouri General congressional election based upon which Missouri congressional district map is enacted by the 2026 Missouri General election statewide vote on Missouri Proposition A Referendum, with either Missouri congressional district map enacted by Missouri Proposition A Referendum is deemed unconstitutional by the Court's instant findings pursuant to the TRO Application, which is wholly avoidable by the Court granting the instant Missouri Proposition A Referendum.

E. THE REMEDY REQUESTED BY THE TRO APPLICATION SEEKING TRO AGAINST MISSOURI OVER THEIR HISTORICAL AND CONTINUOUS USE OF THE VOTING RIGHTS ACT IN AN UNCONSTITIONAL MANNER EXCLUSIVE OF THE STATUTORY REQUIREMENTS GENERALLY APPLICABLE PROSECUTION BY USE OF THE VOTING RIGHTS ACT.

1. THE UNCONSTITUTIONALITY OF MISSOURI'S ELECTORAL PROCEDURES

Missouri's historical and continuous practice of implementing congressional maps

developed without the requisite pre-enactment analysis regarding racial voter discrimination constitutes a systematic perversion of the protections afforded by the Voting Rights Act of 1965 ("VRA"). While the VRA is designed to prohibit practices that deny or abridge the right to vote on account of race, 52 U.S.C. § 10301(a), Missouri has utilized the guise of "compliance" to engage in racial gerrymandering—sorting voters into districts based on race without a compelling state interest. Such conduct, which creates districts that may resemble "race influence" zones rather than constitutionally compliant districts, violates the Fourteenth Amendment's Equal Protection Clause, as the "deliberate segregation of voters into separate districts on the basis of race violates their constitutional rights." Shaw v. Reno, 509 U.S. 630, 642 (1993).

By persistently utilizing maps enacted through this constitutionally defective process, Missouri has effectively rendered the statutory framework of the VRA subservient to the state's unconstitutional redistricting objectives.

2. THE TRO APPLICATION AS A NECESSARY REMEDY TO COMPEL CONSTITUTIONAL COMPLIANCE

The relief requested—a TRO Application against the continued use of these constitutionally infirm maps and a subsequent transition to an at-large election—is the only mechanism capable of halting the state's ongoing disenfranchisement of its citizens. Because Missouri has failed to demonstrate compliance with constitutional requirements in its redistricting efforts, the application of 2 U.S.C. § 2a(c)(5) becomes necessary. This federal

statute provides the mandatory fallback remedy when a state has not been redistricted in the manner required by law, dictating that representatives "shall be elected from the State at large." Id. The Supreme Court has underscored the importance of ensuring that redistricting plans are not only compliant with statutory requirements but are also free from constitutional defect, particularly those involving racial classification. See Allen v. Milligan, 599 U.S. 1, 41-42 (2023) (reaffirming the robust application of Section 2 of the VRA).

3. EQUITABLE AUTHORITY TO REMEDY THE CONSTITUTIONAL VIOLATION

This Court possesses the requisite equitable authority to issue a TRO Application to prevent the irreparable harm inherent in allowing an unconstitutional electoral process to proceed. The criteria for such relief, articulated in Dataphase Sys., Inc. v. C L Sys., Inc., 640 F.2d 109, 113 (8th Cir. 1981), are satisfied: (1) the Plaintiff has demonstrated a likelihood of success on the merits concerning the unconstitutionality of the current maps; (2) the injury—denial of a fair and constitutional electoral process—is irreparable and imminent; (3) the balance of equities weighs heavily in favor of protecting constitutional voting rights over the administrative convenience of the state; and (4) the public interest is served by upholding the Constitution. Enjoining the use of these maps does not "offend" the Missouri Constitution but rather reconciles the state's electoral framework with the Supremacy Clause of the United States Constitution, Art. VI, cl. 2, ensuring that the federal congressional election is conducted in a manner consistent with federal law.

F. THE *PURCELL PRINCIPLE* IS INAPPLICABLE TO THE FACTS AND LAW PRESENTED BY THE THE TRO APPLICATION

Historically, federal courts have been hesitant to engage in redistricting on the "eve of an election," *Purcell v. Gonzalez*, 549 U.S. 1 (2006). However, the *Purcell* principle is intended to prevent voter confusion, not to insulate unconstitutional maps from challenge. In the instant case, the "map" is not required for the relief requested—the at-large election—because 2 U.S.C. § 2a(c)(5) operates precisely when no valid map is in place. Thus, the Court is not being asked to draw new lines, which might be disruptive, but to enforce the federal fallback provision that eliminates the need for lines entirely for this election cycle. This approach fulfills the *Purcell* concern by providing a clear, uniform rule for the election while simultaneously remedying the constitutional injury.

G. PLAINTIFF BERRY UNDER THE FACTS ESTABLISHED BY THE TRO APPLICATION IS PERMITTED TO PROSECUTE BEFORE THE COURT BY PRIVATE ACTION PURSUANT TO COUNTS IV THRU VII OF THE COMPLAINT SECTION TWO OF THE VOTING RIGHTS ACT AGAINST MISSOURI PURSUANT TO 42 U.S.C. § 1983

Plaintiff Berry has standing to bring this action under Section 2 of the Voting Rights Act of 1965 (as amended), which prohibits the imposition of any standard, practice, or procedure that results in the denial or abridgment of the right to vote on account of race. The facts establish that the Missouri congressional districts, particularly Missouri Congressional District One, were drawn using race as a predominant factor without sufficient justification, creating a "race

influence district" in violation of the VRA. As a certified nominee and registered voter, the Plaintiff suffers a concrete, particularized injury in fact from the continued use of an unconstitutionally gerrymandered district. Private litigants like Plaintiff Berry have a well-established right to enforce Section 2 of the VRA to remedy such harms. See, e.g., *Allen v. Milligan*, 599 U.S. 1 (2023) and Plaintiff Berry charges such may be done so before the Court pursuant to 42 U.S.C. § 1983, especially when the relief requested is solely in Federal judicial equity.

VI. THE REMEDY REQUESTED BY THE TRO APPLICATION SEEKING TO DESEGERATE MISSOURI CONGRESSIONAL DISTRICT LAW IS ACCOMPLISHED BY GRANTING THE TRO APPLICATION

By ordering Missouri to conduct an at-large statewide election, this Court effectively dismantles the unconstitutional, race-segregated district boundaries that Missouri has used to disenfranchise voters during the 2026 Missouri General Congressional Election. This remedy directly addresses the core constitutional injury: the use of race as a primary factor in drawing district lines. Under the Supreme Court's jurisprudence, particularly the Equal Protection Clause's prohibition on racial gerrymandering, see *Shaw v. Reno*, 509 U.S. 630 (1993), state actions that segregate citizens based on race without a compelling interest must be enjoined. Plaintiff Berry provides to the Court that requiring Missouri to utilize statewide at-large congressional election format to conduct the 2026 Missouri General Congressional Election eliminates the district-specific racial sorting entirely, providing a race-neutral, constitutional

alternative for Missouri to constitutionally conduct the 2026 Missouri General Congressional Election.

VII. THE TRO APPLICATION MEETS ALL OTHER FACTORS TO ISSUE THE TRO AGAINST MISSOURI

The final factors under the *Dataphase* and *eBay* standards—the balance of hardships and the public interest—decisively weigh in favor of Plaintiff Berry. The hardship to Plaintiff Berry is the denial of the fundamental right to vote and run in a constitutional election, a harm that is irreparable. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (loss of constitutional freedoms, for even minimal periods, constitutes irreparable injury). Conversely, the hardship to Missouri is merely administrative inconvenience in implementing an at-large election, **which is less expensive and requires less implementation time than implementing either the 2022 or 2025 Missouri Congressional District Maps for use during the 2026 Missouri General congressional election**.

The public interest of Missouri and the United States of America is clearly served by ensuring that United States congressional elections comply with the Constitution and Federal statutes, and by preventing the perpetuation of unconstitutional electoral processes. Ordering compliance with 2 U.S.C. § 2a(c)(5) protects the integrity of the democratic process and ensures that the 2026 Missouri General congressional election reflects the will of Missouri voters rather than the will of Missouri power bosses seeking to utilize Missouri Congressional District Maps Missouri is well-aware violates the United States constitution out of a purported necessity of

convenience to the State of Missouri officials, as the agent of chaos in the 2026 Missouri General congressional election who hijacked the election by kidnapping my Missouri Secretary of State mandating his use of one of an assortment of unconstitutional and grossly gerrymandered Missouri Congressional District Maps.

CONCLUSION

Plaintiff Paul Berry III respectfully submits that Counts IV through VII present substantial federal questions concerning the constitutionality of the congressional district boundaries governing his vote and candidacy in Missouri's 2026 General Congressional Election. Plaintiff Berry seeks adjudication of those claims on an expedited basis and prospective relief sufficient to remedy the violations established by the evidence.

As alleged in the verified filings, Plaintiff Berry's injury is personal and immediate: he is a registered voter residing in Missouri's First Congressional District and a certified congressional nominee whose participation in the election is directly affected by the challenged district boundaries. Plaintiff Berry contends that race predominated in the construction of those boundaries without constitutionally sufficient justification. He further challenges the proposed use of alternative districting plans on the grounds presented in Counts IV through VII. These claims require determination on the evidentiary record, rather than an assumption that the availability of a previously enacted map necessarily supplies a constitutionally adequate remedy.

Upon a determination that Plaintiff Berry has prevailed on the merits, the equitable considerations support relief tailored to the violations found. An election conducted under

district boundaries that unlawfully impair Plaintiff Berry's constitutional rights would inflict an injury that monetary damages cannot adequately repair. The balance of hardships and the public interest favor lawful elections, while also requiring careful consideration of election-administration deadlines, voter reliance, ballots already issued or cast, and the practical consequences of any remedial order.

Plaintiff Berry maintains that, if the Court determines that no lawful congressional districting plan is available and that the statutory prerequisites are satisfied, 2 U.S.C. § 2a(c)(5) supplies an at-large remedy for the 2026 election. Plaintiff Berry therefore requests that the Court adjudicate the applicability of that provision in light of 2 U.S.C. § 2c and controlling precedent. If an at-large remedy is unavailable, Plaintiff Berry alternatively requests the narrowest lawful and practicable relief sufficient to remedy the federal violations established in this action.

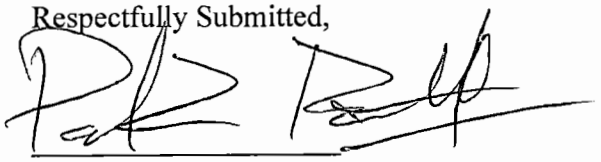
Finally, Plaintiff Berry renews his request for a three-judge district court under 28 U.S.C. § 2284. Any action by a single district judge should remain within the authority permitted by that statute. For these reasons, Plaintiff Berry respectfully requests an expedited merits determination, appropriate declaratory relief, and a TRO Application directed to the responsible state election official and tailored to the Court's findings.

PRAYER FOR RELIEF

Plaintiff Berry seeks this Court to issue a temporary restraining order against Missouri Secretary of State from conducting the 2026 Missouri General election utilizing the 2011, 2022 or 2026 Missouri Congressional District Map until this Court renders its decision on Counts IV

thru VII of the Complaint.

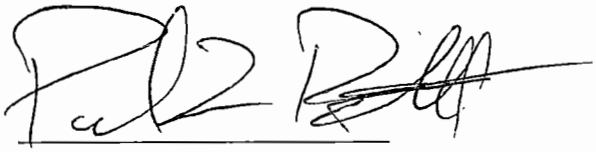
Respectfully Submitted,



Paul Berry III
Plaintiff, Pro Se
1200 S. Big Bend Blvd.
St. Louis, Missouri 63117

VERIFICATION

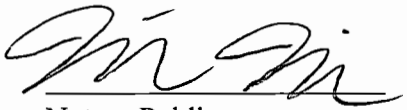
I have reviewed each fact and allegation of this VERIFIED TEMPORARY RESTRAINING ORDER MEMORANDUM OF SUPPORT and attest to personal knowledge of each fact and allegation as being correct and true to the best of my belief, knowledge and understanding.



Paul Berry III
Plaintiff

Sworn and subscribed before me on September 24, 2026, executed by Paul Berry III.

MELISSA MILLER
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis City
My Commission Expires: Jul. 31, 2027
Commission # 23246628



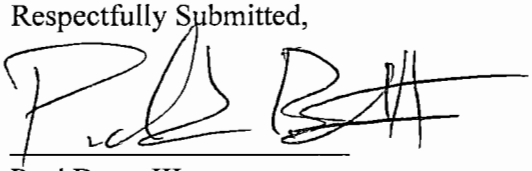
Notary Public

CERTIFICATE OF SERVICE

A copy of the foregoing motion will be mailed to the Defendants via the United States Postal Services and will be uploaded to the Pacer court document filing system by the United

States District Court of Eastern Missouri assumed in the manner provided by its local Federal civil court docketing procedures.

Respectfully Submitted,



Paul Berry III
Plaintiff Pro Se